

AGENDA - LPP

Meeting:	Georges River Local Planning Panel (LPP)
Date:	Thursday, 05 November 2020
Time:	4.00pm
Venue:	Council Chambers, Civic Centre, Hurstville
Panel Members:	Adam Seton (Chairperson) Helen Deegan (Expert Panel Member) John Brockhoff (Expert Panel Member) Fiona Prodromou (Community Representative)

1. On Site Inspections - 1.00pm –3.30pm

- a) 32 Montgomery Street Kogarah
- b) 591-611 Princes Highway Blakhurst
- c) 3 Cross Street Kyle Bay
- d) 14-16 George Street Mortalde

Break - 3.30pm

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

Public Meeting Session Closed - 6.00pm
(Break – Light Supper served to Panel Members)

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

- LPP056-20 3 Cross Street Kyle Bay – DA2020/0145**
(Report by Senior Development Assessment Officer)
- LPP057-20 32 Montgomery Street Kogarah – MOD2020/0148**
(Report by Development Assessment Planner)
- LPP058-20 14-16 George Street Mortdale – DA2019/0199**
(Report by Senior Development Assessment Planner)
- LPP059-20 591-611 Princes Highway Blakehurst – DA2020/0065**
(Report by Independent Assessment)

4. Confirmation of Minutes

LPP056-20

**REPORT TO GEORGES RIVER COUNCIL
LPP MEETING OF THURSDAY, 05 NOVEMBER 2020**

LPP056-20

LPP Report No	LPP056-20	Development Application No	DA2020/0145
Site Address & Ward Locality	3 Cross Street Kyle Bay Blakehurst Ward		
Proposed Development	Demolition, pool removal and construction of new three storey dwelling house with swimming pool, landscaping and site works		
Owners	Anastasi Christofi and Selma Harrison		
Applicant	Anastasi Christofi and Selma Harrison		
Planner/Architect	Planner: Planning Ingenuity, Architect: David Dechiara		
Date Of Lodgement	17/04/2020		
Submissions	Five (5) submissions received		
Cost of Works	\$861,850.00		
Local Planning Panel Criteria	Five (5) submissions received for a dwelling house under Council Delegation requires the application to be determined by the Georges River Local Planning Panel.		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Act 2000, State Environmental Planning Policy No. 55 Remediation of Land, State Environmental Planning Policy (Building and Sustainability Index: 2004), State Environmental Planning Policy – Infrastructure, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2007, Greater Regional Environmental Planning Policy No 2 – Georges River Catchment, Draft Environmental State Environmental Planning Policy, Draft Remediation State Environmental Planning Policy, Kogarah Local Environmental Plan 2012, Kogarah Development Control Plan 2013, Draft Georges River Local Environmental Plan 2020, Georges River Council Interim Policy		
List all documents submitted with this report for the Panel's consideration	Architectural Plans		
Report prepared by	Senior Development Assessment Officer		

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	Yes

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

Site Plan

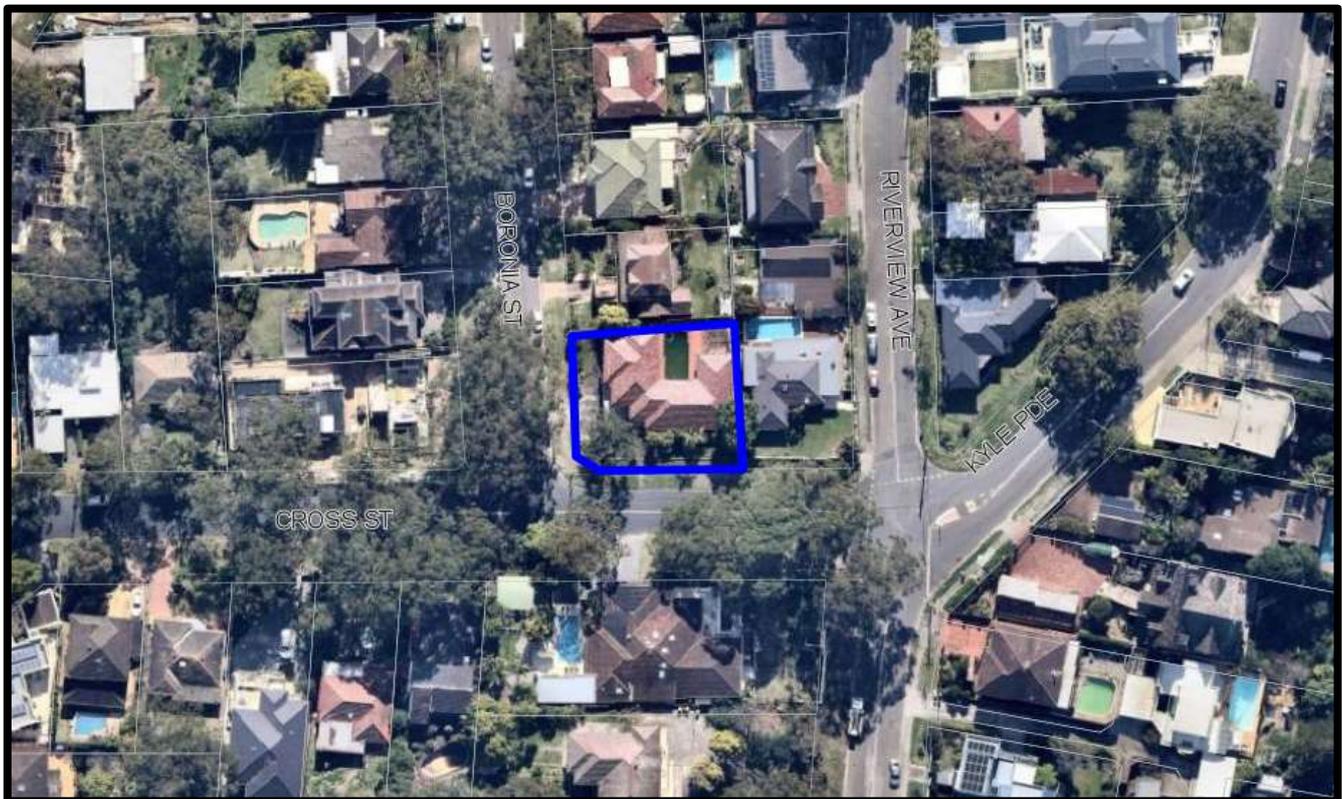


Figure 1: Aerial Extract of subject site (3 Cross Street, Kyle Bay) outlined in blue (Source: GRC Intramaps 2020)

EXECUTIVE SUMMARY

Proposal

1. The development application seeks development consent for demolition, pool removal and construction of new three (3) storey dwelling house with swimming pool, landscaping and site works on the land known as 3 Cross Street, Kyle Bay.
2. Council raised concerns with the proposal and requested the applicant amend the proposal. The amended plans are the subject of this assessment report in which the proposal was reduced in height, incorporated increased setbacks and additional information was provided for Council’s consideration.
3. The amended proposal seeks variations to the Kogarah Development Control Plan 2013 relating to:

- first floor 60% rear setback;
 - maximum upper ceiling height;
 - maximum dwelling flat roof height; and
 - façade articulation.
4. It is noted that the applicant has subsequently amended the proposal to comply with the 9m height limit under Clause 4.3 Height of Building under the Kogarah Local Environmental Plan 2012.
 5. The variations sought are considered to be acceptable in this instance and are supported on planning merit.
 6. The proposal complies with the key design aspects of the planning controls regarding; floor space, height of the buildings, onsite car parking, landscaping, private open space, tree protection and engineering.
 7. The proposal is supported by Council’s Consulting Arborist and Development Engineer.
 8. The proposal was referred to Ausgrid and is supported subject to conditions of consent.

Site and Locality

9. The site is legally described as Lot A DP 375896 and is known as 3 Cross Street, Kyle Bay. The site forms a regular shaped corner allotment. The dwelling faces Cross Street with the driveway access being off Boronia Street.
10. The site has dimensions of 26.54m along the southern front boundary to Cross Street, a splay to Boronia Street of 4.43m, 26.02m along the eastern side boundary, 29.56m along the northern rear boundary, 21.41m along the western secondary frontage to Boronia Street, Kyle Bay with a total site area of 741.2sqm (DP 733.5sqm). The site falls from rear north east corner (RL28.28) to the south western corner (RL24.98) resulting in a change in level of 3.3m.
11. A two (2) storey masonry “U” shaped dwelling is presently located on site, with an in-ground swimming pool located within the rear setback. A concrete driveway provides vehicular access from Boronia Street.
12. Infrastructure pits and poles exist within the Council road reserve.
13. The immediate surrounding area comprises residential uses comprising of dwelling houses and dual occupancies of varying architectural styles and designs. The streetscape is undergoing transitional change from established dwellings to contemporary infill development.

Zoning and Permissibility

14. The site is zoned R2 Low Density Residential pursuant to the Kogarah Local Environmental Plan 2012 (LEP). The proposal seeks consent for a dwelling house and ancillary swimming pool.

Submissions

15. The proposal was notified and renotified following the receipt of the amended proposal in accordance with the provisions of Council’s notification policy. The amended plans which

form the part of the assessment report generate a lesser impact than the previous notified proposals. The assessed proposal has been reduced in height and reduced in building footprint. As a result re-notification was not required.

16. In total, five (5) submissions were received of which raised concerns relating to bulk and scale, privacy, inconsistent information, overshadowing, privacy and amenity impacts generated by the proposed works. The concerns raised have been considered and are addressed in detail within the body of this report.

Conclusion

17. That the development application be supported subject to conditions of consent.

REPORT IN FULL

Proposal

18. The development application seeks development consent for demolition, pool removal and construction of new three storey dwelling house with swimming pool, landscaping and site works on land known as 3 Cross Street, Kyle Bay.

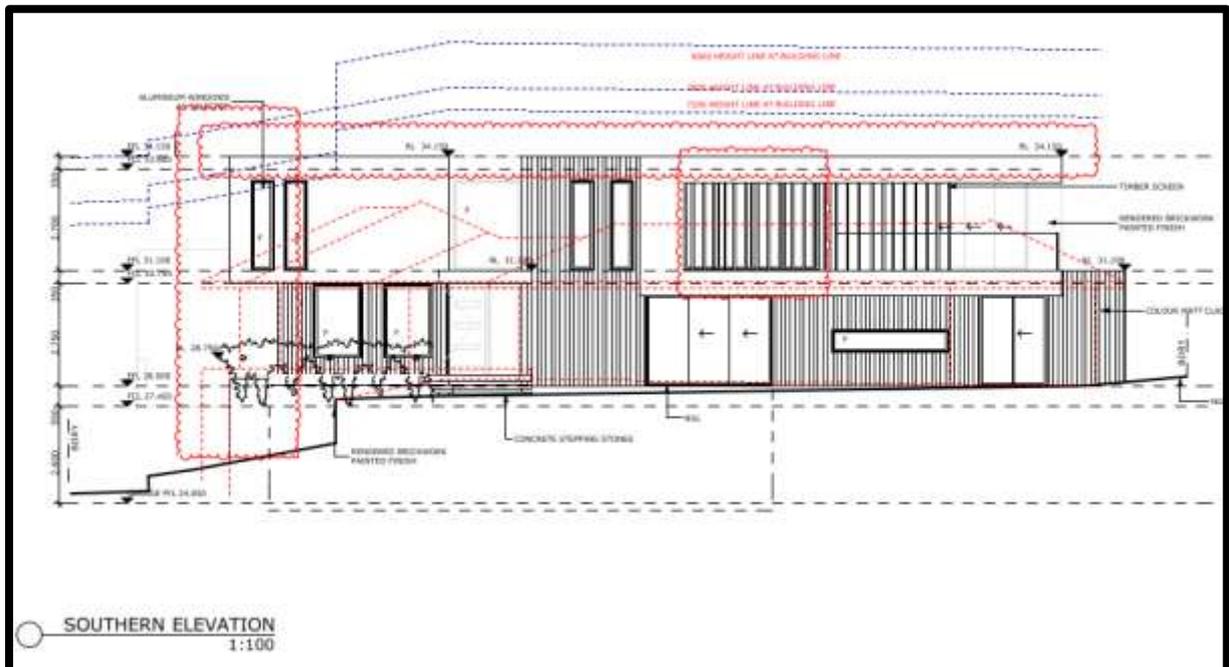


Figure 2: Extract Southern front elevation fronting Cross Street, Kyle Bay (Source: David Dechiara, 2020).

19. In detail, the particulars of the development application are described as follows;

Demolition

- Demolition works, pool removal and the removal of four (4) trees on site.

Lower ground floor

- Double garage, internal stairs, storage room and internal lift;

Ground floor

- Porch, entry, guest, study, bathroom, lounge, dining, living, kitchen, walk in pantry, laundry, internal stairs, rear alfresco area and a 'wrap around' verandah to the northern and western facades;

First floor

- Four (4) bedrooms each with walk in robe and ensuite, front balcony fronting Cross Street, a ‘wrap around’ terrace and planter to the northern and western facades, void above entry and the ground floor lounge room.

Ancillary works

- In-ground swimming pool within rear setback dimensioned 8m in length and 4m in width;
- Driveway to Boronia Street; and
- Associated landscaping, retaining walls, building and engineering works.

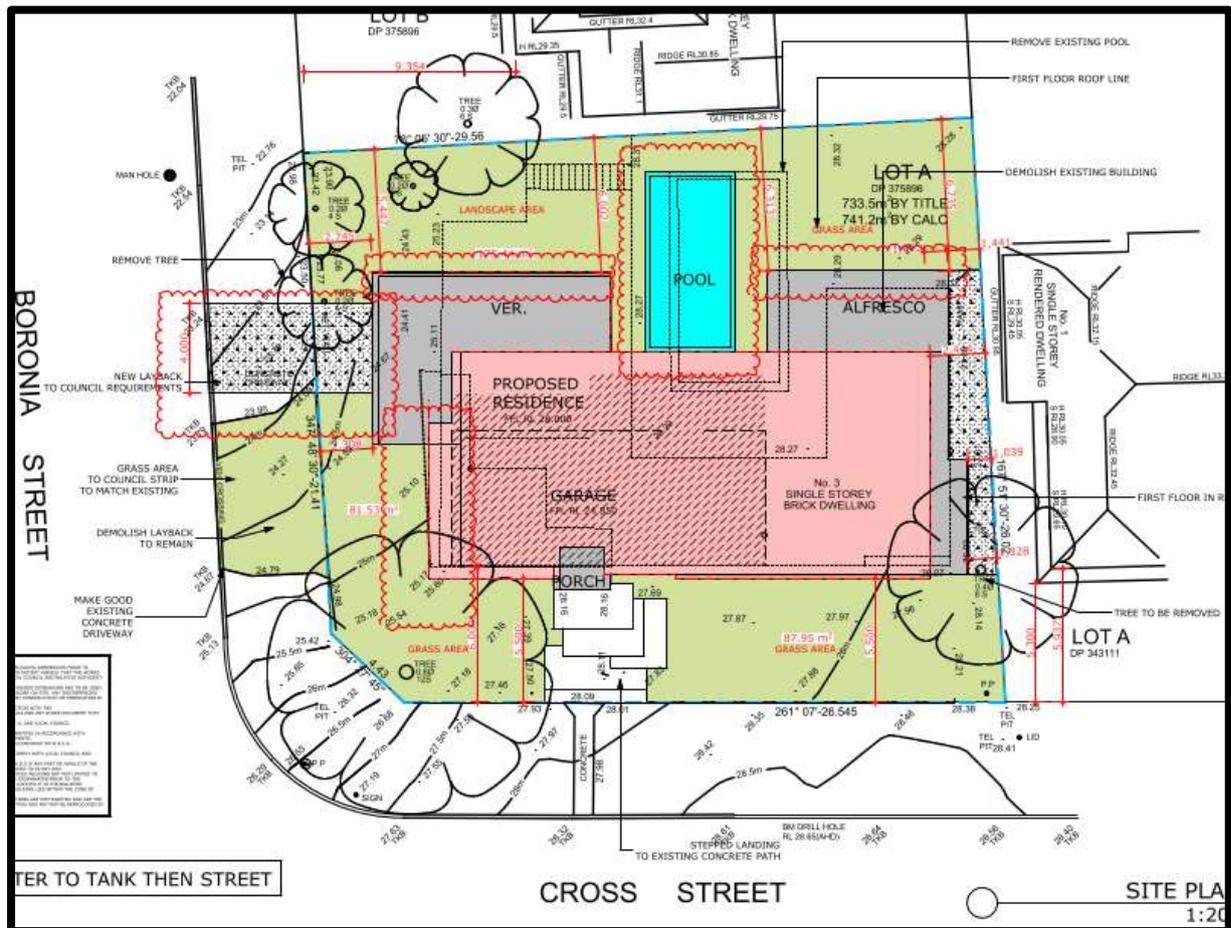


Figure 3: Extract of site plan (Source: David Dechiara, 2020).

The Site and Locality

20. The site is legally described as Lot A, DP 375896 and is known as 3 Cross Street, Kyle Bay. The site forms an irregular rectangular shaped corner allotment fronting Cross Street with a secondary frontage to Boronia Street, both are local roads.
21. The site is dimensioned as follows; 26.54m along the southern front boundary to Cross Street, Kyle Bay, 26.02m along the eastern side boundary, 29.56m along the northern rear boundary, 21.41m along the western secondary frontage to Boronia Street, Kyle Bay, 4.43m along the south west corner splay with a total site area of 741.2sqm (DP 733.5sqm). The site falls from rear north east corner (RL28.28 high) to the south west corner splay frontage to (RL24.98 low) resulting in a fall of 3.3m.
22. A part two (2) storey masonry “U” shaped dwelling is currently located centrally on site. An in ground swimming pool is located within the rear setback. A concrete driveway provides vehicular access along the secondary frontage to Boronia Street.

23. Three (3) Telstra pits are located within the road reserve.
24. The immediate surrounding area comprises residential uses comprising of dwelling houses and dual occupancies of varying architectural styles and designs. The streetscape is undergoing transitional change from established dwellings to contemporary infill development.



Figure 4: Photograph of subject site (3 Cross Street, Kyle Bay) viewed from Boronia Street, Kyle Bay (Source: GRC, 2020).



Figure 5: Photograph of subject site (3 Cross Street, Kyle Bay) viewed from Boronia Street, Kyle Bay (Source: GRC, 2020).



Figure 6: Photograph of adjoining northern property, 52 Boronia Street, Kyle Bay (Source: GRC, 2020).

25. The immediate surrounding area is zoned R2 Low Density Residential under the Kogarah Local Environmental Plan 2012. Adjoining the site comprises of a mixture of dwelling houses, dual occupancies of varying architectural styles and designs.

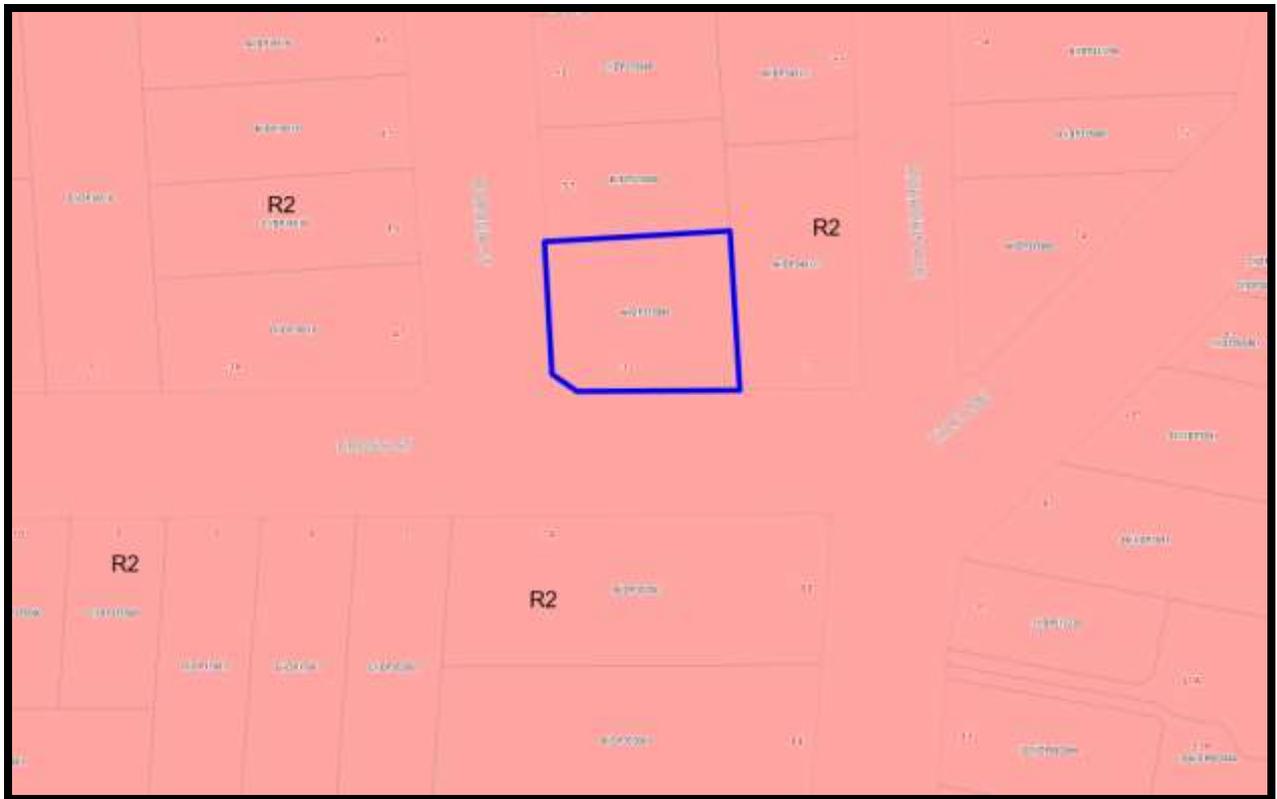


Figure 7: Extract of KLEP 2012 with subject site outlined in blue (3 Cross Street, Kyle Bay) (Source: GRC Intramaps, 2020).

26. The streetscape is undergoing transitional change from established dwellings to contemporary infill development.

Background

27. Council records indicate that the subject site has been used for residential purposes, with a dwelling house currently occupying the site.
28. This development application was lodged on 17 April 2020 for demolition, pool removal and construction of new three (3) storey dwelling house with swimming pool, landscaping and site works.
29. A request for additional information letter was sent to the applicant advising that the application in its lodged form was not supported, and the applicant was provided an opportunity to amend the plans to better address Council's controls.
30. Amended plans and documentation were received by Council and have been accepted under Clause 55(2) Amendment of Development Application under The Environmental Planning and Assessment Regulations 2000.
31. On 26 June 2020 Council advised the applicant's architect that the height is measured in accordance with the definition of "Height" within the Standard Instrument and therefore would be taken from the existing garage slab.

32. The applicant provided amended plans on 6 July 2020, justification and a Clause 4.6 Exception to Development Standard for the Height of Building.
33. On 22 July 2020 the applicant's architect was advised to explore reducing the slab thickness and floor to ceiling heights to comply with the height of building and that a variation to the height of building was unlikely to be supported.
34. On 23 July 2020 the applicant's architect provided amended plans and an accompanying letter from the applicant's town planner stating the design changes required to comply with the 9m height of building has been achieved and that the Clause 4.6 Exception to Development Standard was no longer required.
35. Council sent a request to the applicant to cloud the proposed changes on 23 July 2020.
36. Amended plans were received from the applicant's architect on 27 July 2020.
37. The applicant was advised on 7 October 2020 to provide amended architectural plans to correctly reflect a maximum 9m height of building, increased front setbacks to Cross Street and revised BASIX Certificate.
38. Revised documentation was received on 13 October 2020. The assessment report is based on these revised plans.

Compliance and Assessment

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

Section 4.15 Evaluation

40. The following is an assessment of the application with regard to Section 4.15(1) Evaluation of the Environmental Planning and Assessment Act 1979.

(1) *Matters for consideration - general*

In determining an application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

The provision of:

- (i) Any environmental planning instrument,*

STATE ENVIRONMENTAL PLANNING INSTRUMENTS

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

STATE ENVIRONMENTAL PLANNING POLICY NO 55 – REMEDIATION OF LAND

42. 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.
43. A review of the site history indicates that the site has been used for residential purposes for extended periods of time, and such uses and/or development are not typically associated with activities that would result in the contamination of the site. The proposed

works do not include any change to the use of the land that would result in any concerns with respect to contamination. There is no indication of previous uses that would cause contamination. In this regard the SEPP has been satisfied.

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

44. The trigger for BASIX Certification is when the estimated cost of works for residential development (new dwelling(s)/alterations and additions) is equal to or above \$50,000. The proposal results in a cost of works of \$862,850.00. A BASIX Certification is also triggered when proposing a swimming pool with a volume of 40,000 litres. A BASIX Certificate referenced 1088001S_03 dated 9 October 2020 prepared by Sustainability-Z Pty Ltd has been submitted with the Development Application satisfying the minimum requirements of SEPP (Building Sustainability Index: BASIX) 2004. The DA requirements of the BASIX Certificate have been detailed on the plans. In this regard, the proposal has adequately satisfied the requirements of the SEPP.

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

45. The 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 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.
48. 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).
49. An arborist report prepared by The Ents Tree Consultancy was provided in support of the proposal.
50. The proposal has been assessed and is supported by Council's consulting arborist whom supports the following; to protect three (3) trees, prune one (1) tree and remove four (4) trees on site subject to conditions of consent which include suitable replacement landscaping and eight (8) trees to embellish the site.
51. In addition, to minimise privacy between the subject site and adjoining property to the north the following landscaped condition has been imposed prior to issue of the Construction Certificate.

- A row of *Syzyguim Cascade* - Lilly Pilly's are to be indicated on the landscape plan parallel with the northern rear boundary with a minimum 25 Litre pot size and spacing of 1m.

GREATER METROPOLITAN REGIONAL ENVIRONMENTAL PLAN NO 2 — GEORGES RIVER CATCHMENT

52. The main aims and objectives of this plan include but are not limited to the following:

- *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,*

53. The proposed stormwater drainage system which seeks to drain to Boronia Street, Kyle Bay has been assessed by Council's Development Engineer and is satisfactory subject to conditions of consent.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS DRAFT ENVIRONMENTAL 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.

DRAFT REMEDIATION OF LAND SEPP

56. 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.*

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

KOGARAH LOCAL ENVIRONMENTAL PLAN 2012

58. The provisions of this Local Environmental Plan are relevant to the proposal. The extent to which the proposal complies with the relevant standards of Kogarah Local Environmental Plan 2012 (LEP2012) is outlined in the table below.

Part 2 – Permitted or Prohibited Development

59. The proposal seeks development consent for a “dwelling house” which is a permissible form of development with consent.

Clause 2.1 – Land Use Zones

60. The subject site is zoned R2 Low Density Residential. The proposal is consistent with the objectives of the zone as per below;

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

61. Comment: The proposal is considered is not considered to be inconsistent with the objectives of the zone by virtue of the design of the proposal.

Applicable LEP Clause	Standards	Proposal	Complies
1.2 Aims of the Plan	Aims of the Plan to be satisfied	Aims reasonably satisfied given the design of the proposal.	Yes
2.7 Demolition	Demolition requires consent.	Consent sought for demolition of the existing dwelling and swimming pool.	Yes
4.3 Height of Buildings	9m as identified on Height of Buildings Map	9m (RL34.15 along south-western corner fronting Boronia Street, Kyle Bay)	Yes
4.4 Floor Space Ratio	0.55:1 as identified on the Floor Space Ratio Map (733.5sqm) Maximum permitted: 382.55sqm under	358sqm (0.488:1)	Yes

	Clause 4.4A below		
4.4A Exceptions to floor space ratio for residential accommodation in Zone R2 Site area = 733.5sqm less than 800 square metres but not less than 650 square metres [(lot area – 650) × 0.3 + 357.5] ÷ lot area:1 Site Area: 733.5sqm = 382.55sqm 0.521:1	As above.	As above.	Yes

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Part 5 - Miscellaneous Provisions

Applicable LEP Clause	Standards	Proposal	Complies
5.10 Heritage Conservation	(1) Objectives: The objectives of this clause are as follows: (a) to conserve the environmental heritage of Kogarah, (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views, (c) to conserve archaeological sites, (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.	The site has not been identified as a heritage item nor located in a heritage conservation area as per the KLEP 2012 Heritage Map.	Yes

Part 6 - Additional Local Provisions

Applicable LEP Clause	Standards	Proposal	Complies
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.	The site has been identified as being located in an Acid Sulfate Area Class 5 as per the KLEP 2012 Acid Sulfate Soils Map. The proposed works are not considered to be inconsistent with the objectives of this clause given that the extent of excavation is above 5m AHD.	Yes
6.2 Earthworks	Earthworks objectives to be satisfied.	Consent for earthworks is commensurate with other developments within the locality.	Yes

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Aims of Plan

62. The particular aims of the Kogarah Local Environmental Plan 2012 in relation to Clause 1.2 (2) are as listed below:

(2) *The particular aims of this Plan are as follows—*

- (a) *to guide the orderly and sustainable development of Kogarah,*
- (b) *to encourage a diversity of housing choice suited to meet the needs of the current and future residents of Kogarah,*
- (c) *to promote economic development and facilitate the continued growth of commercial, medical-related and industrial employment-generating opportunities,*
- (d) *to protect and enhance Kogarah's natural environment, foreshores and waterways,*
- (e) *to provide high quality open space and a range of recreational areas and facilities suited to meet the needs of the residents of Kogarah and its visitors,*
- (f) *to conserve Kogarah's environmental heritage.*

63. The proposal satisfies the aims of the plan. The proposal is a permissible use and complies with the development standards and zone objectives within the KLEP2012.

DRAFT GEORGES RIVER LOCAL ENVIRONMENTAL PLAN 2020

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

65. 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**Kogarah Development Control Plan 2013**

66. The proposed development is subject to the provisions of the Kogarah Development Control Plan 2013 (KDCP 2013). The following comments are made with respect to the

proposal satisfying the objectives and controls contained within the DCP. The proposal has been considered in accordance with the following subsections.

Part B KDCP 2013

Applicable DCP Controls	DCP Provisions	Development Provisions	Complies
B2 – Tree Management and Green Web	Requirements of subsection to be satisfied	The proposal is supported by Council's Consulting Arborist subject conditions of consent including replacement plantings.	Yes
B4 – Parking and Traffic	2 car spaces	2 car spaces proposed within a double garage accessed from Boronia Street, Kyle Bay.	Yes
B5 – Waste Management and Minimisation	Requirements to of subsection to be satisfied	A satisfactory waste management plan has been provided which forms part of the conditions of consent.	Yes
B6 – Water Management	Requirements of subsection to be satisfied	The criterion in relation to water management has been satisfied. The stormwater management system is considered acceptable by Council's Development Engineer subject to conditions of consent.	Yes
B7– Environmental Management	Requirements of subsection to be satisfied	The criterion of this clause has been satisfied.	Yes

C – Residential

C1 – Low Density Housing

67. The key controls relating to dwelling houses have been considered as per below.

1. Design Requirements			
Control	Requirement	Proposal	Complies
1.1 Streetscape Character	1. A Streetscape Character Analysis (SCA) must be submitted as part of any Development Application for the new dwelling.	An appropriate Streetscape Character Analysis has been submitted with the DA.	Yes
	2. The SCA should comprise an analysis of both the existing streetscape and the future desirable streetscape.	The analysis plan has considered both the existing and future streetscape.	Yes
1.2 Building Scale and Height			
1.2.1 Floor	(1) The floor space ratio		Yes

space Requirements	for dwelling houses must comply with the requirements in the table below:		
	Site Area: 733.5sqm	0.488:1	Yes
	Site Area: Maximum FSR: 0.521:1		
	(3) Notwithstanding compliance with the numerical requirements in Table 1, applicants must demonstrate that the bulk and relative mass of the proposed development is acceptable in the street and on adjoining dwellings, in terms of the following impacts:		
	(i) streetscape considerations (bulk and scale); (ii) building setbacks; (iii) landscape requirements;	The bulk and relative mass of the proposed development is considered reasonable given the site dimensions, context and topography of site whereby the dwelling is also stepped with the site and contains modulation along the vertical and horizontal planes.	Yes
	(iv) the existence of significant trees/vegetation on site;	The proposal is supported by Council’s Consulting Arborist subject to conditions.	Yes
	(v) the size and shape of the allotment; and	The allotment is rectangular; the proposal is reasonably sited and appropriate for the site.	Yes
(vi) topography of the site.	The site falls from rear north east corner (RL28.28) to the south west corner splay frontage to (RL24.98) resulting in a fall of 3.3m.	Yes	
(5) Blank walls and flat facades should be avoided. Walls longer	All facades are not greater than 10m without any articulation. The design	Yes	

	<p>than 10m should be articulated by a minimum 300mm projection or indentation in the façade.</p> <p>(6) The overall building should present a building mass that is in proportion with the allotment size, provides opportunities for modulation and articulation of the building and does not detract from the satisfaction of any other applicable design principle.</p> <p>(7) Where proposed development includes a two (2) residential level element, then the second level should not extend beyond 60% of the depth of the allotment measured from the street boundary. Where side boundaries are of varying length, the second level is limited to a line across the block between the points on both boundaries. Control: 60% x26.02m = 15.61m</p>	<p>incorporates balconies and formwork to provide perceived depth when viewed from the public domain.</p> <p>The overall building presents a building mass that is proportionate with the allotment size and provides opportunities for modulation through balconies, planters and terraces.</p> <p>Proposed: Ground floor verandah maximum encroachment 19.1m (73.4%), with the ground floor, first floor and rear first floor verandah also encroaching the 60%.</p>	<p>Yes</p> <p>No (1), refer to discussion below.</p>
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(1) Rear 60% first floor maximum depth

Council controls prescribe a maximum 60% rear maximum depth of the site equating to 15.61m. The proposal results in the following variations as follows: Due to the cross slope of the site the garage level by definition is a storey. The ground floor plan is effectively the first floor for assessment purposes. This level has an elevated verandah seeks a balcony at RL28.0 with the northern edge of this balcony having a rear setback of 5.447m – 6,002m. Due to the elevated nature of this verandah angled privacy louvers have been conditioned to be installed along the northern edge of the verandah to provide amenity between properties.

The proposal results in the ground floor verandah having a maximum depth of 19.1m (73.4%), with the ground floor, ground floor alfresco, first floor and rear first floor verandah also encroaching beyond the 60% depth of the site.

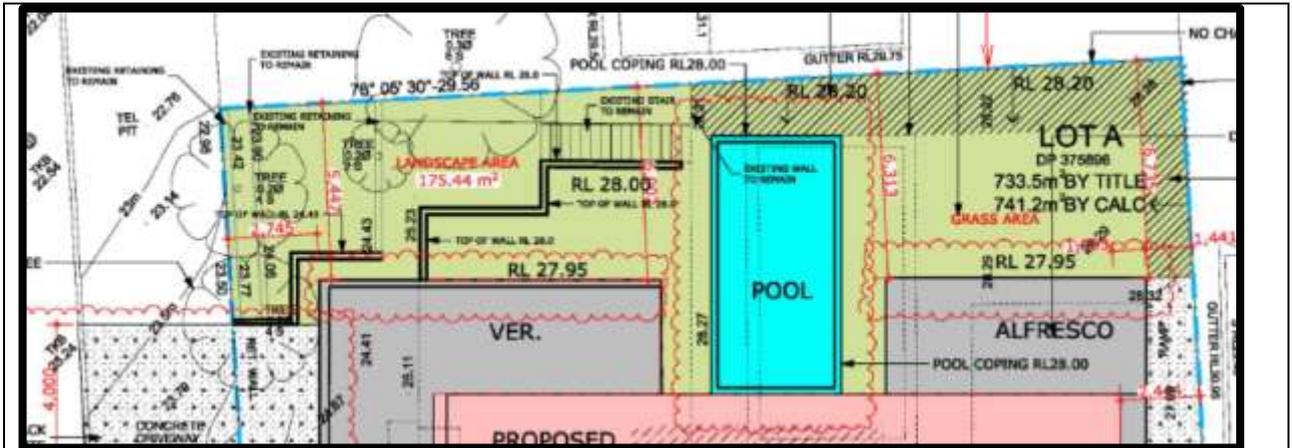


Figure 8: Extract of site plan (Source: David Dechiara, 2020).

- The subject site is considered to form a relatively narrow allotment with a site depth of 26.02m with the existing dwelling orientated to Cross Street. The proposed new dwelling house seeks to retain the dwelling orientation to Cross Street. The additional massing along the secondary frontage to Boronia Street, Kyle Bay reinforces this street edge with appropriate massing, setbacks and articulation.
- The extent of the variation is not considered to be unreasonable and does not result in any unacceptable amenity impacts in relation to solar access given that additional overshadowing impacts fall onto the street and within the subject site.
- The extent of the variation does not result in any unacceptable privacy impacts.
- The extent of the variation does not result in unreasonable bulk and scale impacts given the proposed setbacks, modulation and architectural elements providing an articulated built form to the public domain and neighbouring properties. The proposed built form is considered to reinforce the street corner and secondary frontage to Boronia Street, Kyle Bay without unreasonably detracting from the existing streetscape.

The proposed extent of the variation is considered to be reasonable given the objectives of the controls and is supported on planning merit.

Note: The ground floor alfresco area is located on natural ground level as a result there are no privacy impacts.

The first floor terrace has planter boxes to its perimeter to minimise the walkable area and to provide a landscaping buffer to reduce the extent of overlooking.

The ground floor veranda impacts have been mitigated through the imposition of a condition requiring fixed angled louvers along the northern edge of this balcony.

Additional tree planting conditioned along the rear boundary.

Also a condition has been imposed that the larger upper planter not be converted to be an extension of the terrace area.

1.2.2 Building Heights	(1) The maximum building height must comply with		
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	<p>the requirements specified in table below:</p> <p>7.2m to the underside of the upper ceiling;</p> <p>7.8m to the top of the parapet;</p> <p>(2) The maximum number of residential levels is two (2), except where the site has a slope exceeding 1:8 (12.5%), where the maximum number of residential levels is three (3).</p> <p>(3) Regardless of the number of levels, the maximum height of the building must be consistent with the maximum height requirements.</p> <p>(10) Rooftop terraces are prohibited in dwelling houses, dual occupancy development and secondary dwellings.</p>	<p>Range: 6.0m - 8.65m (RL33.8)</p> <p>Range: 6.9 - 9m (RL34.15)</p> <p>The slope is greater than 1:8. The proposed application seeks approval for a predominantly two storey dwelling with a minor three storey element due to the topography of the site.</p> <p>The proposed development complies with the maximum height requirement of 9m.</p> <p>No rooftop terrace is proposed.</p>	<p>No (2) refer to discussion below.</p> <p>No (3) refer to discussion below.</p> <p>Yes</p> <p>Yes</p> <p>N/A</p>
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(2) Maximum height underside of ceiling
 Council’s controls prescribe a maximum height to the underside of the ceiling being 7.2m. The proposal seeks a variation to this control which ranges from 6.0m to 8.65m. The proposed variation is considered to be acceptable for the following reasons:

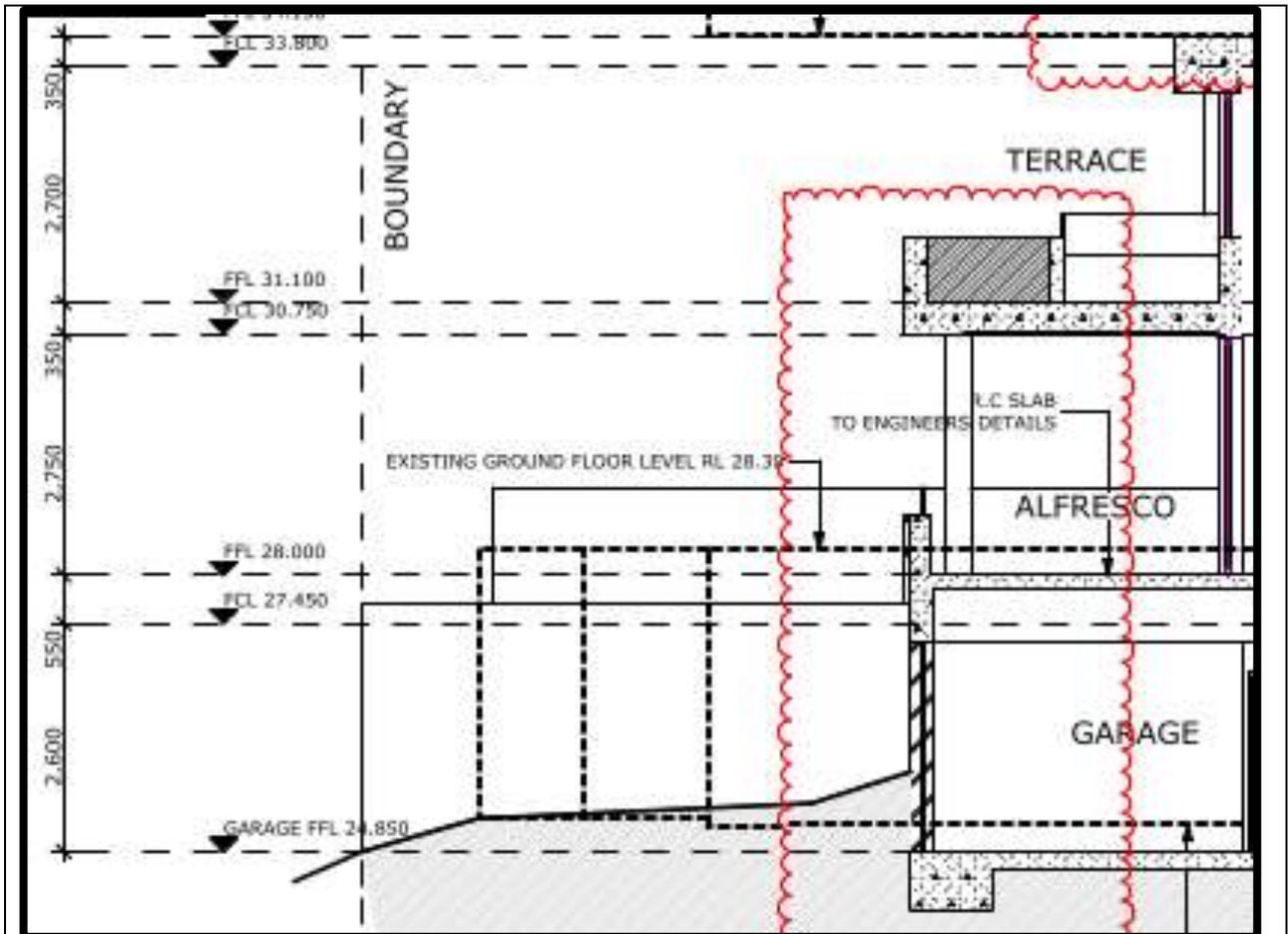


Figure 9: Extract of the cross section of the proposed dwelling fronting Boronia Street, Kyle Bay (Source: David Dechiara, 2020).

- The extent of the variation is due to the existing lower garage of the dwelling house being excavated into the slope of the land.
- The extent of the variation incorporates modulation along the vertical and horizontal planes which does not result in any unreasonable bulk and scale visual impacts and is considered to be commensurate with other infill development.
- The extent of the variation does not result in any unacceptable impacts in relation to solar access as this additional overshadowing impact falls onto the street and within the subject allotment.
- The extent of the variation does not result in unacceptable privacy impacts given that the additional ceiling height comprises the void area which does not result in additional privacy impacts to the adjoining northern neighbouring property.
- The extent of the variation complies with the 9m Height of Building as prescribed within the Kogarah Local Environmental Plan 2013.

For the above reasons, the proposed variation is supported as the objectives of the control has been reasonably satisfied as no adverse material bulk and scale impacts arise from this variation, and further that no unreasonable amenity impacts are generated by this variation.

(3) Maximum the top of the parapet (flat roof)

Council's controls prescribe a maximum top of parapet height for dwellings with flat roofs of 7.8m.

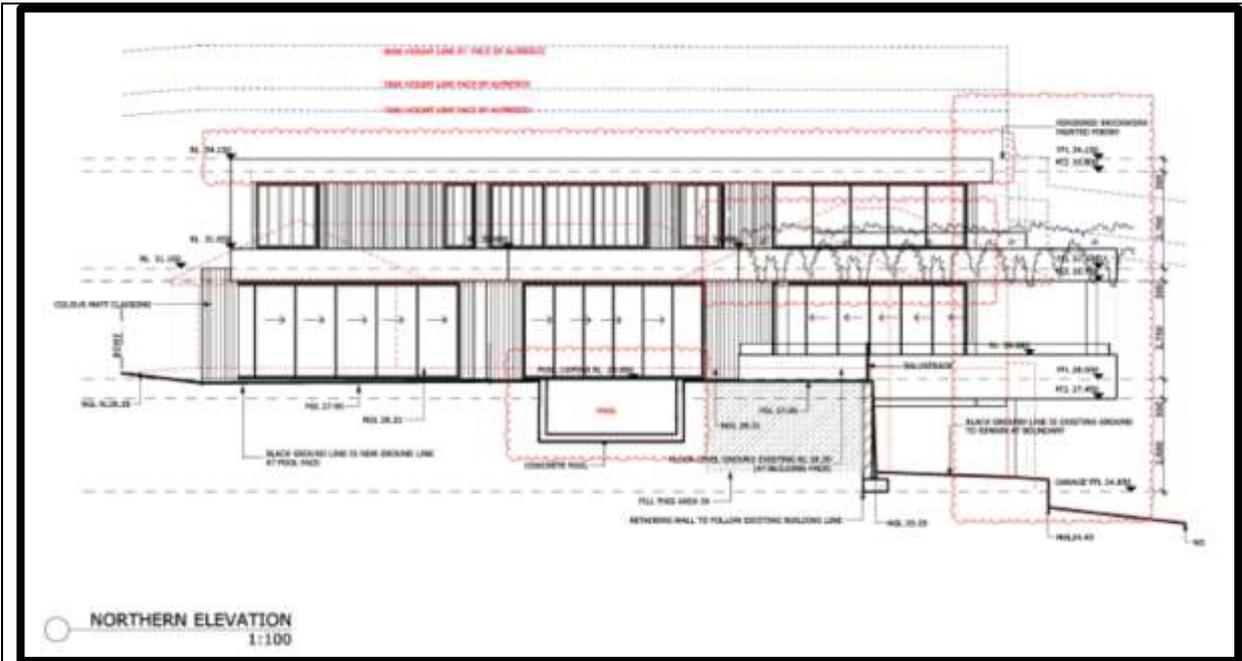


Figure 10: Extract northern rear elevation (Source: David Dechiara, 2020).

The proposal seeks a variation to this control which ranges from 6.8m to 9m (RL 34.15) due to the slope of the site. The applicant has demonstrated that the height of building does not to exceed 9m. The proposed variation is considered to be acceptable for the following reasons:

- The extent of the variation is due to the existing lower garage of the dwelling house being excavated into the slope of the land which does not result in any unreasonable visual impacts when viewed from the public domain.
- The extent of the variation does not result in an breach of the 9m Height of Building control as prescribed within the Kogarah Local Environmental Plan 2013.
- Further to the above, the extent of the variation does not result in any unacceptable impacts in relation to solar access as this additional overshadowing impact falls on the street and within the subject site.

For the above reasons, the proposed variation is supported as the objectives of the controls have been reasonably satisfied in relation to bulk and scale, and further that no unreasonable amenity impacts are generated by this variation.

<p>1.2.3 Rhythm of the Built Elements in the Streetscape</p>	<p>(1) The primary building façade should not exceed 40% of the overall width of the total frontage.</p> <p>(3) Where the dominant built form in the streetscape provides for a pitched hip or gable</p>	<p>Primary building façade does not exceed 40% which is taken to be that of the first floor wall which is setback 5.5m from Cross Street. The proposal provides sufficient contemporary articulation, modulation along the horizontal and vertical planes.</p> <p>The proposed development incorporates skillion roofs behind parapets which is compatible with the existing</p>	<p>Yes</p> <p>Yes</p>
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	<p>ended presentation to the street, the new buildings and/or additions should reflect that roof form.</p>	<p>streetscape and is consistent with modern contemporary construction.</p>	
<p>1.2.4 Building Setbacks</p>	<p>1.2.4.2 Front Setbacks</p> <p>(1) Where the setback of an adjacent building is greater than 5m, an appropriate setback may be achieved by ensuring development is set back:</p> <p>(2) The secondary front façade should be setback a minimum 1.5m from the primary building façade.</p> <p>(3) Where a development has two (2) streets, then the setback to the secondary street shall be 1.2m, with the exception of dual occupancy (detached), where the setback to the secondary shall be 4.5m.</p> <p>Figure 12 Setbacks for</p>	<p>Proposed Front Setback: Ground floor: 5,700mm – 6,000mm for the dwelling façade and 5,000mm for front porch (articulation). First floor: 5,500mm – 7,000mm.</p> <p>It is noted that the site forms a corner site whereby a setback of 5.5m is prescribed. The adjoining property to the east at 1 Cross Street, Kyle Bay, contains a front setback of 5,930mm to the solid wall and 5,300mm from the eave.</p> <p>The proposal seeks a 1.2m recess for the façade of the dwelling at the first floor as the wall is behind a 1.2m wide balcony. There is an additional indentation of from the façade of the dwelling to the fixed glazing to the void area. This is considered to be acceptable as the proposal adopts a contemporary modulation similar to that of other dwelling houses approved within the locality.</p> <p>The proposal forms a dwelling house with a secondary frontage to Boronia Street, Kyle Bay with the planter extending to within 2.4m to the western street boundary.</p> <p>The proposal complies as</p>	<p>Yes</p> <p>No</p> <p>Yes</p> <p>Yes</p>

	<p>single dwellings two street frontages illustrates a front setback of 5.5m to the primary road and 1.2m to the secondary road.</p> <p>1.2.4.3 Side and Rear Setbacks</p> <p>(1) The side and rear boundary setbacks should comply with the table below.</p> <p>Dwelling Type Single dwelling</p> <p>Rear Setback Buildings are to have a minimum rear setback of 15% x 26.95m = 4.04m (not applicable – 6m rear setback is greater)</p> <p>Where the existing pattern of development displays an established rear setback, development should recognise and respond to site features and cross views of neighbouring properties.</p> <p>Side Setbacks For buildings having a wall height of 3.5m or less, the minimum side boundary setback is 900mm.</p> <p>For buildings having a wall height of greater than 3.5m, the minimum side boundary setback is 1200mm.</p>	<p>the front setback, with the exception of the porch, has a setback of a minimum of 5.7m with a secondary setback of 2.2m to the verandah.</p> <p>The application is for a single dwelling.</p> <p>Proposed Rear Setback: 9.5m (ground floor solid wall), 5.44m to the rear verandah</p> <p>No apparent established rear setback alignment, however the rear setback alignment is similar to that of the adjoining eastern property at 1 Cross Street, Kyle Bay.</p> <p>1,039mm to eastern side boundary.</p> <p>2,444mm to eastern side boundary.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<p>1.2.5 Fenestration and External Materials</p>	<p>(1) New buildings and alterations and additions should present a primary building façade and roofing that is constructed</p>	<p>The proposed development is considered to be consistent with modern contemporary development in the locality.</p>	<p>Yes</p>

	<p>of materials, and within a colour range, that is complementary to the dominant character of buildings in the streetscape.</p> <p>(2) Garage doors should not dominate the street front elevation (Figure 16).</p> <p>(3) The roof should be similar to the angle of pitch, materials and colour of roofs in the streetscape (Figure 14).</p> <p>(4) The colours of garages, window frames, and balustrading on main facades and elevations are to be integrated with the external design of the building.</p> <p>(5) Glazing shall be limited to a maximum 35% of the total area of the overall street front façade. This includes both primary and secondary façade bays (Figure 15).</p> <p>(6) Where garaging is in the front façade it should be limited to a maximum of two garage bays, with separate garage door openings of a maximum width of 3 metres.</p>	<p>The garage door is located in the elevation of the secondary street frontage being Boronia Street, Kyle Bay.</p> <p>This is considered to be consistent with the emerging streetscape and not inconsistent with similar infill developments recently constructed.</p> <p>A materials and colours schedule has been provided which is considered comparable with recently constructed contemporary development.</p> <p>Glazing to the front façade is 33.59% (52.17sqm) along Cross Street, Kyle Bay.</p> <p>The dwelling contains a double garage with a single double width door opening being 5m in width accessed from Boronia Street.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
1.2.6 Street Edge	<p>(3) Existing vegetation in the front building line setback or on the street verge that contributes to the character of the streetscape should be preserved.</p>	<p>The proposal seeks to retain the trees on site and replace trees to embellish the streetscape. The proposal does not result in the removal of any street tree on the road reserve to accommodate the driveway crossing.</p>	<p>Yes</p>

	(4) The driveway location should not result in the removal of any street trees or removal of substantial trees on the site.	The proposed removal of insignificant shrubs less than 1.5m in height is supported by Council's Consulting Arborist to accommodate the driveway crossing.	Yes
1.3 Open Space			
	(1) 15% of the site area must be deep soil landscaped area. Site Area: 733.5sqm 15% x 733.5sqm = 110.02sqm.	Proposed: 292sqm equating to 39.80%	Yes
	(2) Private open space should be adjacent to and visible from the main living and/or dining rooms and be accessible from those areas.	The private open space is adjacent to the main living areas on the ground floor.	Yes
	(3) Development should take advantage of opportunities to provide north facing private open space to achieve comfortable year round use.	The site is north-south orientated whereby the rear of the site is located to the north.	Yes
	(4) Where soil and drainage conditions are suitable, unpaved or unsealed landscaped areas should be maximised and designed to facilitate on site infiltration of stormwater.	The proposal provides soft landscaping around the building footprint which assists in the filtration of water.	Yes
	(5) Existing significant trees and vegetation must be incorporated into proposed landscape treatment.	The proposed removal of four (4) trees and retention of three (3) trees are supported by Council's Consultant Arborist subject to conditions of consent.	Yes
1.4 Vehicular access, parking and circulation			
	(1) Car parking is to be provided in accordance with the requirements in Section B4.	Complies. Two (2) car spaces proposed within the garage level.	Yes
	(2) On corner sites with	Vehicular access is via the	Yes

	<p>two street frontages vehicular access should be provided to the secondary frontage.</p> <p>(4) Crossings are to be positioned so that on-street parking and landscaping on the site are maximised, and removal or damage to existing street trees is avoided.</p> <p>(5) Garaging should be setback behind the primary façade.</p> <p>(6) The maximum driveway width between the street boundary and the primary building façade is 4m.</p> <p>(11) Storage areas within basements or garages must not exceed 10sqm per dwelling (with a minimum width of 500mm).</p> <p>(12) Car parking layout and vehicular access requirements and design are to be in accordance with the Australian Standards, in particular AS 2890.1-2004.</p>	<p>secondary street frontage of Boronia Street, Kyle Bay and is sufficiently located away from the tangent point.</p> <p>The proposal does not result in the removal of any trees on the road reserve. There is a tree within the site boundary that is being removed to accommodate the driveway.</p> <p>The proposed garage is located fronting Boronia Street being the secondary street frontage with the ground floor verandah which is cantilevered appearing recessed when viewed from Boronia Street.</p> <p>The proposed driveway of Boronia Street has a width of 4m.</p> <p>A storage area is proposed within the lower ground floor level.</p> <p>A condition of consent will ensure compliance with this control. Two (2) garage spaces are contained within the lower ground floor level to service the dwelling house.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
1.5 Privacy			
1.5.2 Acoustic Privacy	(1) Windows from active rooms are to be offset between adjacent dwellings so as to avoid direct overlooking onto neighbouring windows.	Windows are appropriately offset from adjoining properties.	Yes

	<p>(2) Where terraces and balconies are proposed and are elevated more than 1.5m above ground level (finished) and are located behind the street front façade, they are restricted to a maximum width of 2.5m and must be setback a minimum 3m from any adjoining property boundary</p>	<p>The proposal seeks a variation to this clause whereby the ground floor terrace seeks a width greater than 2.5m and is located above 1.5m due to the slope of the site and sitting of the existing dwelling. The proposal seeks balconies which are located forward of the front façade however are located more than 3m away from any adjoining residential property boundary.</p>	No
	<p>(3) The area of balconies or terraces greater than 1.5m above ground level is limited to a cumulative total of 40sqm per dwelling.</p>	<p>The proposal results in the following;</p> <p>Front balcony: 6.3sqm First floor verandah: 15.20sqm</p> <p>Elevated ground floor veranda: 45.39sqm</p> <p>However it is noted that technically part of the proposed elevated ground floor verandah (being an area between the driveway and the proposed swimming pool) is situated within the two storey building footprint of the existing dwelling. The existing dwelling has been excavated into the natural ground level into the slope of the site whereby the existing lower ground floor is assessed as the slab for the existing ground level. This is not considered to result in any unacceptable impact.</p> <p>This equates to a cumulative total of 66.89sqm</p>	No
	<p>(4) Council may consider</p>	<p>The proposed variation is</p>	Yes

	<p>a variation to the above requirements where it is considered that the terrace or balcony will not result in a loss of privacy to neighbouring properties.</p> <p>(5) For active rooms or balconies on an upper level, the design should incorporate placement of room windows or screening devices to only allow oblique views to adjoining properties (Figures 18 and 19).</p> <p>(6) Loss of privacy to neighbouring properties, as a result of a proposed development, will only be considered where a variation is sought to the objective or the design solution for floorspace ratio, building height, building envelope, side boundary setbacks, extent of second level development or size of balcony/terrace.</p> <p>(7) In these circumstances, Council will undertake an assessment of the impact of the proposed development on the neighbouring properties having regard to: (i) The types of rooms that are located on the upper levels; (ii) Whether the rooms are “active” or “non-active” (iii) The size and location of proposed upper level windows, balconies, terraces and any other area (elevated more than 1500mm above ground level). (iv) The extent of overlooking onto</p>	<p>considered to be reasonable given that appropriate conditions have been imposed to ensure that the amenity between properties can be protected.</p> <p>The proposal incorporates privacy elements in the form of louvers, planter boxes and additional landscaping to protect the amenity between properties.</p> <p>As above appropriate conditions have been imposed.</p> <p>Council has taken into consideration the adjoining context and has imposed design conditions to minimise impacts between properties.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
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	<p>neighbouring properties. (v) Notwithstanding the above, where rooms on the upper levels are “non-active”,</p> <p>Residential development adjacent to a rail corridor or a busy road should be designed and sited to minimise noise impacts Refer to requirements in State Environmental Planning Policy – Infrastructure and the NSW Department of Planning’s Development near Rail Corridors and Busy Roads – Interim Guidelines.</p>	<p>The subject allotment is not located near or adjoining a rail corridor; therefore this control does not apply.</p>	<p>N/A</p>
<p>1.6 Solar Access</p>			
	<p>(1) At least 50% of the primary private open space of the proposed development should have access to a minimum of four hours of sunlight between 9am–3pm on 21 June.</p> <p>(3) Where the neighbouring properties are affected by overshadowing, at least 50% of the neighbouring existing primary private open space or windows to main living areas must receive a minimum of 3 hours sunlight between 9am–3pm on 21 June (Figure 21).</p> <p>(4) Shadow diagrams are to be submitted for the winter solstice (21 June) and the spring equinox (22 September).</p> <p>(5) Shadow diagrams are required to show the impact of the proposal on</p>	<p>Due to the orientation of the allotment; (being north to south). The proposed development will receive in excess of three (3) hours of sunlight during the winter equinox.</p> <p>The neighbouring properties are not unreasonably impacted by the proposal in relation to the criterion of this clause.</p> <p>Shadow diagrams have been submitted and assessed as a part of this application.</p> <p>Shadow diagrams have been submitted and assessed as a part of this</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

	solar access to the open space of neighbouring properties. Existing overshadowing by fences, roof overhangs and changes in level should also be reflected in the diagrams.	application. The shadows also include the adjoining allotments, which are also indicated on the submitted survey plan.	
1.7 Views and view sharing			
	(1) Development shall provide for the reasonable sharing of views. Note: Assessment of applications will refer to the Planning Principle established by the Land and Environment Court in Tenacity Consulting vs Warringah Council (2004) NSWLEC140	A site inspection revealed that the outlook from Boronia Street contains distant filtered water views to the Georges River to the west. Surrounding dwelling houses have been designed with windows and balconies to take advantage of this aspect. It is acknowledged that there will be built form in a location where there has not been given the existing structure on site is a part single-double storey dwelling. The siting of the proposal is unlikely to unreasonably detract from the view and outlook given the immediate surrounding topography.	Yes

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68. **Section 4 KDCP 2013**
Section 4 Ancillary Structures

Clause	Control	Proposed	Complies
4.2.2 Side and Rear Fences	(1) Side and rear boundary fences must not be higher than 1.8m on level sites, or 1.8m as measured from the low side where there is a difference in level either side of the boundary. An additional 300mm of lattice is permitted for privacy screening.	The proposal does not seek to change the existing boundary fencing.	Yes
4.2.3 Retaining walls	(1) Retaining walls over 600mm in height must be designed by a suitably qualified structural engineer.	Standard conditions to ensure appropriate structural design and construction.	Yes
	(2) Construction of retaining walls or associated drainage work along common boundaries must not compromise the structural integrity of any	All works are proposed to be contained within the subject site. Standard conditions to ensure appropriate structural	Yes

S e t b a c k S w i m m i n g P o o l s S w i m m i n g	existing retaining walls or structures. All components, including footings and aggregate lines, must be wholly contained within the property.	design and construction have been recommended.	
	(4) No part of any retaining wall or its footings can encroach onto a drainage easement or transmission line easement unless approval from the appropriate consent authority is obtained.	No easements impacted.	Yes
	(5) Any retaining walls required as part of the dwelling construction to control potential land stability and/or the structural integrity of adjoining properties, must be completed prior to occupation of the structure.	Standard condition recommended.	Yes
	(6) Excavation or filling requiring retaining shall be shored or retained immediately to protect neighbouring properties from loss of support and to prevent soil erosion.	A geotechnical report has been submitted with this development application and is to form part of the conditions of consent.	Yes

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Swimming Pool and Spa

69. The proposal seeks the consent for a rectangular shaped swimming pool located within the rear setback. The swimming pool is dimensioned 8m in length and 4m in width with a capacity of 48KL.

Section 4.6 – Swimming Pools - KDCP 2013

Clause	Control	Proposed	Complies
	(1) Swimming pools/ spas should be located at the rear of properties.	The swimming pool is located within the rear northern setback behind dwelling.	Yes
	(3) Swimming pools/spas must be positioned a minimum of 900mm from the property boundary with the water line being a minimum of 1500mm from the property boundary.	1629mm from the northern side boundary.	Yes
	(4) In-ground swimming pools shall be built so that the top of the swimming pool is as close to the existing ground level as possible. On sloping sites	The swimming pool is proposed at natural ground level within the rear of the site.	Yes

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	this will often require excavation of the site on the high side to obtain the minimum out of ground exposure of the swimming pool at the low side.		
	(8) Filling is not permitted between the swimming pool and the property boundary. The position of the swimming pool, in relation to neighbours and other residents, must be considered to minimise noise associated with activities carried out in the swimming pool or from the swimming pool equipment, such as cleaning equipment.	No filling is proposed or shown on the plans.	Yes
	(9) Council may require mechanical equipment to be suitably acoustically treated so that noise to adjoining properties is reduced.	Standard conditions imposed.	Yes
	(10) A pool fence complying with the legislation should separate access from the residential dwelling on the site to the pool.	Standard conditions imposed. The swimming pool has separate access from the dwelling.	Yes
	(11) Safety and security measures for swimming pools must comply with the relevant requirements of the Swimming Pools Act and any relevant Australian Standards.	As above.	Yes

70. The proposed development is subject to the provisions of the Interim Policy Georges River DCP

cy is to set a consistent approach for the assessment of residential development within the Georges River Local Government Area, until such a time as a comprehensive DCP is prepared and implemented. Comments are made with respect to the proposal satisfying the objectives and controls contained within the DCP.

Control	Standard	Proposed	Complies
Dwelling House			
Landscaping	Site area = 733.5sqm 20% or 146.7sqm (min)	Proposed: 292sqm equating to 39.80%	Yes

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.
72. 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 will be used as a guide as it is an endorsed position of the Council. The proposal is considered to be consistent with the interim policy.

IMPACTS

Natural Environment

73. The subject site and immediate surrounding area has been historically used for residential purposes. The proposal seeks cut and fill commensurate to other dwelling houses within the locality. The proposal will result in the protection of the street tree at the south west corner and adequate stormwater disposal along the northern rear boundary of the property which drains to Boronia Street with appropriate conditions imposed. In this regard, the proposed works will not materially impact the natural environment.

Built Environment

74. The built form of the proposed development is of a bulk and scale that is compatible with the immediate surrounding context. The proposed design is considered to be responsive to the allotments shape, dimensions, trees and drainage on site. The proposal for the most part complies with the prescribed planning controls. As previously discussed within this report, the proposal seeks variations to the controls relating to external wall height and articulation of which are not considered to result in any unreasonable material impacts. Additional design conditions have been imposed to minimise privacy impacts between properties. An additional landscaping condition is imposed along the northern rear boundary for planting which can reach a maturity height of 3m. Further details of retaining walls to be constructed in accordance with the Australian Standards. Given the above, the proposal is not considered to result in any adverse material impacts to the built environment.

Social Impact

75. The assessment demonstrates that the proposal in its current form will not have an adverse impact on the character of the locality and the amenity of neighbouring residential properties. The environmental impacts on the social environment are considered to be not unreasonable and therefore the application is supported.

Economic Impact

76. The proposal is not considered to result in unreasonable material economic impact given the residential use of the proposal.

Suitability of the Site

77. The site is zoned R2 Low Density Residential pursuant to the provisions contained within the Kogarah Local Environmental Plan 2012. The amended proposal results in a reasonable planning outcome which is considered to be compatible with the dimensions and sloping topography of the site. It is considered that the proposal will not have any unreasonable impacts on adjoining properties, the streetscape or locality beyond in its current form subject to conditions of consent.

SUBMISSIONS, REFERRALS AND THE PUBLIC INTEREST

78. The application was notified and re-notified to adjoining owners, occupiers for fourteen (14) days. The amended plans which form the basis of this assessment report has generated a lesser impact than the previous notified proposals whereby the proposal has been reduced in height and reduced in building footprint. Therefore re-notification was not required. In response, five (5) submissions were received to the proposal. A summary of the key concerns raised within the submissions have been addressed below.

Bulk and scale impacts which is not in context with the surrounding area

79. Comment: The amended proposal better conforms to Council's planning controls whereby the extent of the variations has been reduced from the originally proposed design. The amended proposal has resulted in the reduction of the impacts which now results in variations to the external wall height, maximum ceiling height, rear first floor setback and articulation of which have been previously addressed within this assessment report. The extent of the variations has been considered in relation to the objectives of the controls and material impacts and is supported on planning merit.

Garage level does not form a basement

80. Comment: The proposal contains a slope greater than 12.5 degrees from east to west. Given that the proposal seeks to utilise the location of the existing dwelling, the proposed garage level forms a lower ground floor level and not a basement. Though due to the cross slope of the site being (west) low and (east) high, the rear of the lower ground floor level is fully contained within the natural ground level.

Encroachment of front verandah along Boronia Street. Encroachment into front setbacks.

81. Comment: As previously stated within this report, the proposal complies with the 2m front setback requirement for secondary frontages. The proposal results in appropriate front setbacks to both Cross Street and Boronia Street, Kyle Bay which allows for the retention of a large tree within the front corner splay of the site and embellishment of the site. Small shrubs within front setback to Boronia Street are of low arboriculture value and are supported to be removed by Council's Consulting Arborist.

Non-complaint height of building

82. Comment: Concerns were raised regarding the height of building as the original proposal breached the 9m. The amended proposal has been reduced in height and does not exceed the 9m Height of Building control within the Kogarah Local Environmental Plan 2012 which applies to this site. The proposal seeks a variation to the Kogarah Development Control Plan 2013 in relation to the maximum ceiling height and maximum ceiling height for flat roofs as detailed within this assessment report.

Three storey dwelling and slab thickness

83. Comment: The proposal seeks a part three storey component along the western side elevation fronting Boronia Street, Kyle Bay due to the cross fall of the site. It is noted that the majority and remainder of the dwelling house adopts a two storey built form. Concerns were raised regarding proposed slab thickness and floor to ceiling heights which could be reduced however in this instance the reduction of such elements would result in minimal material benefit in relation to amenity impacts. The amended plans were subsequently amended to comply with the 9m height of building which involved the reduction of the slab thickness between floors.

60% maximum first floor depth

84. Comment: The proposal in part exceeds 60% depth on the ground floor due to the cross slope of the site above the garage. The remainder of the 60% depth relates to the first

floor above. This variation has been addressed earlier within the report and is supported on planning merit.

No details of boundary fence (retaining wall between the subject site and 52 Boronia Street or retaining walls.

85. Comment: The application does not seek to change the existing fence or change levels along the northern side boundary. The existing stairs are proposed to remain. The new dwelling will seek a greater setback than the existing dwelling to the northern rear boundary. The proposal seeks backfill (RL 27.85) in the location of the existing dwelling to the rear edge of the ground floor veranda comprising of 21sqm. This aligns with the existing ground levels within the centre rear setback which ranges from RL28.31-RL28.32). The proposal incorporates a top of wall for the retaining walls at RL28.0 with balustrade above. The closest proposed retaining wall is located 2m away from the northern boundary.

86. To address the change in levels along the rear boundary and how it transitions to the dwelling there is a batter of the land levels proposed.

Excavation impacts generated by the proposal

87. Comment: A geotechnical report accompanies this development application which is conditioned for the recommendations of the report to be addressed/implemented during the build. A dilapidation report is also conditioned to be undertaken on all adjoining properties prior to the issue of the construction certificate.

Floor space ratio and future conversion of additional habitable space given the existing building footprint

88. Comment: The proposal complies with the floor space ratio controls. The application is for a new dwelling house with the lower ground floor proposing two (2) car spaces, storage areas and access to the levels above via a lift and stairs. The proposal incorporates two (2) void areas on the first floor with one (1) void above the entry and the other above the lounge room on the ground floor. It is also noted that the proposal is well below the permitted maximum floor space ratio for the site. In addition, if the void areas in the development were to be converted to floor space this would be the subject of a separate application.

Impacts to tree 2 ('*Thuja plicata*' red cedar) located within 52 Boronia Street during the construction and excavation process

89. Comment: The proposal is supported by Council's Consulting Arborist subject to conditions of consent which protects the adjoining tree at 52 Boronia Street, Kyle Bay. Fill has been proposed as referenced in the landscape plans whereby levels shown on the submitted landscape indicate that levels within the TPZ of this tree are to be retained. No changes to levels are proposed along the northern side boundary. Additional fill is proposed to backfill in part the location of the existing dwelling to the northern edge of the rear northern boundary which are outside of the TPZ and however this does not adversely affect this tree. The land will be battered up from the rear boundary toward the dwelling to address the change in levels.

No basement or floor plans provided making the assessment of the application difficult

90. Comment: Basement and floor plans are not for public viewing given the proposal is a residential dwelling for privacy reasons. The site plan, elevations and supporting documentation have been made available for public viewing. Notwithstanding Council has undertaken an assessment based on the information available which included floor

plans. It is noted that the proposal complies with the maximum floor space control and is compliant with the LEP height control.

Montage is incorrect

91. Comment: The assessment of application has been based on the submitted architectural plans which are scaled and dimensioned and not the conceptual montage.

Front setback and articulation

92. Comment: The amended proposal better aligns with the adjoining eastern dwelling at 1 Cross Street, Kyle Bay. The amended proposal seeks a minimum front setback ranging from 5.5m – 6.0m with appropriate modulation and articulation which is considered to be compatible with the streetscape.

Privacy impacts along rear northern elevation from setbacks and verandah

93. Comment: The amended proposal has lowered the ground floor closer to natural ground level. Key habitable rooms are located on the ground floor. The first floor comprises of bedrooms and bathrooms only. The first floor wrap around verandah fronting Boronia Street, Kyle Bay contains substantial planter boxes within the internal face of this balcony to reduce outlook and privacy impacts to the adjoining northern neighbour. As previously stated within this report the design conditions;

Prior to issue of Construction Certificate:

- A fixed angled privacy louver must be erected along the northern edge of the elevated ground floor verandah to minimise overlooking impacts between the subject site and No. 52 Boronia Street, Kyle Bay.
- A row of *Syzygium Cascade* Lilly Pilly's are to be indicated on the landscape plan parallel with the northern rear boundary with a minimum 25 Litre pot size and spacing of 1m
- Details of watering system are to be provided for the planter box adjacent to the first floor terrace.

Ongoing Condition:

- The planter box adjacent to the first floor terrace must be retained in perpetuity.

Swimming pool not setback 1,500mm from boundary

94. Comment: The amended proposal has sought to relocate the swimming pool to the centre of the rear yard with a setback of 1,629mm from the northern rear boundary which is complaint.

Noise impacts generated by use given location of dwelling in relation to setbacks

95. Comment: An additional design condition has been imposed for angled louvers to be added along the elevated rear verandah (ground floor) to minimise impacts upon 52 Boronia Street, Kyle Bay. Subject to the above condition, the proposal design is not considered to be unreasonable in relation to amenity impacts given the residential nature of the development.

Flat roof is inconsistent with the streetscape

96. Comment: The proposal seeks to incorporate a flat roof behind the parapet which is considered to be compatible with the emerging streetscape. The design of flat roofs is considered to form a contemporary design which is commensurate of new infill housing within the locality.

No pool fence on the plans

97. Comment: The original design of the swimming pool proposed an infinity pool fronting Boronia Street, Kyle Bay. The amended proposal seeks a swimming pool centrally located within the rear setback with a swimming pool fence indicated on the plans. Conditions will be imposed to reinforce this criterion.

Inconsistent information on the plans and within the submitted documentation

98. Comment: Council has undertaken an assessment based on an amended application which is considered to be satisfactory subject to conditions of consent.

Dividing fence between subject site and 52 Boronia Street, Kyle Bay

99. Comment: The proposal does not seek to change the dividing fence between the two properties. The proposal seeks to provide additional landscaping along the rear boundary of the subject site to provide landscaping embellishment between the properties. A condition of consent has been imposed for a row of landscaping along the rear northern boundary.

Inconsistent and inaccurate information provided within the Submitted Statement of Environmental Effects

100. Comment: An assessment has been undertaken in consideration with the amended proposal and accompanying documentation which is considered to be satisfactory subject to conditions of consent.

Balconies and verandas over 40sqm

101. Comment: An assessment has been undertaken in consideration with the amended proposal. The amended proposal has reduced the extent of the verandas over 1m in height above natural ground level. The extent of the verandahs proposed are not considered to be unreasonable and do not result in any unacceptable amenity impacts given the nature of the design subject to conditions to reduce amenity impacts between the subject site and the northern adjoining property.

No updated excavation plan

102. Comment: An excavation plan has been provided within the latest amended architectural plans which is considered to represent the works proposed.

No measurements for swimming pool showing distances to the boundary on site plan

103. Comment: Whilst no dimensions have been shown on the site plan indicating the proposed swimming pool setback. A dimension of 1629mm has been shown on the amended ground floor plan which indicates the setback of the proposed swimming pool from the northern side boundary.

Not in the public interest

104. Comment: The proposal is considered to be in the public interest given that the amended proposal has reduced the extent of impacts than that of the original design. The amended proposal results in non-compliances which do not result in any unreasonable material impact and therefore are supported on planning merit. As previously discussed additional design conditions have been imposed in relation to screening of the northern edge of the elevated ground floor verandah and ongoing retention of the first floor planter box adjacent to the first floor terrace to protect the amenity between properties.

Amended/Detailed landscape plan

105. Comment: An amended detailed landscape plan is to be prepared by a suitably qualified professional. This forms a condition of consent.

Council ReferralsDevelopment Engineer

106. The proposal seeks to drain to Boronia Street, Kyle Bay via gravity. This is supported by Council's Development Engineer subject to conditions of consent.

Consultant Arborist

107. Council's Consulting Arborist has reviewed the proposal and has supported the retention and protection of trees subject to conditions of consent. The proposal is supported subject to appropriate tree replacement on site to replenish the tree canopy.

Infrastructure

108. Council's Design Engineer supports the proposal subject to conditions of consent.

External ReferralsAusgrid

109. The application was referred to Ausgrid as per Clause 45(2) of the State Environmental Planning Policy (Infrastructure) 2007 for consideration. In response, the proposal is supported subject to compliance with Ausgrid Network Standards and Safe Work NSW Codes of Practice for Construction Work near existing electrical assets. A condition of consent has been imposed to this effect.

Contributions

110. In accordance with Council's Section 7.12 are applicable to multi dwelling housing developments. A condition of consent requiring payment of the contribution has been imposed.

Contributions

Fee Type	Fee
Georges River Council Section 94A Development Contributions Plan 2017	\$8,618.50

CONCLUSION

111. Development consent is sought for the demolition of existing and construction of dwelling house and swimming pool on land known as 3 Cross Street, Kyle Bay. The proposal has been assessed with regard to the matters for consideration listed in Section 4.15 of the Environmental Planning and Assessment Act 1979. The proposal is considered to be an appropriate response to the context of the site and will result in a reasonable planning and urban design outcome.

112. The proposal has been assessed against the provisions of the relevant State Environmental Planning Policies Kogarah Local Environmental Plan 2012 and Kogarah Development Control Plan 2013 and complies with the development standards of the Local Environmental Plan and meets the underlying objectives of Development Control Plan is worthy of support subject to appropriate conditions of consent imposed.

DETERMINATION AND STATEMENT OF REASONSStatement of Reasons

113.

- The proposed dwelling housing house forms a permissible use within the R2 Low Density Residential Zone within the Kogarah Local Environmental Plan 2012.

- The amended design is suitable for the subject site as the objectives of the controls have been reasonably satisfied and conforms with the objectives of the applicable planning controls.
- The amended proposal provides good levels of amenity for future occupants and results in minimal adverse material impacts on adjoining properties and surrounding development.

Determination

114. THAT Pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act 1979, as amended, the Georges River Local Planning Panel grant approval to to DA2020/0145 for the demolition, pool removal and construction of new three (3) storey dwelling house with swimming pool, landscaping and site works on Lot A DP 375896 and known as 3 Cross Street, Kyle Bay 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
Lower Ground Floor Plan	2	October 21, 2020	F	David Dechiara
Ground Floor Plan	3	October 21, 2020	F	David Dechiara
First Floor Plan	4	October 21, 2020	F	David Dechiara
First Floor Plan	6	October 21, 2020	F	David Dechiara
Southern Elevation	7	October 21, 2020	F	David Dechiara
Northern Elevation	8	October 21, 2020	F	David Dechiara
Western Elevation	9	October 21, 2020	F	David Dechiara
Eastern Elevation	10	October 21, 2020	F	David Dechiara
Section AA and BB	11	October 21, 2020	F	David Dechiara
Demolition Plan	12	October 21, 2020	F	David Dechiara
Excavation Plan	13	October 21, 2020	F	David Dechiara
Site Analysis	14	October 13, 2020	F	David Dechiara
Environmental Site Management Plan	15	October 21, 2020	F	David Dechiara
Landscape Plan	16	October 21, 2020	F	David Dechiara
Floor Space	17	October 21,	F	David Dechiara

Ratio Areas		2020		
Streetscape Plan/Driveway	21	October 21, 2020	F	David Dechiara
BASIX Commitments	22	October 21, 2020	F	David Dechiara
CC Section	26	October 21, 2020	F	David Dechiara
DD Section	27	October 21, 2020	F	David Dechiara
EE Section	28	October 21, 2020	F	David Dechiara
Concept Drainage Plan	SW03CR055 Sheet 1 of 1	06-04-2020	-	M.M Farah Civil/ Structural
Geotechnical Report	G2040-1	30 th January 2020	-	Geotechnical Consultants Australia
Colour Schedule	-	-	-	-
Waste Management Plan	-	02-02-20	-	David Dechiara
BASIX Certificate	1088001S_03	9 October 2020	-	Sustainability-Z

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.

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

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

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

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

4. **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

5. **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).

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

Prior to the Issue of a Construction Certificate

7. **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.
8. **Geotechnical report** - Geotechnical Reports: The applicant must submit an updated Geotechnical Report, prepared by a professional engineer specialising in geotechnical engineering who holds the relevant Certificate of accreditation as required under the Building Professionals Act 2005 in relation to dilapidation reports, all site works and construction. 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 all adjoining properties prior to any excavation of site works. The Dilapidation Report is to include assessments on, but not limited to, the dwellings at those addresses and any external paths, grounds etc. This must be submitted to the 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 piersed prior to any excavation occurring to reinforce the walls of the excavation to prevent any subsidence to the required setbacks and neighbouring sites.
9. **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
Georges River Council Section 94A Development Contributions Plan 2017	\$8,618.50

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.

10. **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.

11. **Site Management Plan - Minor Development** - 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.

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

12. **BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No. 1088001S_03 dated 9 October 2020 prepared by Sustainability-Z must be implemented on the plans lodged with the application for the Construction Certificate.
13. **Required design changes** - The following changes are required to be made and shown on the Construction Certificate plans:

Retaining walls	Details of retaining walls must be indicated on the site and landscape plans prior to issue of construction certificate. Details, specifications and design must be in accordance with the Australian Standards.
Excavation plan, stormwater plan and geotechnical report	The excavation plan, stormwater plan and geotechnical report is to be amended to be consistent with the approved architectural plans as specified within Condition 1 – Approved Plans. The location of stormwater works must comply with the TPZ requirements of Condition 22 - Trees.
Landscaping	A row of <i>Syzygium Cascade</i> Lilly Pilly's are to be indicated on the landscape plan parallel with the northern rear boundary with a minimum 25 Litre pot size and spacing of 1m for the width of the allotment.
Privacy Louver	A fixed angled louvered privacy screen must be erected along the northern edge of the elevated ground floor verandah to minimise overlooking impacts between the subject site and 52 Boronia Street, Kyle Bay. The colour is to be consistent with the colour scheme of the dwelling and be non-reflective.
Details of planter watering system	The first floor planter adjacent to the terrace area is to be equipped with an irrigation system to facilitate the survival of the plantings in this space. Details and specifications of the watering system are to be provided with the Construction Certificate.

14. **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.

15. **Stormwater Drainage Plan Details** - 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) The PCA shall ensure that an amended drainage plan shall be prepared to reflect the updated architectural plans with the provision of a (RWT) with a capacity 5000 litres as per the submitted calculation sheet.
 - (b) 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).
 - (c) All roof waters and all overflows from any rainwater tank shall drain to Council's kerb and gutter directly in front of the development site by a suitably designed stormwater system.
16. **Compliance with Swimming Pool Act 1992** - The alterations and additions to the dwelling house and/or the construction of the new dwelling house subject of this consent must not generate any non-compliances with the Swimming Pools Act 1992, Swimming Pool Regulation 2008, Building Code of Australia and/or AS 1926.1-2007 - Swimming Pool Safety. Details of compliance to be illustrated on the plans lodged with the application for the Construction Certificate.
17. **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.

18. **Swimming Pools - Use and Maintenance** - The following apply to the construction, use and maintenance of swimming pools and spas:
 - (a) no ground level may be raised or filled except where shown specifically on the approved plans;
 - (b) all pool/spa waste water is to be discharged to the sewer according to the requirements of Sydney Water;
 - (c) the swimming pool must not be used for commercial or professional purposes;
 - (d) drain paved areas to the landscaped areas or a suitable lawful drainage system; and
 - (e) arrange any external pool/spa lighting to minimise glare nuisance to adjoining owners.
19. **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).
20. **Driveway Construction Plan Details** - Detailed engineering plans for the driveway shall be submitted with the Construction Certificate application for approval that show:
 - (a) Longitudinal and cross sections, gradients, access onto the proposed lots, type of construction materials designed in accordance with Council's Subdivision standards and AS/NZS2890.1-2004.
 - (b) Suitable underground provision for the supply of all relevant services to the proposed lots (proposed position of pipes and conduits).
 - (c) The full length of the driveway designed with a minimum 150mm thick reinforced concrete and minimum of 2.7m wide pavement/kerb face to kerb face width, and a non-slip surface.
21. **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.
22. **Landscape Plan** - A detailed landscape plan, drawn to scale, A3 size and coloured, by a qualified landscape architect or an AQF Level 5 landscape designer, must be submitted prior to the issue of the Construction Certificate to the nominated PCA. The plan must include:
 - (a) Location of existing and proposed structures, services and existing trees to be retained and /or removed
 - (b) Reference Georges River Councils, Tree Management Policy, 2019, 2:1 tree replacement. Councils Policy requires that for every tree removed from the site,

- two (2) trees shall be planted to replace those lost.
- (c) For the removal of four (4) trees, eight (8) trees need to be planted upon the site and shown upon the landscape plan.
- (d) Details of earthworks including mounding and retaining walls, Reduced Levels and planter boxes;
- (e) Location of proposed eight (8) trees and plants proposed as well as a plant schedule showing the plant symbol, botanical name/ common name; quantity; pot size/; and mature height x width.
- (f) A higher proportionate mix of natives than exotics plantings, with all trees proposed, able to reach a height at maturity of nine (9) metres.
- (g) Tree species selection from - Georges River Councils, Tree Management Policy, April 2019, Appendix 1 - Tree Planting.
- (h) Details of planting specifications, procedures and a maintenance schedule for twelve (12) months;
- (i) Landscape ratios - pervious to impervious surfaces / deep soil zones
- (j) Details of drainage and watering systems;
- (k) Details of garden edging and turf; and
- (l) Any required fencing, retaining walls and other structures not shown on other approved architectural and engineering plans.
- (m) The contact details and website of the landscape architect or AQF Level 5 landscape designer, as well as qualifications.
- (n) Associations and / or Memberships of Affiliation within the landscape industry.

Reference that a certificate of compliance for the planting of all eight (8) trees and shrubs proposed for the site. An AQF 5 Horticulturist shall be engaged and in writing certify that all eight (8) trees have been planted as per landscape plan and specifications and forwarded to the PCA - Principal Certifying Authority.

23. **Trees** - 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>Camellia japonica</i>	Rear side yard of No 1 Cross Street	3.6 metres
<i>Thuja plicata</i>	No 52 Boronia Street , front side yard	3.5 metres
<i>Angophora costata</i>	Within site, on corner of Cross and Boronia Streets	6.0 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.

Tree Protection Measures

- (a) All trees on Council property, subject site and adjacent sites, to be retained shall be protected before site set up and maintained during demolition, excavation and construction of the site.
- (b) The proposed stormwater lines referenced within the Hydraulic and sediment control plan, that encroach within the tree protection zone of the retained *Angophora costata*, must be kept outside the TPZ and must only be placed against the basement wall/ footprint of the proposed dwelling. REASON - To minimise impacts to the *Angophora costata*.
- (c) Although trees may be on adjacent sites, the tree protection fencing must be placed on the nominated distances as per table above, out from the trees trunk, within the subject site to minimise impacts to neighbours trees and kept for the entirety of the project.
- (d) The tree protection measures must be undertaken in accordance AS4970 -2009 Protection of trees on development sites.
- (e) Details of the tree protection measures to be implemented must be provided with the application for a Construction Certificate by a qualified Arborist who holds an AQF Level 5 or above in Arboriculture and who is a current practicing and financial member of an Arboricultural Association or Affiliation.
- (f) 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 each tree.
- (g) In accordance with AS 4970-2009 *Protection of trees on development sites*, a protective fence consisting of 2.4 x 1.8 metres high, fully supported chainmesh fence shall be used. The distance of the fence from the base of each tree is to be in accordance with the TPZ listed in the table above. A layer of organic mulch 100 millimetres thick shall be placed over the protected area and no soil or fill should be placed within the protection area.
- (h) The Tree Protection Zone of each tree, to be protected, shall be watered thoroughly and regularly to minimise the effects of construction works.
- (i) No building products/ materials or services shall be installed within the TPZ of the tree/s unless approved by Council. This fence shall be kept in place during demolition, construction and also have a sign displaying 'Tree Protection Zone - DO NOT ENTER' attached to the fence and must also include the name and contact details of the Project Arborist.

Excavation works near tree to be retained

- (j) Excavations around the trees to be retained on site or the adjoining properties shall be supervised by the AQF 5 Project Arborist to ensure that the root system will not adversely be affected.
- (k) The engaged AQF 5 Arborist must be in attendance during excavations for the proposed stormwater within the TPZ of the retained *Angophora costata* and in

writing, certify of their findings whilst guiding the proposed stormwater works, to the nominated PCA, for compliance.

- (l) Where the Tree Protection Zone (TPZ) of trees on site or adjoining sites become compromised by any excavation works, the AQF 5 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.
- (m) The Tree Protection Zone around the *Angophora costata* and neighbours trees, are not to have soil level changes, building product / materials stored or services installed in this area. Any structures proposed to be built in this area of the trees are to utilise pier and beam or cantilevered slab construction.

24. **Tree pruning** - Approval is given for the following works to be undertaken to trees on the site:

Tree Species / Number of trees	Location of trees	Approved Works
<i>Angophora costata</i>	Corner of Cross and Boronia Streets	Removal of dead co-dominant leader north west facing
Pruning shall only be conducted in accordance with AS4373 - 2007, Pruning classes, 7.2.2		

- a) Removal or pruning of any other tree (that would require consent of Council) on the site is not approved. All pruning must be undertaken by a minimum certificate Level 3, Licenced and insured Tree surgeon / Arborist in accordance with AS4373 -2007 Pruning of Amenity Trees and Amenity Tree Industry, Code of Practice (SafeWork NSW August 1998).

25. **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, eight (8) 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>Waterhousia floribunda</i>	X1	Eastern side fence
<i>Archontophoenix cunninghamiana</i>	X2	Front yard of Cross Street
Phoenix roebelenii	X1	Front yard of Cross Street
<i>Syagrus romanzoffiana</i>	X3	Front corner of site

General Tree Removal Requirements

- a) All tree removal shall be carried out by a minimum certificate Level 3, Licenced and insured Tree Surgeon/Arborist to ensure that removal is undertaken in a safe manner and complies with the AS 4373-2007 - Pruning of Amenity Trees and Tree Works Industry Code of Practice (Work Cover NSW 1.8.98).

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

26. **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, Boronia Street.

Council shall be appointed to remove and plant all trees on public land. All costs associated with the removal of the trees 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

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

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

The report must include the following:

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

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

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

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

28. **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.

29. **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.
30. **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](#).
31. **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.
32. **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 Pool Formwork - Before concreting of pool shell, detailing the location of the pool relative to the adjacent boundaries and its height relative to the datum shown on the approved plans.
- f) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries.
- g) 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.

33. **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

34. **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.
35. **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.

36. **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.
37. **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.
38. **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.
39. **Swimming Pools - Filling with water** - The pool/spa shall not filled until the safety fences have been completed in accordance with the approved plans and specifications and inspected by the PCA.
40. **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.

41. **Tree Removal on Private Land** - The trees identified as 'to be removed/pruned' on the approved plans or by conditions of this consent shall be removed in accordance with *AS4373 -2007* and the *Amenity Tree Industry Code of Practice* (SafeWork NSW, August 1998).
42. **Excavation works near tree to be retained** - Excavation around the tree/s to be retained on site or the adjoining properties shall be supervised by the Project Arborist to ensure that the root system will not be adversely affected.

Where the Tree Protection Zone 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.

Prior to the issue of the Occupation Certificate

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

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

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

44. **BASIX Certificate** - All energy efficiency measures as detailed in the approved BASIX Certificate No. 1088001S_03 dated 9 October 2020 prepared by Sustainability-Z in the plans approved with the Development Consent, must be implemented before issue of any Occupation Certificate.
45. **Electricity Supply** - Evidence shall be provided demonstrating that the development has been connected to the Ausgrid, if required.
46. **Post Construction Dilapidation report - Private Land** - At the completion of the construction works, a suitably qualified person is to be engaged to prepare a post-construction dilapidation report. This report is to ascertain whether the construction works associated with the subject development created any structural damage to the following adjoining premises:
 - a) all adjoining properties identified in the dilapidation condition prior to Construction Certificate.

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.

47. **Dilapidation Report on Public Land** – Upon completion of works, a follow up dilapidation report must be prepared for 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:

 - (a) Photographs showing the condition of the road pavement fronting the site
 - (b) Photographs showing the condition of the kerb and gutter fronting the site
 - (c) Photographs showing the condition of the footway including footpath pavement fronting the site
 - (d) Photographs showing the condition of retaining walls within the footway or road

- (e) Closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site, and
- (f) The full name and signature of the professional engineer.

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

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

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

- 48. **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.
- 49. **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.
- 50. **Completion of Landscape Works** - All landscape works must be completed before the issue of the Final Occupation Certificate.
- 51. **Completion of Landscape Works** - All landscape works, the planting of eight (8) trees on the site and the street tree payment to Council, must be completed before the issue of the Final Occupation Certificate and to the satisfaction of Council's Tree Management Officers, in accordance with approved submitted landscape plans and specifications that were required before the issue of the Construction Certificate to the nominated PCA.
- 52. **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.
- 53. **Tree Replacement within subject site** - A minimum of eight (8) x 45 litre size trees, which will attain a minimum mature height of nine (9) metres, shall be planted within the property. The trees are to conform to AS2303 - 2018 - Tree stock for landscape use.

Tree species selected shall be from Georges River Council's Tree Management Policy, April 2019 - Appendix 1 - Tree Planting.

If the replacement eight (8) 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.

54. **Vehicular crossing - Minor development** - The vehicular crossing and/or footpath works shall be constructed by a private contractor at the expense of the applicant, in accordance with the 'Application for Driveway Crossing and Associated Works on Council Road Reserve' approval issued by Council's Assets and Infrastructure Division.

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

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

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

Operational Conditions (Ongoing)

55. **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.

56. **Swimming Pools - Resuscitation Notice** - An expired air resuscitation warning notice complying with the [Swimming Pools Act 1992](#) must be affixed in a prominent position adjacent to the pool.

57. **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.

58. **Private Swimming Pools & Spas - Pump Noise** - The swimming pool/spa pump and associated equipment must be located so that the noise emitted does not exceed 5dB(A) above the background level. If this cannot be achieved, a ventilated and sound-proofed enclosure must enclose the pump to achieve the required noise levels.

Swimming pool is to be installed with a timer that limits the recirculation and filtration systems operation such that it does not emit noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):

- (a) before 8 am or after 8 pm on any Sunday or public holiday, or
- (b) before 7 am or after 8 pm on any other day.

59. **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 turf areas.

60. **Swimming Pools - Resuscitation Notice** - An expired air resuscitation warning notice complying with the [Swimming Pools Act 1992](#) must be affixed in a prominent position adjacent to the pool.
61. **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.
62. **Privacy** - The planter box adjacent to the first floor terrace must be retained in perpetuity and not converted to floor space, entertaining space or be walkable.
63. **Private Swimming Pools & Spas - Pump Noise** - The swimming pool/spa pump and associated equipment must be located so that the noise emitted does not exceed 5dB(A) above the background level. If this cannot be achieved, a ventilated and sound-proofed enclosure must enclose the pump to achieve the required noise levels.

Swimming pool is to be installed with a timer that limits the recirculation and filtration systems operation such that it does not emit noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):

- (a) before 8 am or after 8 pm on any Sunday or public holiday, or
- (b) before 7 am or after 8 pm on any other day.

Operational Requirements Under the Environmental Planning & Assessment Act 1979

64. **Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued.
65. **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.

66. **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.

67. **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.

68. **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](#).

69. **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.

70. **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

71. **Clause 97A - BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
72. **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.
73. **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.
74. **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](#).

75. **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

76. **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.

77. **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.

78. **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.

79. **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.

80. **Register your Swimming Pool** - All swimming pools in NSW are required to be

registered. Fines apply for pools that are not registered. To register please visit: www.swimmingpoolregister.nsw.gov.au.

81. **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.

82. **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.

83. **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 justify 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

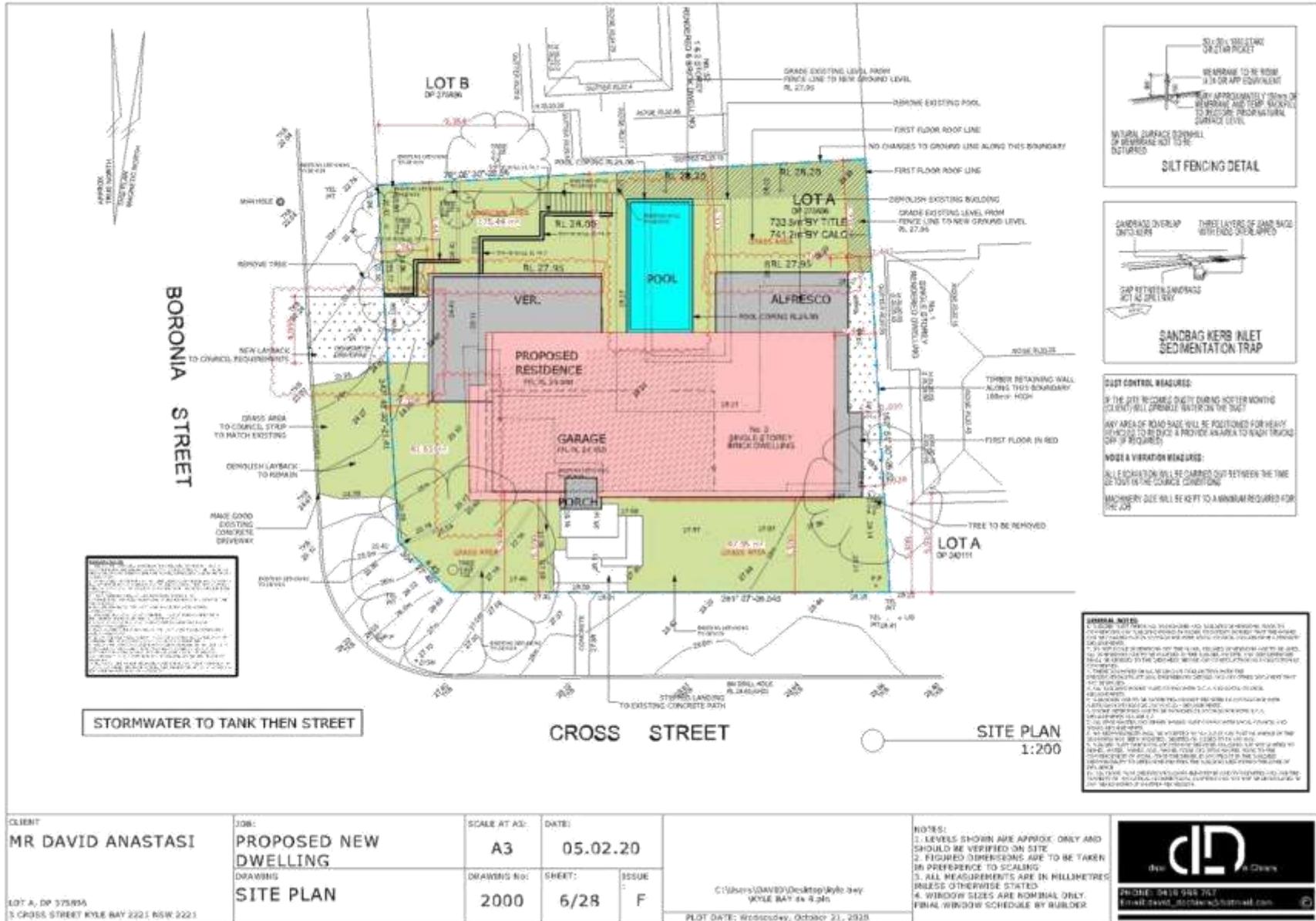
organisation. In these circumstances, the applicant must pay all costs for the independent review.

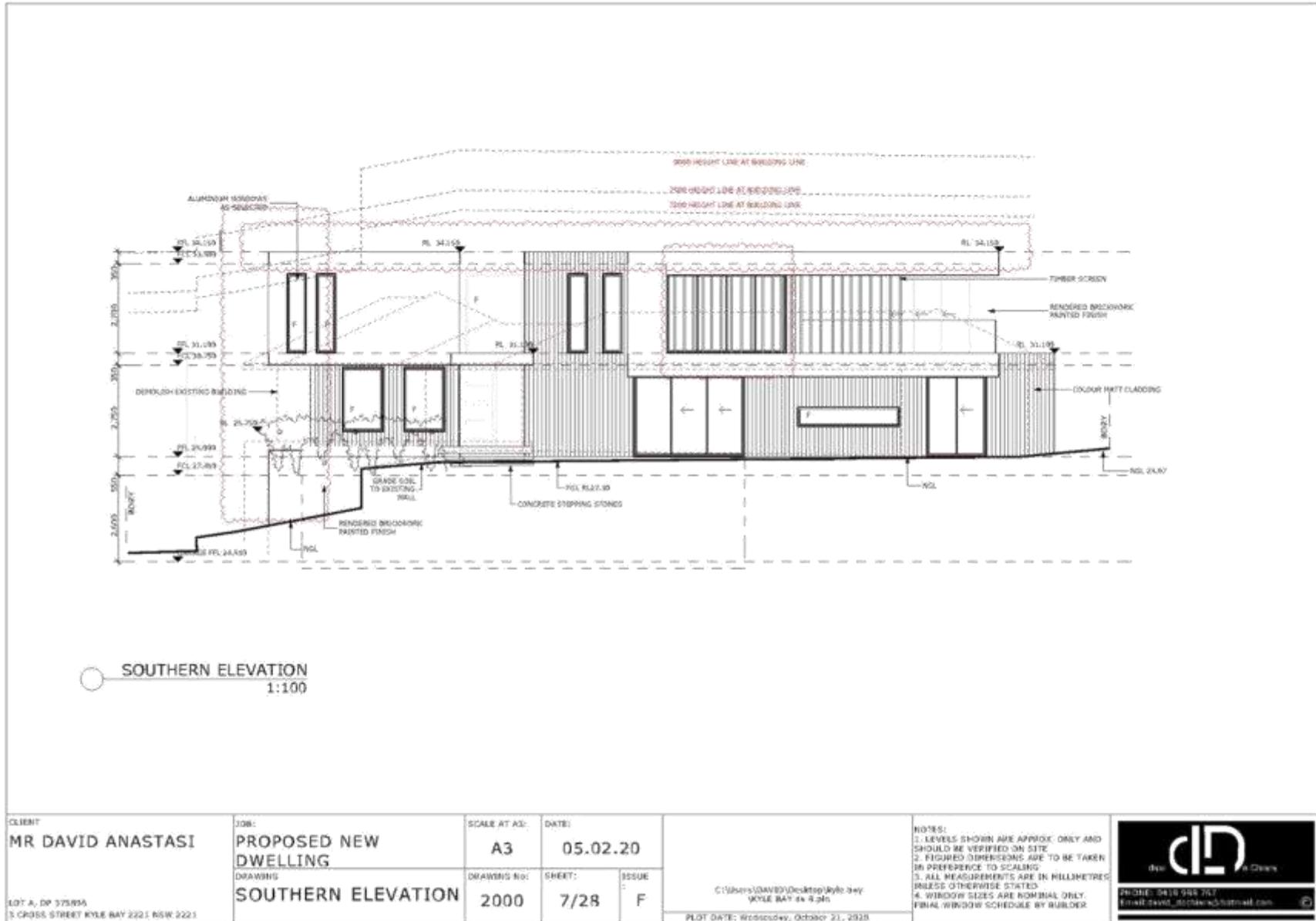
84. **Site Safety Fencing** - Site fencing must be erected in accordance with SafeWork Guidelines, to exclude public access to the site throughout the demolition and/or construction work, except in the case of alterations to an occupied dwelling. The fencing must be erected before the commencement of 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 - 3 Cross Street Kyle Bay
Attachment [↓](#)2 Southern Elevation - 3 Cross Street Kyle Bay
Attachment [↓](#)3 Eastern Elevation - 3 Cross Street Kyle Bay
Attachment [↓](#)4 Western Elevation - 3 Cross Street Kyle Bay
Attachment [↓](#)5 Northern Elevation - 3 Cross Street Kyle Bay





CLIENT
MR DAVID ANASTASI
 LOT A, DP 375895
 3 CROSS STREET KYLE BAY 2221 NSW 2223

JOB:
PROPOSED NEW DWELLING
 DRAWING
SOUTHERN ELEVATION

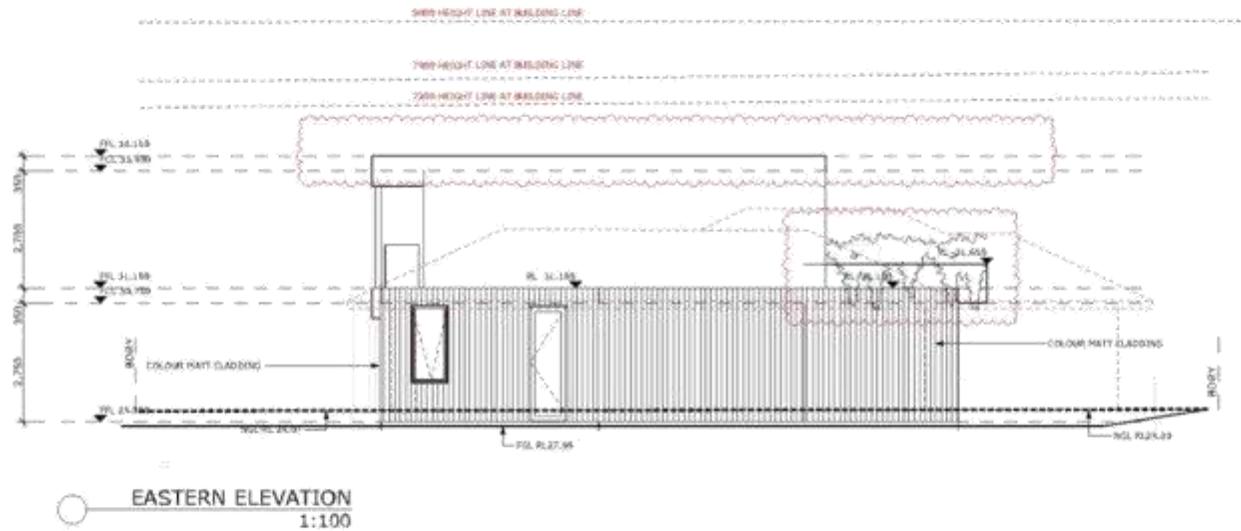
SCALE AT A3:
A3
 DRAWING NO:
2000

DATE:
05.02.20
 SHEET:
7/28

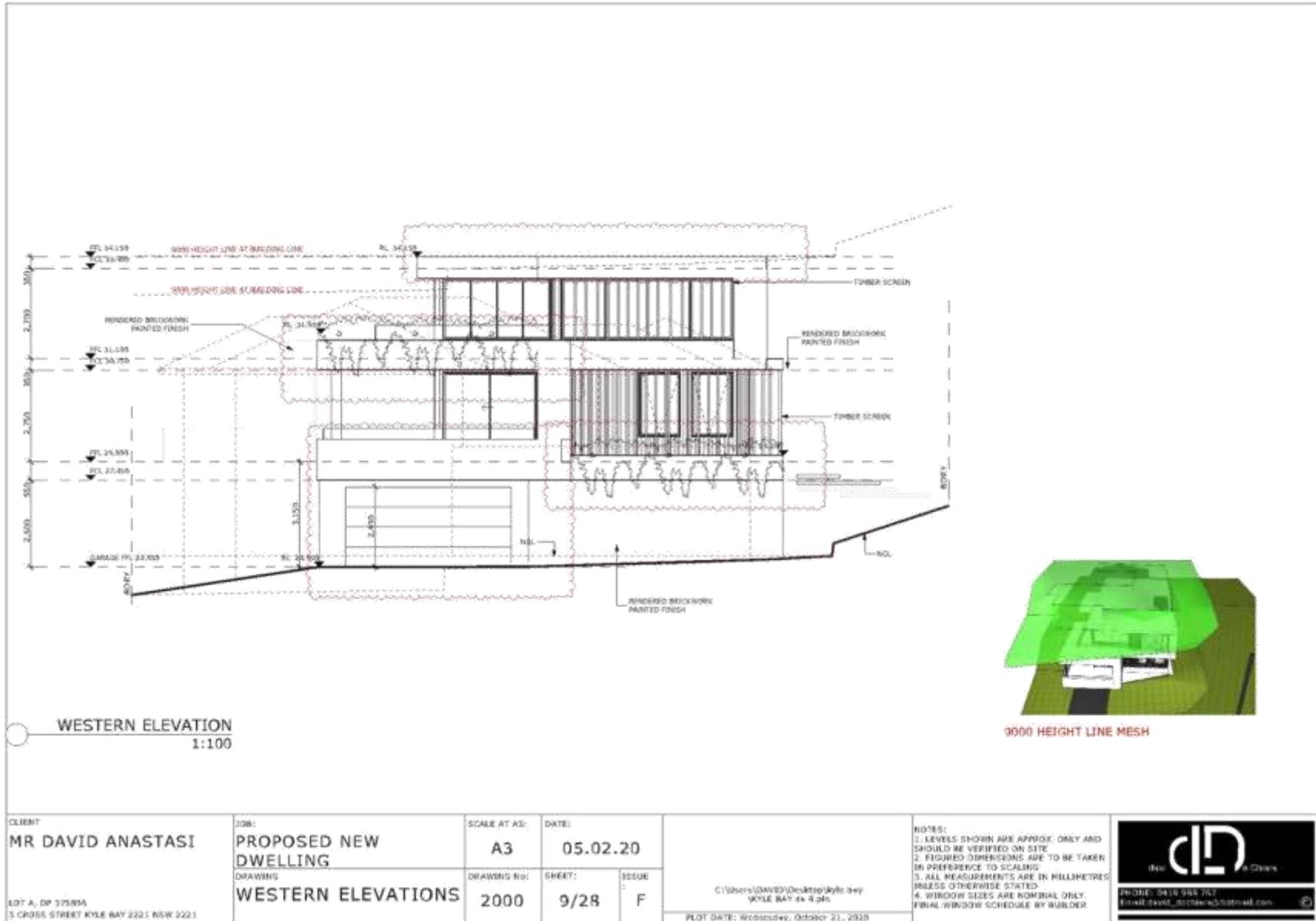
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 C:\Users\DAVID\Desktop\kyle bay
 KYLE BAY ex 4.pln
 PLOT DATE: Wednesday, October 21, 2020

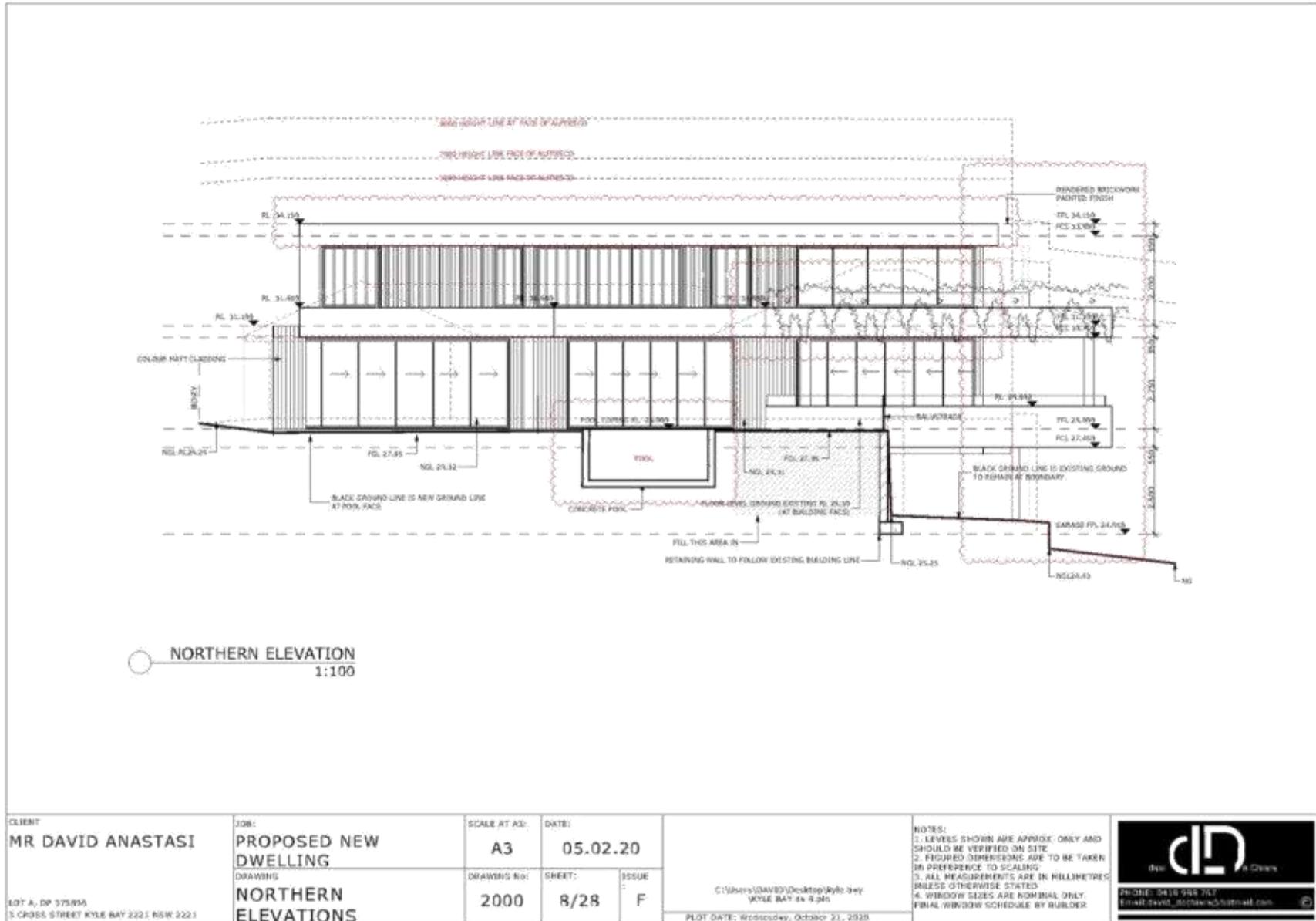
NOTES:
 1. LEVELS SHOWN ARE APPROX. ONLY AND SHOULD BE VERIFIED ON SITE.
 2. FIGURED DIMENSIONS ARE TO BE TAKEN IN PREFERENCE TO SCALING.
 3. ALL MEASUREMENTS ARE IN MILLIMETRES UNLESS OTHERWISE STATED.
 4. WINDOW SIZES ARE NOMINAL ONLY. FINAL WINDOW SCHEDULE BY BUILDER.

David Anastasi Architects
 PHONE: 9458 988 767
 Email: david_anastasi@daa.com.au



CLIENT MR DAVID ANASTASI	JOB: PROPOSED NEW DWELLING	SCALE AT A3: A3	DATE: 05.02.20	C:\Users\DAVID\Desktop\kyle bay KYLE BAY ex 4.pln PLOT DATE: Wednesday, October 21, 2020	NOTES: 1. LEVELS SHOWN ARE APPROX. ONLY AND SHOULD BE VERIFIED ON SITE. 2. FIGURED DIMENSIONS ARE TO BE TAKEN IN PREFERENCE TO SCALING. 3. ALL MEASUREMENTS ARE IN MILLIMETRES UNLESS OTHERWISE STATED. 4. WINDOW SIZES ARE NOMINAL ONLY. FINAL WINDOW SCHEDULE BY BUILDER.	 PHONE: 9458 988 767 Email: david_anastasi@optusnet.com.au
LOT 1, DP 375895 3 CROSS STREET KYLE BAY 2221 NSW 2223	DRAWING EASTERN ELEVATION	DRAWING NO: 2000	SHEET: 10/28			





CLIENT MR DAVID ANASTASI LOT A, DP 375895 3 CROSS STREET KYLE BAY 2221 NSW 2223	JOB: PROPOSED NEW DWELLING	SCALE AT A3: A3	DATE: 05.02.20	C:\Users\DAVID\Desktop\kyle bay KYLE BAY ex 4.pln PLOT DATE: Wednesday, October 21, 2020	NOTES: 1. LEVELS SHOWN ARE APPROX. ONLY AND SHOULD BE VERIFIED ON SITE. 2. FIGURED DIMENSIONS ARE TO BE TAKEN IN PREFERENCE TO SCALING. 3. ALL MEASUREMENTS ARE IN MILLIMETRES UNLESS OTHERWISE STATED. 4. WINDOW SIZES ARE NOMINAL ONLY. FINAL WINDOW SCHEDULE BY BUILDER.	dD Architects
	DRAWING: NORTHERN ELEVATIONS	DRAWING NO: 2000	SHEET: 8/28			

**REPORT TO GEORGES RIVER COUNCIL
LPP MEETING OF THURSDAY, 05 NOVEMBER 2020**

LPP057-20

LPP Report No	LPP057-20	Development Application No	MOD2020/0148
Site Address & Ward Locality	32 Montgomery Street Kogarah Kogarah Bay Ward		
Proposed Development	Modification of Consent No: DA2018/0139 for the demolition and construction of a thirteen (13) storey mixed use residential flat building. The modifications include various internal and external design changes.		
Owners	NGA Pymont Pty Ltd		
Applicant	Lateral Estate Pty Ltd		
Planner/Architect	Planner: Planning Ingenuity Pty Ltd / Architect: Stanisic Architects		
Date Of Lodgement	10/08/2020		
Submissions	One submission		
Cost of Works	\$31,599,223.00 (cost of works of initial development)		
Local Planning Panel Criteria	Determination of Section 4.56 applications (Modification by consent authorities of consents granted by the Court)		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy No 65 Design Quality of Residential Apartment Development, State Environmental Planning Policy BASIX 2004, State Environmental Planning Policy (Infrastructure) 2007; State Environmental Planning Policy No 55 - Remediation Of Land; 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; Kogarah Local Environmental Plan 2012; Kogarah Development Control Plan 2013.		
List all documents submitted with this report for the Panel's consideration	Architectural Plans, Statement of Environmental Effects, BASIX Certificate, Design Verification Statement, SEPP 65 Compliance Statement, Apartment Design Guide Compliance Table		
Report prepared by	Development Assessment Planner		

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

<p>instruments where the consent authority must be satisfied about a particular matter been listed and relevant recommendations summarised, in the Executive Summary of the assessment report?</p>	
<p>Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?</p>	<p>Not Applicable</p>
<p>Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?</p>	<p>Not Applicable</p>
<p>Conditions Have draft conditions been provided to the applicant for comment?</p>	<p>No, the conditions can be reviewed when the report is published.</p>

Site Plan



Figure 1: Aerial view of subject site outlined in blue

EXECUTIVE SUMMARY

Proposal

1. The Section 4.56 Modification Application is sought to modify the original development consent under DA2018/0139 (as modified), approved by the NSW Land and Environment Court on 6 August 2019, the amendments seek the following:
 - a. Various internal changes and reconfiguration of the layout between basement 3 and level 2 of the building;

- b. Extending the footprint of basement 3 to create structural uniformity with levels above and provide additional parking for three vehicles (residential) within this level;
- c. Minor reduction in size of commercial tenancies 101, 102, and 104 within the ground floor level (level 1);
- d. Deletion of commercial tenancy 105 within the ground floor (level 1) and conversion of residential apartments 203 and 204 within level 2 to three (3) x two (2) storey residential apartments partially utilising the space of commercial tenancy 105; and
- e. External façade changes accommodating the proposed modifications including materials and finishes as referenced in the Court approved conditions of consent.

Site and Locality

2. The site is located on the north eastern side of Montgomery Street, Kogarah and forms part of the Kogarah Town Centre. The rectangular site has an area of approximately 1,347sqm with a frontage of 30.48m to Montgomery Street and a rear boundary of 30.48m to Moorefield Lane with an allotment depth of 44.4m. The site falls from Montgomery Street to Moorefield Lane, within the change in level being approximately 2.76m.
3. Situated on the site is an existing three storey mixed use building with commercial tenancies located on the ground floor fronting Montgomery Street and residential apartments located on the two (2) levels above. The building occupies the entire site. Vehicular access to the site is currently via Moorefield Lane.

Zoning and Permissibility

4. The site is zoned B4 – Mixed Use under the Kogarah Local Environmental Plan 2012 (KLEP 2012) and the proposed development is permissible with development consent.

Submissions

5. The application was notified for a period of fourteen (14) days in accordance with the Kogarah Development Control Plan 2013. One (1) submission objecting to the development was received

Conclusion

6. Having regard to the matters for consideration under Section 4.15(1) and the applicable assessment criteria under Section 4.56 of the Environmental Planning and Assessment Act 1979 and following a detailed assessment, the proposed modification application (MOD2020/0148) is recommended for approval subject to the conditions referenced at the end of this report.

REPORT IN FULL

Proposal

7. The Section 4.56 Modification Application is sought to modify the original development consent under DA2018/0139 (as modified by MOD2019/0245), approved by the NSW Land and Environment Court on 6 August 2019. Development consent (DA2018/0139) granted consent for the demolition of existing structures and construction of a thirteen storey mixed use development comprising a residential flat building with 61 apartments over 1,110sqm of retail and commercial space on the ground and first floor at 32-38 Montgomery Street, Kogarah (site is now known as 32 Montgomery Street as detailed in paragraph 28).
8. The amendments proposed as part of this modification application are further described for each level as follows:

Basement Levels 1 to 3

- Amendments to column locations;
- Plant room, fire egress, and residential storage reconfiguration;
- Parking layout reconfigured to accommodate car spaces for modified retail/commercial floor area and additional residential apartment;
- Extension of the footprint of basement three (3) to create structural uniformity with the levels above and provide additional parking for three (3) vehicles (residential) within this level.

Level 0 (Lower ground floor)

- Amendments to column locations;
- Reconfiguration of the plant room, residential storage areas, waste room, fire egress and the substation location.

Level 1 (Ground floor)

- Amendments to column locations;
- Deletion of commercial tenancy 105 fronting Moorefield Lane;
- Creation of 3 x 2 storey apartments with lower level bedrooms occupying a portion of the now deleted commercial tenancy 105;
- A reduction in size of commercial tenancies 101, 102, and 104 within the ground floor;
- Reconfiguration of the internal layout and floor level changes; and
- Rear façade changes to accommodate the amendments as well as incorporate the required changes as referenced in the conditions of consent.

Level 2

- Conversion of residential apartments 203 and 204 to three (3) x two (2) storey residential apartments; and
- Reconfiguration of the internal layout and floor level changes.

9. No changes are proposed to levels 3 and above. The height and FSR of the building will remain as approved by MOD2019/0245. However there is a reduction on the commercial floor space and an increase in the residential floor space of the development.
10. The application also proposes to delete condition 2 entitled 'Building Design Amendments' as its requirements have been satisfied within the current modification, and a previously approved modification. This content of this condition is referenced below.
11. Condition 2 reads as follows:

2. Building design amendments

The following design changes are to be incorporated into the construction certificate plans which are to be submitted to the satisfaction of Council as part of the relevant construction certificate application:

- (a) *The locations of the basement columns adjacent to the Montgomery St boundary and the Moorefield Lane boundary on Basement Levels 0, B3, B2, and B1 are to be amended so that the column locations align between levels. A transfer beam is to be installed at level 0 to facilitate the changes in column location.*
- ~~(b) Basement Levels 3, 2, 1 and 0 are to be modified in accordance with the plans at Appendix D of the Joint Traffic Report of Ross Nettle and Paul Croft filed 1 July 2019.~~
- (c) *Fixed screens shown on the bedroom windows of level 12 are to be deleted.*

(d) *The extent of the painted areas on the facades of the building is to be reduced or changed to a colour pigmented render and an external finishes board showing a more varied colour palette is to be prepared.*

12. The following is how the applicant has demonstrated this condition has been satisfied:

- Condition 2(a) has been satisfied as per the amendments to the basement whereby all the structural columns align vertically. Although no transfer beam was shown on the amended plans, it is considered that from a design perspective the building showcases structural uniformity between levels B3 and 0. Details in relation to the structural elements of the building will be required to be submitted to the PCA as part of the construction certificate.
- Condition 2(b) has been deleted as per MOD2019/0245.
- Condition 2(c) has been satisfied as per MOD2019/0245. The window was previously relocated further south east to prevent overlooking to the adjoining aged care building. The window also included screening to prevent overlooking from the common circulation area.

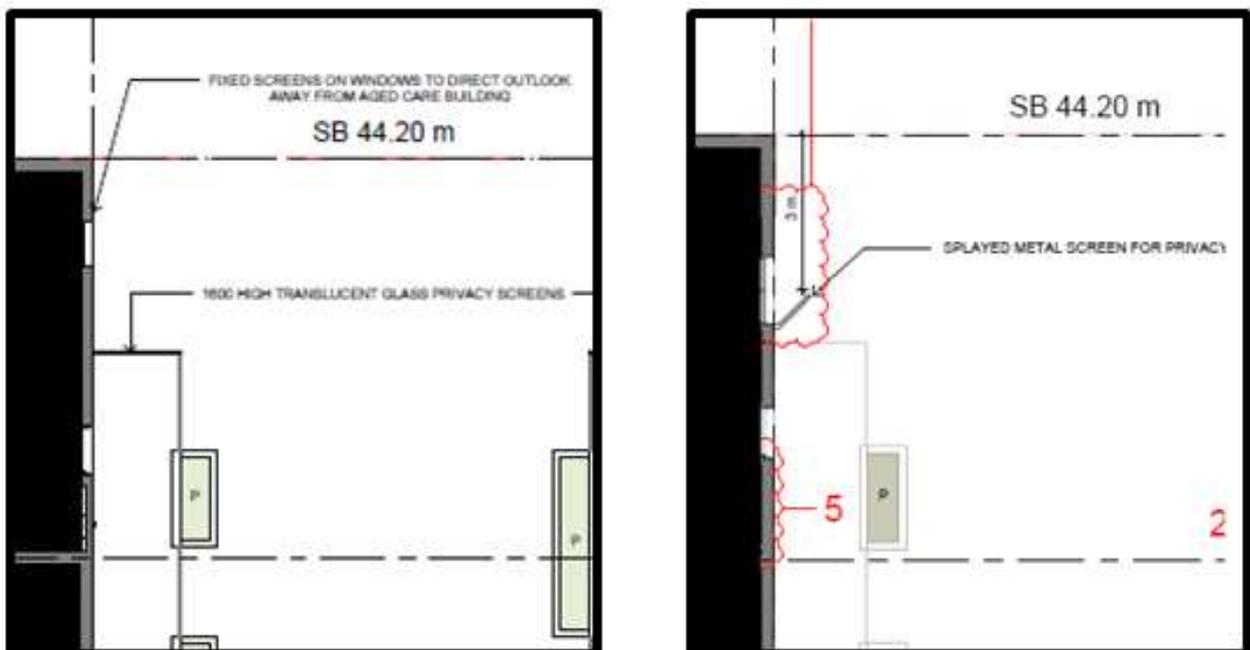


Figure 2: Originally approved window to apartment 1203 (left). Approved window amendment under MOD2019/0245 (right)

- Condition 2(d) has been satisfied with the lodgement of an amended schedule of colours and finishes. As part of the amended schedule of finishes, the designer introduced a grey coloured exterior with a dusty green coating in addition to a range of different colours proposed along the exterior. It is also considered that the amended schedule of colours remains consistent with the design intent of the urban design and planning joint report for the court case regarding the base building resolution which stated:

“2.1. The experts agree expansion of the proposed use of patterned concrete (currently shown on the drawings before the court on the fire stair) could be expanded to the blank walls of both sides of the building and this would resolve this contention.”

13. The requirements of this condition are considered satisfied by this application.

Numerical Summary of Amendments

14. The proposed amendments have been summarised below. A comparison has been included against the most recently approved modification (MOD2019/0245).

Matrices		Approved development figures as per MOD2019/0245	Proposed development figures as per MOD2020/0148
Car Parking	Residential	61 (including 7 accessible)	64 (including 7 accessible)
	Residential Visitor	9	9
	Commercial /retail	26 (including 2 accessible)	23 (including 2 accessible)
	Total	96	96
Residential apartments		61	62
Commercial tenancies		8	7

15. Note: Although the development proposes a reduction in commercial floor space, and an increase in residential floor space, the parking rates are still compliant with clause 3J of RMS Guide for Traffic Generating Development (GTTGD) - Metropolitan car parking rates. An additional accessible visitor car spaces will be required. This is discussed in detail below.

The Site and Locality

16. The subject site is known as 32 Montgomery Street, Kogarah and is formally referred to as Lot 1 and Lot 2 DP 1257940 (formerly known as Lot B in DP 332533 and Lot 47 Section E DP 1397).
17. The site is bounded to the north east by Moorefield Lane and situated between Kensington Street to the south east and Post Office Lane to the north west. It is located on the eastern side of the rail corridor and within 250m of Kogarah Railway Station. The development site is located on the north eastern side of Montgomery Street, Kogarah and forms part of the Kogarah Town Centre.
18. The rectangular site has an area of approximately 1,347sqm with a frontage of 30.48m to Montgomery Street and a rear boundary of 30.48m to Moorefield Lane with an allotment depth of 44.4m. The site falls from Montgomery Street to Moorefield Lane, within the change in level being approximately 2.76m.
19. Situated on the site is an existing three (3) storey mixed use building with commercial tenancies located on the ground floor fronting Montgomery Street and residential apartments located on the two (2) levels above. The building occupies the entire site. Vehicular access to the site is currently via Moorefield Lane.



Figure 3: Site photo showing existing building along Montgomery Street



Figure 4: Site photo showing existing building along Moorefield Lane

20. Adjoining the site to the north west is a two storey brick commercial building (30 Montgomery Street), the building is known as Bethlehem House (aged care facility) containing a commercial building which also provides parking from Moorefield Lane.
21. Adjoining the site to the south is a 2 storey commercial building (40-42 Montgomery Street) known as the Kogarah Specialist Centre.
22. To the west on the opposite side of Montgomery Street is a commercial building being the Department of Technical Education (29-39 Montgomery Street).
23. Further to the north of the site at 22-26 Montgomery Street is a set of heritage listed terraces. Development consent has been provided to enable the partial restoration of the terraces in conjunction with a multi storey commercial building currently under construction.
24. Montgomery Street contains a mixture of single storey to multi storey buildings which are predominantly commercial in nature including the St George Bank building, the Kogarah Police Station, the heritage listed Kogarah Court House and St George TAFE.
25. The precinct is a combination of low, medium and high scale commercial development, the site being in close proximity to the rail line, St George Public and Private Hospitals and the St George Technical College.

Background

26. Development application (DA2018/0139) was lodged with Council on 11 April 2018. Applicant sought to appeal the application in the LEC against the deemed refusal of the development application on 24 August 2018.
27. Development consent (DA2018/0139) was granted by the LEC on 6 August 2019 for the demolition of existing structures and construction of a thirteen storey mixed use development comprising a residential flat building with 61 apartments over 1110sqm of retail and commercial space on the ground and first floor at 32-38 Montgomery Street, Kogarah.
28. New land and properties details were created for the subject site on 1 November 2019. The subject site is now known as Lot 1 and Lot 2 DP 1257940, 32 Montgomery Street, Kogarah.
29. Modification application (MOD2019/0245) lodged to modify the plans including internal and external modifications. The modification was approved on 5 June 2020.

PLANNING ASSESSMENT

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

ENVIRONMENTAL PLANNING INSTRUMENTS

Environmental Planning and Assessment Act 1979

31. The proposal is considered to be consistent with the Objectives of the Act.

Section 4.56 Modification under Environmental Planning and Assessment Act, 1979

32. The proposal has been considered against relevant statutory provisions of Section 4.56 as follows:

(1) A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the Court and subject to and in accordance with the regulations, modify the development consent if—

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

33. Comment: Applications under Section 4.56 of the Act cannot be granted if the modified development is not substantially the same as that which the consent was originally granted. In this regard, the modification should not be so substantial as to cause the application to lose its original identity.

34. The proposed development as modified would represent substantially the same development for which consent was originally granted. The modification relates to internal and external reconfigurations and the addition of one residential apartment within the approved envelope. In addition, some of the proposed modifications relate to design change conditions referenced in the parent DA consent.

(b) it has notified the application in accordance with—

(i) the regulations, if the regulations so require, and

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

(c) it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and

35. Comment: In accordance with the provisions of Council's Public Notification process, the application was placed on neighbour notification for 14 days between 17 August 2020 and 31 August 2020. During this time one (1) submission was received by Council. This has been discussed in detail later in this report.

36. As per clause 4.56 (1)(c) it is required that all original objectors be notified of the Section 4.56 Modification Application. A reasonable attempt has been made to notify all persons who have previously objected to DA2018/0139.

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

37. Comment: One (1) submission was received by Council. The issues raised included concern with regards to the height and the traffic impacts generated by the development. This has been discussed in detail later in this report.

(1A) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

38. Comment: The proposal has been assessed under Section 4.15 which is detailed later in this report.

Environmental Planning and Assessment Regulation 2000

39. The proposal is considered to have met the statutory requirements under Schedule 1 of the Regulation.
40. The application has been accompanied by a design verification statement prepared by the appointed qualified designer pursuant to clause 115 (3) and (3A).

STATE ENVIRONMENTAL PLANNING POLICIES

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

State Environmental Planning Policy	Complies
State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development	Yes
State Environmental Planning Policy No 55 - Remediation of Land	Yes
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Yes
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017	Yes
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

42. 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.
43. Clause 7 requires contamination and remediation to be considered in determining a development application. The consent authority must not consent to the carrying out of development on land unless it has considered whether or not the land is contaminated.
44. The proposed modifications primarily relate internal and external changes. Although additional excavation is proposed to basement 3, the extent of excavation is not considered to be excessive given the approved works under DA2018/0139. The application as approved already includes specific conditions in relation to contamination which will ensure that any contamination found is adequately remediated. In this regard, no further assessment is warranted with regards to site contamination and the objectives of SEPP 55 are considered to be satisfied.

Deemed State Environmental Planning Policy – Georges River Catchment

45. The main aims and objectives of this plan include but are not limited to the following:
- *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,*

46. The modifications do not adversely impact on the existing stormwater management of the site.

State Environmental Planning Policy (Infrastructure) 2007

47. The aim of this Policy is to facilitate the effective delivery of infrastructure across the State by:

- (a) *improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services, and*
- (b) *providing greater flexibility in the location of infrastructure and service facilities, and*
- (c) *allowing for the efficient development, redevelopment or disposal of surplus government owned land, and*
- (d) *identifying the environmental assessment category into which different types of infrastructure and services development fall (including identifying certain development of minimal environmental impact as exempt development), and*
- (e) *identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and*
- (f) *providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and*
- (g) *providing opportunities for infrastructure to demonstrate good design outcomes.*

48. The DA was referred to Ausgrid on 10 August 2020 in accordance with Clause 45 of State Environmental Planning Policy (Infrastructure) 2007. Ausgrid advised on 5 September 2020 that they have no objection to the proposal and no conditions were recommended.

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

49. BASIX Certificate No. 913143M_10 dated 29 July 2020 prepared by Efficient Living Pty Ltd was lodged with the 4.56 modification application and indicates that the proposal meets the provisions and minimum requirements of BASIX in terms of water, thermal comfort and energy efficiency.

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

50. State Environmental Planning Policy No 65 – Design Quality of Residential Flat Buildings (State Environmental Planning Policy 65) was gazetted on 26 July 2002 and applies to the assessment of DAs for residential flat developments of three (3) or more storeys in height and containing at least four (4) dwellings. Amendment 3 to State Environmental Planning Policy 65 commenced on 17 July 2015 and implemented various changes including the introduction of the Apartment Design Guide (ADG) to replace the Residential Flat Design Code. Given the nature of the development proposed, State Environmental Planning Policy 65 applies.

Application of SEPP 65

Clause	Standard	Proposal	Complies
3 - Definitions	Complies with definition of “Residential Apartment Development”	The proposal complies with this definition.	Yes
4 - Application of Policy	Development involves the erection of a new RFB, substantial redevelopment or refurbishment of a RFB or conversion of an existing building into a RFB	This is a modification of an approval for the erection of a mixed use shop top housing development.	Yes

LPP057-20

51. Clause 29(2) of State Environmental Planning Policy 65 requires that the consent authority take into consideration the following as part of the determination of DAs to which State Environmental Planning Policy 65 applies:

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

52. The modification application was not referred to the DRP given the application did not substantially change and still retains largely the same external finishes, footprint, and internal layout. The application has been reviewed having regard to the criterion of the ADG.

53. The proposal satisfactorily satisfies the Design Quality Principles and provisions of the ADG. The tables below provide a comprehensive assessment against the principles, objectives and controls of State Environmental Planning Policy 65 and the ADG.

SEPP 65 - Schedule 1 Design quality principles

Clause	Council's comments	Complies
1 – Context and neighbourhood character	The proposed additional apartment will not significantly alter the overall design of the approved building which was previously assessed as being in context with the surrounding area. The building still provides an active street frontage towards Montgomery Street. The proposed removal of commercial tenancy 105 will not result in adverse visual impact as the tenancies approved location is above the street level and along the rear lane.	Yes
2 – Built form and scale	The approved mixed use/shop top housing building is located in an area undergoing change and therefore is compatible with the future character of the area given the uplift presently being experienced.	Yes
3 – Density	The proposal complies with the Floor Space Ratio control as per Kogarah LEP 2012.	Yes
4 – Sustainability	The development as modified makes efficient use of natural resources, energy and water throughout its full life cycle. It will meet the benchmarks of 25% energy	Yes

	<p>reduction and 40% water reduction set out in the Building and Sustainability Index (BASIX).</p> <p>The development as modified is designed to incorporate ESD principles. This is achieved by a central open space, effectively a breezeway that functions as a sink of cool air to create a refreshing environment for residents.</p>	
5 – Landscape	The landscaped area remains as approved.	Yes
6 – Amenity	The amended proposal to remove a commercial tenancy and add a residential apartment still achieves the amenity objectives and controls as per the AGD.	Yes
7 – Safety	The main entrances to the building will remain as approved. The new layout retains apartments with a frontage to Moorefield Lane which aids in providing further opportunities for street surveillance.	Yes
8 – Housing diversity and social interaction	<p>The proposal will increase the number of 2 bedroom and 3 bedroom apartments, and reduce the number of 1 bedroom apartments. The proposed apartment mix is as follows:</p> <p>62 apartments in total 3 x 1 bedroom (4.8%) 55 x 2 bedroom (88.7%) 4 x 3 bedroom (6.45%)</p> <p>The approved apartment mix is as follows:</p> <p>61 apartments in total 4 x 1 bedroom (6.5%) 54 x 2 bedroom (88.5%) 3 x 3 bedroom (4.9%)</p> <p>The proposal involves reducing the commercial floor area by removing commercial tenancy 105 having an area of 168sqm. The resultant non-residential floor space accounts for 531sqm for retail, and 407sqm for commercial representing 938sqm.</p> <p>The parking layout has been adjusted accordingly. Whilst the overall number of car parking spaces remain as approved, the car parking allocations have been adjusted in light of the proposed layout changes. The applicant will be required to allocate an additional accessible visitor car space in order to achieve compliance.</p>	Yes
9 – Aesthetics	It is considered that the proposed addition is consistent with that of the approved mixed use building.	Yes

	50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)	which receives adequate levels of solar access given its unobstructed location.	
3E – Deep Soil Zones	1. Deep soil zones are to meet the following minimum requirements: Where site area is between 650sqm and 1500sqm = 3m minimum dimension Deep soil = 7%	The proposal does not change the location of deep soil landscaping approved under the DA as the extent of modification works are located within the approved building footprint.	Yes
3F – Visual Privacy	1. Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows: Up to 12m (4 storeys) Habitable rooms and balconies = 6m	The distance between the proposed apartments and the adjoining buildings will remain as existing. The new apartments adopt the footprint of approved apartments 203 and 204. The apartments are proposed to be 2 storeys in design by utilizing the space of commercial tenancy 105 which is being deleted. The blank boundary wall between the subject site and 40-42 Montgomery Street will remain as approved. The proposal also involves amendments to the external colours and finishes schedule required by	Yes

		condition 2(d) of the consent introducing a varied colour palette to the exterior facades of the building.	
3G – Pedestrian access and entries	Building entries and pedestrian access connects to and addresses the public domain	The main building pedestrian entry points will not be modified by this application and will remain as approved.	Yes
3H – Vehicle Access	Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes	This element remains unaltered by this proposal.	Yes
3J – Bicycle and car parking	<p>1. For development in the following locations:</p> <p>On sites that are within 800m of a railway station or light rail stop in the Sydney Metropolitan Area;</p> <p>- The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant Council, whichever is less</p> <p>The car parking needs for a development must be provided off street</p>	<p>The proposal refers to the RMS Guide for Traffic Generating Development (GTTGD) given the site's location less than 800m from a Kogarah Station. Given the subject site is located within Kogarah which is designated as a Strategic Centre under <i>Sydney: A Plan for Growing Sydney, the technical note titled "Car parking requirements in SEPP 65"</i> by the Department of Planning and Environment details that rates for Metropolitan Regional (CBD) Centre apply to the subject site.</p> <p><u>Residential</u></p> <p><u>Metropolitan regional centres (CBD):</u> 0.4 spaces per 1 bedroom apartment 0.7 spaces per 2 bedroom apartment 1.2 spaces per 3 bedroom apartment +1 space per 7 apartments (visitor parking)</p>	<p>Yes</p> <p>A condition of consent will be imposed requiring one residential car space to be converted to a shared space in order to allow for one accessible residential visitor car space.</p>

		<p>As per the above, the proposal will require 45 car parking spaces for the residential apartment.</p> <p>The proposal provides 64 residential car spaces therefore satisfying the residential component for car parking.</p> <p>In relation to the visitor spaces, for a 62 apartment development, 8.85 car spaces (rounded to 9) are required. The development provides 9 visitor car spaces which is identical to the original approval. An accessible visitor car space will be required to be provided as per the requirements of Kogarah DCP. A condition will be imposed requiring that one residential car space be removed in order to create a shared space for one residential visitor space. This is discussed in detail below.</p> <p>Note: Although the proposal provides in excess of the metropolitan car parking requirements, the additional car parking is not considered to utilize floor space given that the Kogarah DCP requires 75 car spaces (62 residential and 12.4 visitor spaces).</p> <p><u>Commercial</u> In relation to the commercial component, the rates are prescribed in part E1- Kogarah Town Centre of Kogarah DCP as follows:</p> <p><i>(i) 1 space per 40sqm for any floor space at ground floor level.</i></p>	
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		<p><i>(ii) 1 space per 50sqm for all other floor space above ground floor level.</i></p> <p>Note: Although the RMS GTTGD provides a rate of 1 car space/40sqm for commercial space, Kogarah DCP includes a specific rate for above ground floor rates which has been utilised in this case.</p> <ul style="list-style-type: none"> - Ground floor retail space: 531sqm <p>Car spaces required: 13.2(rounded to 14).</p> <ul style="list-style-type: none"> - First floor commercial space: 407sqm <p>Car spaces required: 8.14(rounded to 9).</p> <p>Based on the above, 23 commercial car spaces are required and have been provided.</p> <p>In relation to accessibility, 1% of all car spaces are required to be accessible as per Kogarah DCP.</p> <ul style="list-style-type: none"> - Residential: (64 car spaces provided) 7 accessible spaces are provided which is compliant. - Residential visitor: (9 car spaces provided) 0.09 accessible spaces (rounded to 1) is required and will be required to be provided by way of a condition of consent. - Commercial: (23 car spaces provided) the development provides 	
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		<p>for 2 accessible car spaces which is compliant.</p> <p>This is further discussed in the DCP section of this report.</p>	
Part 4 Designing the building			
4A – Solar Access	<p>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area</p> <p>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter</p>	<p>The private open space areas of proposed apartments 203, 204 and 205 will received the same amount of sunlight as per the original approval. It is noted that the amount of private open space for the three (3) amended apartments (203, 204 and 205) will increased if compared to that of the original application given each apartment will have access to a balcony on each of their respective storeys.</p>	Yes
4B – Natural Ventilation	<p>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.</p> <p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line</p>	<p>The amended apartments 203, 204 and 205 include windows on the north eastern and south western aspects to allow for cross ventilation. The location of the apartments will not change, rather the layout and the size of the apartments is the only variable.</p>	Yes
4C – Ceiling Heights	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are: Habitable rooms = 2.7m Non-habitable rooms = 2.4m</p>	<p>Apartments 203, 204 and 205: Habitable rooms = minimum 2.8m Non-habitable rooms = minimum 2.8m</p>	Yes
4D 1 – Apartment size and	<p>Apartments are required to have the following</p>		

<p>layout</p>	<p>minimum internal areas:</p> <p>1 bedroom: 50sqm 2 bedrooms: 70sqm 3 bedrooms: 90sqm</p> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each</p> <p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms</p>	<p>Apartment 203 (2 bedrooms): 115sqm</p> <p>Apartment 204 (2 bedrooms): 103sqm</p> <p>Apartment 205 (3 bedrooms): 117sqm</p> <p>The remainder of the apartments remain unchanged.</p> <p>Size takes into consideration additional bathrooms.</p> <p>All habitable rooms include a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room.</p> <p>Concern is raised with regards to a room along the ground level of apartment 203 (figure 5 below). The room appears to be a habitable room with no external window. A condition will be imposed to prohibit the use of that space for habitable purposes.</p>	<p>Yes</p> <p>Yes</p> <p>Yes, a condition will be imposed to prevent the use of the room labelled as 'ST' in apartment 203 for habitable purposes.</p>
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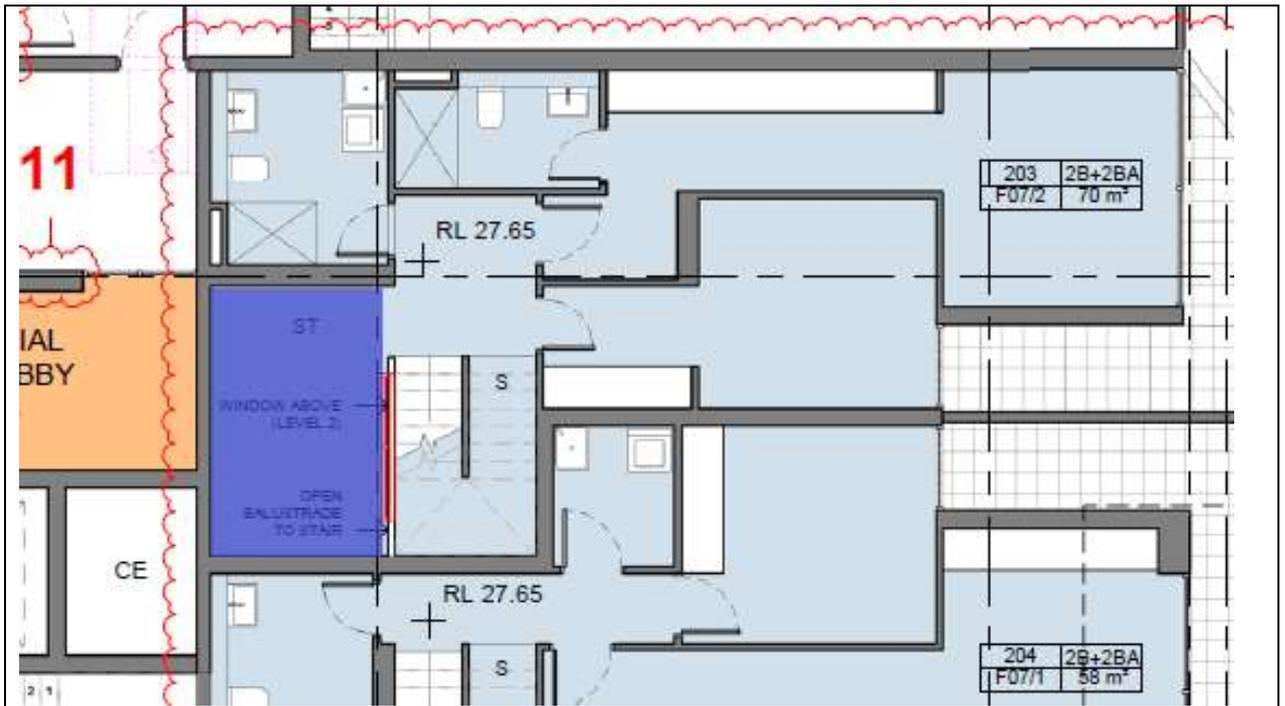


Figure 5: Identified room with no external windows shown with the annotation 'ST'

<p>4D 2 – Apartment rooms, location and sizes</p>	<p>Habitable room depths are limited to a maximum of 2.5 x the ceiling height</p> <p>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window</p>	<p>The combined depth of the habitable rooms for apartments 203, 204, and 205 is in accordance with objective 4D.</p> <p>The living, dining, and kitchen area combined have a depth of 8.0m (excluding the kitchen stove space).</p>	<p>Yes</p>
<p>4D 3 – Apartment rooms, location and sizes</p>	<p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ol style="list-style-type: none"> 1. Master bedrooms have a minimum area of 10sqm and other bedrooms 9sqm (excluding wardrobe space). 2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space). 3. Living rooms or combined living/dining rooms have a minimum width of: 	<p>The minimum width of the studio living/dining room is 4.96m.</p> <p>Master bedrooms (including ensuite) are greater than 10sqm. All bedrooms are 9sqm or greater (as per scaled calculations).</p> <p>All proposed bedrooms have dimensions 3.0m or greater (as per scaled calculations).</p> <p>Apartments 203, 204, and 205 have living/dining area width of at least 4.0m (as per scaled calculations).</p>	<p>Yes</p>

	<ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments 		
4E – Private Open Space and balconies	<p>All apartments are required to have primary balconies as follows:</p> <p>2 bedroom apartments: 10sqm and 2m</p> <p>3+ bedroom apartments: 12sqm 2.4m</p>	<p>Apartments 203, 204, and 205 have balconies being 12sqm in size with minimum dimensions of 3.0m (as per scaled calculations).</p>	Yes
4F – Circulation spaces	<p>The maximum number of apartments off a circulation core on a single level is eight</p>	<p>Five (5) apartments have been provided on level 2 which share two (2) separate lifts. The commercial component includes a separate lift core.</p>	Yes
4G – Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <p>2 bedrooms - 8m³</p> <p>3+ bedrooms - 10m³</p> <p>50% of storage to be located within basement</p>	<p>At least 4m³ of storage within each of the two (2) bedroom apartments (under stairs and within wardrobes). The additional storage is within the basement.</p> <p>At least 5m³ of storage within each of the 3 bedroom apartment (under stairs and within wardrobes). The additional storage is within the basement.</p> <p>The amended basement layout shows sufficient amounts of storage areas within all basement level which will be utilized by the residents of the building.</p>	Yes
4K – Apartment Mix	<p>A variety of apartment types is provided</p>	<p>The proposal will contribute to the diversity of the apartment composition as follows:</p> <p>62 apartments in total 3 x 1 bedroom (4.8%)</p>	

		55 x 2 bedroom (88.7%) 4 x 3 bedroom (6.45%)	
4M – Facades	<p>Facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale.</p>	<p>The façade is well articulated and varied through the use of different materials and finishes, as approved which will be continued and incorporated into the additional apartment.</p> <p>It is noted that the subject apartments as amended will not include a planter box along the outer façade of their associated balconies, in contrast to the previous approval. As per the approved north-east elevation plans, the planter boxes are not visible from the public domain and thus their exclusion will not result in a significantly different outer façade.</p> <p>The proposal also involves amendments to the external colours and finishes schedule required by condition 2(d) by introducing a varied colour palette to the exterior facades of the building.</p>	Yes
4N – Roof Design	<p>Roof treatments are integrated into the building design and positively respond to the street.</p> <p>Opportunities to use roof space for residential accommodation and open space are maximised. Incorporates sustainability features.</p>	No proposed changes to the roof.	Yes
4O – Landscape Design	Landscape design is viable and sustainable, contributes to the streetscape and amenity	The amended proposal does not result in changes to the landscape areas provided.	Yes
4P – Planting on structures	Planting on structures – appropriate soil profiles are provided,	The landscape design approved as per the original DA and subsequent	Yes

	plant growth is optimised with appropriate selection and maintenance, contributes to the quality and amenity of communal and public open spaces.	modification remains unaltered by this modification.	
4Q – Universal Design	Universal design – design of apartments allow for flexible housing, adaptable designs, accommodate a range of lifestyle needs	Design and mix of apartments allows for different occupants with a range of lifestyle needs. Lift access is provided to all apartments.	Yes
4R – Adaptive Reuse	Adaptive reuse as apartment of existing buildings- new additions are contemporary and complementary, provide residential amenity while not precluding future adaptive reuse	The proposal is a new development and not an adaptive reuse of a building.	Yes
4U – Energy Efficiency	Development incorporates passive environmental design, passive solar design to optimise heat storage in winter and reduce heat transfer in summer, natural ventilation minimises need for mechanical ventilation	The proposal incorporates a compliant BASIX Certificate, with the commitments in the design to provide appropriate energy efficiency features.	Yes
4W – Waste Management	Waste management – storage facilities are appropriately designed, domestic waste is minimised by convenient source separation and recycling	Waste facilities are provided which are accessible to all residents. There is a bin storage room on level 0 which can cater for the additional apartment.	Yes
4X – Building Maintenance	Building maintenance – building design provides protection from weathering, enables ease of maintenance, material selection reduces ongoing maintenance	The apartment will comprise the same materials as approved in the original DA.	Yes

	cost		
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55. As demonstrated above, the proposal generally complies with State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development. All minor matters can be resolved through conditions of consent as highlighted above which include converting 1 residential car spaces to a an accessible car space in favour of a residential visitor space and limiting the use of a room that receives inadequate solar amenity as per objective 4D.

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.

Kogarah Local Environmental Plan 2012 (KLEP 2012)

60. The subject site is zoned B4 Mixed Use under the provisions of the Kogarah Local Environmental Plan 2012 (KLEP 2012). The approved use as a mixed use development comprising commercial premises and a residential flat building is a permissible form of development with Council's consent.

61. The objectives of the B4 Mixed Use zone as per clause 2.3 under the KLEP 2012 are:

- *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.

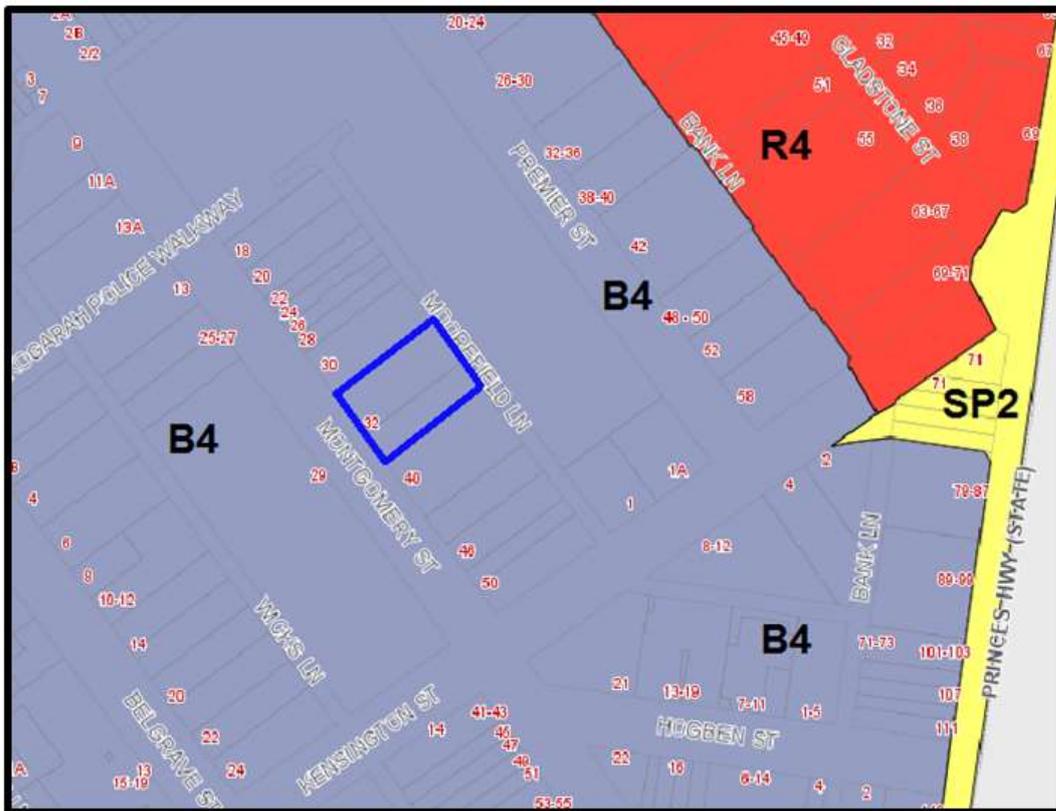


Figure 6: Zoning map as per KLEP 2012 with the site highlighted in blue (Source: Intramaps 2020).

62. The modification of the proposed development is not inconsistent with the objectives of the zone as the approved development typology is not changing and will continue to be a mixed use development comprising of residential apartments and commercial/retail premises.
63. The modified proposal will not impact upon the ability of the development to meet the objectives of the B4 zone.
64. The site is within 250m of the Kogarah Railway Station and contained within the Kogarah Town Centre which makes the location highly accessible. The development will create employment opportunities in an accessible location with the ability to utilise more sustainable methods of transport given the close proximity of the site to the railway station and town centre.
65. An assessment with the KLEP 2012 provisions relevant to the amended plans is detailed within the following table.

KLEP 2012 Compliance Table

Clause	Standard	Comment	Complies
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Part 2 Permitted or prohibited development			
2.2 – Zone	B4 Mixed Use	The proposal is for a mixed use development comprising retail, commercial, and residential uses.	Yes
2.7 – Demolition	Demolition requires development consent	No consent for demolition is sought under this modification.	Yes
Part 4 Principal development standards			
4.3 – Height of Buildings	39m as identified on Height of Buildings Map	The height of building will remain as approved.	Yes
4.4 – Floor space ratio	4.5:1 (as identified on Floor Space Ratio Map)	The FSR will remain as approved; it is merely a change from commercial to residential floor space in this application.	Yes
Part 5 Miscellaneous provisions			
5.10 – Heritage Conservation	Consider the effect of development on heritage significance of heritage items and heritage assessment may be required	<p>The subject site is within the vicinity of the following heritage items:</p> <ul style="list-style-type: none"> - Leah Buildings at 22-28 Montgomery Street (Item 183) and - Kogarah Courthouse at 25-27 Montgomery Street Kogarah (Item 184). <p>The proposed modification application was referred to Councils Heritage Advisor who raised no objection to the proposed amendments.</p>	Yes
Part 6 Additional local provisions			
6.1 – Acid sulfate 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 not affected by acid sulfate soils.	Yes
6.2 – Earthworks	To ensure that earthworks do not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land	The proposed development includes excavation and associated earthworks to accommodate three (3) levels of basement car parking. The extent of works is considered to be consistent with that of other approved built forms within the locality. Although additional excavation is required to make way for the proposed basement extension,	Yes

		the additional amount of excavation needed is not considered substantial given the extent and scale of the approved development. Conditions existing on the consent to protect adjoining allotments in this process.	
6.3 – Flood planning	<p>The objectives of this clause are as follows:</p> <p>(a) to minimise the flood risk to life and property associated with the use of land,</p> <p>(b) to allow development on land that is compatible with the land’s flood hazard, taking into account projected changes as a result of climate change,</p> <p>(c) to avoid significant adverse impacts on flood behaviour and the environment.</p>	The subject land is not identified as being affected by flooding.	Yes
6.5 – Airspace Operations	The consent authority must not grant development consent to development that is a controlled activity within the meaning of Division 4 of Part 12 of the 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.	Approval has been previously provided permitting the building to be at a maximum height of 69.61m (AHD). The current modification does not seek to amend the height of the building.	Yes

DRAFT GEORGES RIVER LOCAL ENVIRONMENTAL PLAN 2020

66. Consideration is given to the provisions of Draft Georges River Local Environmental Plan 2020 in the assessment this application.
67. In this regard, the provisions have no determining weight as a result of proposed operation of Clause “1.8A Savings provisions relating to development applications” of the Draft Plan which provides “If a development application has been made before the

commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.”

DEVELOPMENT CONTROL PLANS

68. The proposed development is subject to the provisions of Kogarah Development Control Plan 2013 (KDCP 2013).

Kogarah DCP 2013 Part E1 Kogarah Town Centre

Clause	Standard	Proposed	Complies
2. Local Precinct Character Statements			
2.3 – Montgomery Street Precinct	<p>Land Uses</p> <p>(a) Reinforce Montgomery Street as a major mixed use, active street, encompassing retail, commercial and medical/civic uses with retail shop fronts along much of its length.</p> <p>Street Frontage</p> <p>(d) Address the street, at the station end of Montgomery Street up to the TAFE building, with small scale retail and commercial development at ground level.</p>	The building as modified will represent a development that is substantially the same as the originally approved. The development will not be altered along the Montgomery Street interface.	Yes
3. Built Form			
3.8 – Floor to Ceiling Heights	<p>(1) Floor to ceiling heights should be a minimum of 3m at ground floor level, to allow for a range of uses including retail, commercial offices and home offices.</p> <p>(2) Floor to ceiling heights should be a minimum of 2.7m at upper storeys of buildings, to all habitable rooms to allow for a range of uses, and to improve the</p>	The floor to ceiling levels are in compliance with the DCP and the ADG (which takes precedence).	Yes

	<p>environmental performance and amenity of the building.</p>		
<p>3.9 – Parking Provision in the Kogarah Town Centre</p>	<p>3.9.1 Car Parking (1) Residential parking is to be provided in developments at the following rates: (i) 1 resident car space is to be provided on-site for each dwelling. (ii) 1 visitor car space is to be provided on-site for each 5 dwellings (4) For commercial/retail development and other land uses parking is to be provided at the following rate: (i) 1 space per 40sqm for any floor space at ground floor level. (ii) 1 space per 50sqm for all other floor space above ground floor level. (5) 1% of all car parking spaces are to be designated “accessible” spaces for people with mobility impairments, with a minimum of 1 space for facilities such as medical suites.</p>	<p>As per ADG objective 3J the proposal refers to the RMS Guide for Traffic Generating Development (GTTGD) given the site’s location less than 800m from a Kogarah Station. In this regard, the ADG rates take precedence over Council’s car parking rates. This is assessed in detail under objective 3J of the ADG.</p> <p>Note: Although the proposal provides in excess of the metropolitan car parking requirements, the additional car parking is not considered to utilize floor space given that the Kogarah DCP requires 75 car spaces.</p> <ul style="list-style-type: none"> - Residential: (64 car spaces provided). 7 accessible spaces are provided which is compliant. - Residential visitor: (9 car spaces provided). 0.09 accessible spaces (rounded to 1) is required and will be required to be provided by way of a condition of consent. - Commercial: (23 car spaces provided). The development provides for 2 accessible car spaces which is compliant. <p>Although the number of visitor car spaces provided is identical to that of the original approval, the overall demand for these spaces is likely to increase given the increase in the number of residential apartments provided. It is considered that with the addition of a shared space to a visitor car space, the</p>	<p>Yes</p> <p>A condition of consent will be imposed requiring one residential car space to be converted to a shared space in order to allow for one accessible residential visitor car space.</p>

		development will provide equitable access to all residents and visitors of the building.	
3.9.2 – Bicycle Parking	<p>(1) Bicycle storage is to be provided at the rate of:</p> <p>(i) 1 secure bicycle storage facility per 2 residential units</p> <p>(ii) 1 bike space per 10 car spaces for the first 200 spaces then 1 space per 20 car spaces thereafter, for commercial and retail land uses.</p>	<p>Part 3J-2 of the ADG provides that: “<i>Secure undercover bicycle parking should be provided that is easily accessible from both the public domain and common areas</i>”.</p> <p>Although no bicycle rates apply in the ADG, based on the DCP rates, the development is required to provide 33 bicycle spaces.</p> <p>The development provides 29 bicycle spaces, representing a short fall of 4 spaces.</p> <p>It is noted that the original application has approved provided 24 bicycle spaces. With the current application proposing to reduce the commercial floor space and add one (1) residential apartment, the proposal has provided for 5 additional bicycle spaces bringing the total to 29.</p> <p>Given the original proposal was supported with only 21 bicycle spaces, it is considered that the five (5) additional bicycle spaces is acceptable.</p> <p>DCP variation: 12.1%</p>	Acceptable

LPP057-20

69. Controls found in KDCP 2013 Part E1 (4) Urban Design are overridden by the ADG thus were not considered as part of the assessment of this modification.

INTERIM POLICY GEORGES RIVER DEVELOPMENT CONTROL PLAN 2020

70. The proposal has been considered in accordance with the relevant provisions within the Georges River Council Interim Development Control Plan 2020 relating to residential flat buildings. No specific clauses apply to the proposal, and any reference to the ADG has been assessed above.

IMPACTS

Natural Environment

71. The modified works are contained within the approved building footprint. The additional excavation needed for the basement remains within the envelope of the approved development and is considered satisfactory. The amended proposal will not result in changes to stormwater disposal or impact on any neighbouring or street trees. Additional excavation will be required in basement however given the scale of the proposal; this additional excavation is considered to be acceptable.

Built Environment

72. The modification as proposed results in a scale and form being acceptable and consistent with the future character of the locality.

Social Impacts

73. The modification is unlikely to result in any unreasonable social impacts given the mixture of uses contained in the proposal. Whilst the modification seeks to remove one (1) commercial premise and add an additional residential apartment, the proposed changes will still allow the proposal to achieve the objectives of the B4 Mixed Use zone and will still deliver a quality development within the Kogarah Town Centre.

Economic Impacts

74. The modification is unlikely to result in any unreasonable economic impacts given the mixed nature of the use.

Suitability of the site

75. It is considered that the proposed modification of the approved development will not impact upon the approved building form and scale. The development remains a suitable development for the site having regard to the land shape, topography, the built form and relationship to adjoining developments.

SUBMISSIONS, REFERRALS AND THE PUBLIC INTEREST

76. The application was notified to adjoining owners, occupiers, for a period of 14 days between 17 and 31 August 2020. In response, one (1) submission was received raising the following issues.

Height of the development

77. Concern was raised with regards to the height of the development. It is noted that the height of the development will not be amended by the current modification. The overall height will remain as previously approved.

Traffic Impacts

78. Concern was raised regarding traffic impacts generated by the development. Although the development seeks to amend the approved layout of the basement, the development still provides the required car parking spaces as per objective 3J of the Apartment Design Guide and the Kogarah DCP. The traffic generation of the amended development is unlikely to differ from that of the original approval.

Council Referrals

Team Leader - Subdivision and Development (Stormwater and Subdivision)

79. No objections were raised, and no specific conditions of consent have been recommended to be amended, deleted or added.

Consultant Arborist

80. No objections were raised, and no specific conditions of consent have been recommended to be amended, deleted or added.

Heritage Advisor

81. No objections were raised, and no specific conditions of consent have been recommended to be amended, deleted or added.

External Referrals

Ausgrid

82. The application was referred to Ausgrid as per Clause 45(2) of the State Environmental Planning Policy (Infrastructure) 2007 for consideration. In response, no objection was received in relation to the proposed modifications.

Public Interest

83. The amended proposal has been assessed against the relevant planning policies applying to the site having regard to the objectives of the controls. Following a detailed assessment the proposal as modified is considered to be in the public interest.

Section 7.11 Contributions

84. A revised Section 7.11 Contribution amount of \$939,904.01 is applicable. This has taken into consideration the loss of commercial floor space and the additional apartment and changes in the apartment mix.

CONCLUSION

85. The application has been assessed having regard to Section 4.15 and Section 4.56 of the Environmental Planning and Assessment Act 1979, State Environmental Planning Policies and the provisions of the Kogarah Local Environmental Plan 2012 and Kogarah Development Control Plan 2013 and Draft Kogarah Local Environmental Plan.
86. The proposal on its merits is acceptable for the reasons outlined within this report. The proposal is reasonable given the objectives of the controls have been adequately satisfied and the modification does not result in any unreasonable amendment to the built form or operation of the development.
87. Following a detailed assessment contained within this report, it is considered that MOD2020/0148 should be approved subject to conditions 1, 18, 23, 24, 25 being modified, conditions 80A and 98A being added with condition 2 being deleted.

DETERMINATION AND STATEMENT OF REASONS

Statement of Reasons

88. 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 proposed modification to amend the layout of the approved mixed use building is considered to still represent substantially the same development as originally approved.
 - The proposal provides a mixed use development that responds to community needs and demands.
 - The modification remains consistent with the objectives of the zone and the character of the locality.
 - The development is not inconsistent with the Georges River Local Environmental Plan 2020.

Determination

89. That pursuant to Section 4.56 of the Environmental Planning and Assessment Act 1979 (as amended) the Georges River Local Planning Panel, grant consent to modification application (MOD2020/0148) seeking internal and external alterations to the approved development to accommodate a thirteen (13) storey mixed use development comprising a residential flat building with sixty two (62) apartments over 938sqm of retail and commercial space under DA2018/0139 (as modified) for the demolition of existing structures and construction of a thirteen storey mixed use development comprising a residential flat building with 61 apartments over 1,110sqm of retail and commercial space.

Conditions to be modified:

- 1 – Approved plans.
- 18 – Development Contributions.
- 23 – Required Design changes.
- 24 – Natural Cross Ventilation requirement.
- 25 – Traffic and Parking.

The following conditions have been added:

- 80a – Allocation of car parking spaces.
- 98A – Use of room.
- 122 through to and including 145 – Advisory conditions

The following conditions have been deleted:

- Condition 2 – ‘Building design amendments’ has been deleted.

CONDITIONS OF CONSENT (MOD2020/0148) DA2018/0139
32 – 38 Montgomery Street Kogarah
Section A Development Details

1. **Approved Plans**

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

Reference Number	Description	Date	Revision	Prepared by
DA001	Cover Page	16 July 2019 13 December 2019 30 June 2020	CC DD FF	Stanisic Architects
DA002	Context Analysis Plan	16 April 2019	AA	Stanisic Architects
DA008	Site Analysis Plan	16 April 2019	AA	Stanisic Architects
DA009	Site Plan	16 July 2019 13 December 2019 30 June 2020	BB CC DD	Stanisic Architects
DA010	Montgomery Street Elevation	18 June 2019	BB	Stanisic Architects
DA100	Basement 3 Plan	17 July 2019 13 December	EE FF	Stanisic Architects

		2019 30 June 2020	HH	
DA101	Basement 2 Plan	17 July 2019 13 December 2019 30 June 2020	EE FF GG	Stanisic Architects
DA102	Basement Plan 1	17 July 2019 13 December 2019 30 June 2020	FF GG II	Stanisic Architects
DA103	Level 0 (LG) Plan	17 July 2019 13 December 2019 30 June 2020	FF GG HH	Stanisic Architects
DA104	Level 1 (G) Plan	5 July 2019 13 December 2019 30 June 2020	CC DD EE	Stanisic Architects
DA105	Level 2 Plan	16 July 2019 13 December 2019 30 June 2020	II JJ KK	Stanisic Architects
DA106	Level 3 Plan	16 July 2019 13 December 2019	FF GG	Stanisic Architects
DA107	Level 4 Plan	16 July 2019 13 December 2019	DD EE	Stanisic Architects
DA108	Level 5 Plan	16 July 2019 13 December 2019	DD EE	Stanisic Architects
DA109	Level 6 Plan	16 July 2019 13 December 2019	EE FF	Stanisic Architects
DA110	Level 7 Plan	16 July 2019 13 December 2019	DD EE	Stanisic Architects
DA111	Level 8 Plan	16 July 2019 13 December 2019	DD EE	Stanisic Architects
DA112	Level 9 Plan	16 July 2019 13 December 2019	DD EE	Stanisic Architects
DA113	Level 10 Plan	16 July 2019 13 December 2019	DD EE	Stanisic Architects
DA114	Level 11 Plan	16 July 2019 13 December 2019	DD EE	Stanisic Architects
DA115	Level 12 Plan	16 July 2019 13 December 2019	DD EE	Stanisic Architects

DA116	Roof Terrace Plan	5 July 2019 13 December 2019	DD EE	Stanisic Architects
DA117	Roof Plan	12 July 2019 13 December 2019 30 June 2020	DD EE FF	Stanisic Architects
DA201	South West Elevation	16 July 2019 13 December 2019	CC DD	Stanisic Architects
DA202	North East Elevation	16 July 2019 13 December 2019 30 June 2020	CC DD EE	Stanisic Architects
DA203	North West Elevation	12 July 2019 13 December 2019	BB DD	Stanisic Architects
DA204	South East Elevation	16 July 2019 13 December 2019	CC DD	Stanisic Architects
DA205	Section AA	12 July 2019 13 December 2019 30 June 2020	CC DD EE	Stanisic Architects
DA206	Section BB	16 July 2019 13 December 2019 30 June 2020	CC DD EE	Stanisic Architects
DA207	Section CC	16 July 2019 13 December 2019 30 June 2020	CC DD EE	Stanisic Architects
DA208	Section DD	12 July 2019 13 December 2019 30 June 2020	CC DD EE	Stanisic Architects
DA209	Section EE	30 June 2020	AA	Stanisic Architects
A001	Typical Pool + Ceiling Section	18 June 2019	AA	Stanisic Architects
A002	Typical Floor to Ceiling Section	18 June 2019	AA	Stanisic Architects
A005	Loading dock plan	16 April 2019	AA	Stanisic Architects
DA701	Adaptable Unit Plan (F03)	19 July 2019	BB	Stanisic Architects
DA801	GFA Sheet 1	5 July 2019 13 December 2019 30 June 2020	CC DD EE	Stanisic Architects
DA802	GFA Sheet 2	5 July 2019 13 December	CC DD	Stanisic Architects

		2019		
DA803	GFA Sheet 3	5 July 2019 13 December 2019	CC DD	Stanisic Architects
DA804	GFA Sheet 4	5 July 2019 13 December 2019 30 June 2020	CC DD EE	Stanisic Architects
DA805	Open Space Diagram	16 July 2019 13 December 2019 30 June 2020	BB CC DD	Stanisic Architects
DA806	HOB 'Fog' Diagram	3 July 2019 13 December 2019	BB CC	Stanisic Architects
DA901	Montgomery Street View	16 July 2019 13 December 2019	BB DD	Stanisic Architects
DA902	Moorefield Lane View	16 July 2019 13 December 2019	BB DD	Stanisic Architects
Unnumbered	External Materials, Finishes and Colour Board	16 April 2019 18 September 2019 and 29 July 2020	DD	Stanisic Architects
38031 - CI-000-01	Civil Works Cover Sheet	15 April 2019	A	Wood and Grieve Engineers
38031 – CI-060-01	General Arrangement Plan - Ground	15 April 2019	C	Wood and Grieve Engineers
38031 – CI-060-02	General Arrangement Plan – Lower Ground	18 June 2019	D	Wood and Grieve Engineers
38031 – CI-060-03	General Arrangement Plan – Basement Level 1	15 April 2019	C	Wood and Grieve Engineers
38031 – CI-060-04	General Arrangement Plan – Basement Level 2	15 April 2019	C	Wood and Grieve Engineers
38031 – CI-060-05	General Arrangement Plan – Basement Level 3	15 April 2019	C	Wood and Grieve Engineers
38031 – CL 060- 12	General Arrangement Plan – Level 12	19 June 2019	A	Wood and Grieve Engineers
38031 – CI-066-01	General Arrangement - Details	15 April 2019	C	Wood and Grieve Engineers

38031 – CI-070-01	Erosion and Sediment Control Plan	15 April 2019	C	Wood and Grieve Engineers
38031 – CI-076-01	Erosions and Sediment Control Details	28 March 2018	A	Wood and Grieve Engineers
UT F04	F04	19 July 2019 13 December 2019	DD EE	Stanisic Architects
UT F03/2	F03/2	13 December 2019	AA	Stanisic Architects
UT F03/1	F03/1	16 July 2019 13 December 2019	BB CC	Stanisic Architects
UT F03	F03	16 July 2019 13 December 2019	BB CC	Stanisic Architects
UT F02/2	F02/2	13 December 2019	AA	Stanisic Architects
UF F02/1	F02/1	16 July 2019 13 December 2019	BB CC	Stanisic Architects
UT F02	F02	16 July 2019 13 December 2019	BB CC	Stanisic Architects
UT F01/1	F01/1	16 July 2019 13 December 2019	BB CC	Stanisic Architects
UT F01	F01	16 July 2019 13 December 2019	DD EE	Stanisic Architects
UT A01	A01	16 July 2019 13 December 2019	BB CC	Stanisic Architects
UT B01	B01	16 July 2019 13 December 2019	BB CC	Stanisic Architects
UT J01/1	J01/1	16 July 2019 13 December 2019	BB CC	Stanisic Architects
UT J01	J01	16 July 2019 13 December 2019	BB CC	Stanisic Architects
UT F06/1	F06/1	16 July 2019 13 December 2019	BB CC	Stanisic Architects
UT F06	F06	19 July 2019 13 December 2019	CC DD	Stanisic Architects
UT F05/4	F05/4	13 December 2019	AA	Stanisic Architects
UT F05/3	F05/3	13 December	AA	Stanisic

		2019		Architects
UT F05/2	F05/2	16 July 2019 13 December 2019	BB CC	Stanisic Architects
UT F05/1	F05/1	16 July 2019 13 December 2019	BB CC	Stanisic Architects
UT F05	F05	16 July 2019 13 December 2019	AA CC	Stanisic Architects
UT F04/1	F04/1	16 July 2019 13 December 2019	BB CC	Stanisic Architects
UT F04/2	F04/2	13 December 2019	AA	Stanisic Architects
UT F04/3	F04/3	13 December 2019	AA	Stanisic Architects
913143M_10	BASIX Certificate	29 July 2020	-	Efficient Living Pty Ltd
18033-LDA00	Cover Page	22 July 2019 2 October 2019	E F	NBRS Architecture Landscape
18033-LDA01	Landscape Plan - Ground Floor	22 July 2019 2 October 2019	E F	NBRS Architecture Landscape
18033-LDA02	Landscape Plan Level 02	22 July 2019 2 October 2019	E F	NBRS Architecture Landscape
18033-LDA03	Landscape Plan Level 03	22 July 2019 2 October 2019	E F	NBRS Architecture Landscape
18033-LDA04	Landscape Plan Level 04	22 July 2019 2 October 2019	E F	NBRS Architecture Landscape
18033-LDA05	Landscape Plan Level 05	22 July 2019 2 October 2019	E F	NBRS Architecture Landscape
18033-LDA06	Landscape Plan Level 06	22 July 2019 2 October 2019	E F	NBRS Architecture Landscape
18033-LDA07	Landscape Plan Level 07	22 July 2019 2 October 2019	E F	NBRS Architecture Landscape
18033-LDA08	Landscape Plan Level 08	22 July 2019 2 October 2019	E F	NBRS Architecture Landscape
18033-LDA09	Landscape Plan Level 09	22 July 2019 2 October 2019	E F	NBRS Architecture Landscape
18033-LDA10	Landscape Plan Level 10	22 July 2019 2 October 2019	E F	NBRS Architecture Landscape

18033-LDA11	Landscape Plan Level 11	22 July 2019 2 October 2019	E F	NBRS Architecture Landscape
18033-LDA12	Landscape Plan Level 12	22 July 2019 2 October 2019	E F	NBRS Architecture Landscape
18033-LDA13	Landscape Plan Roof Terrace	22 July 2019 2 October 2019	E F	NBRS Architecture Landscape
18033-LDA14	Details + Planting Palette	22 July 2019 2 October 2019	E F	NBRS Architecture Landscape
17039	Operational Waste Management Plan	17 April 2019	G	Elephants Foot

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Documents Relied Upon

Reference Number	Description	Date	Revision	Prepared By
10650 - 002	Plan of Site Detail and Levels	9 January 2018		Boxall
Project No. 20180289.1	Development Application Acoustic Report	04/04/2018	REV: 1	Acoustic Logic
	Statement of Heritage Impact	03/07/ 2018		NBRS Architecture Heritage
-	Landscape Design Statement	11 April 2019	-	NBRS Architecture - Landscape
20180289.1/17 04A/RO/TA	Confirmation of Acoustic Design	17 April 2019		Acoustic Logic
-	Heritage Commentary Statement	17 April 2019		GBA Heritage
38031	Stormwater Management Report	15 April 2019	C	Wood and Grieve Engineers
18017	Assessment of Traffic and Parking Implications	April 2019	J	Transport and Traffic Planning Associates
1804298	Natural Ventilation Design Review	16 April 2019		RWDI
-	Design Verification Statement	30 June 2020	-	Frank Stanisic
-	SEPP 65 Principles Compliance Statement	30 June 2020	Issue A	Stanisic Architects

20-0637	Thermal Comfort and BASIX Assessment	08 July 2020	F	Efficient Living Pty Ltd
M180026	Clause 4.6 request	24 June 2019		Planning Ingenuity
19062	Structural Expert's Report by Ryan Campbell on Structural Engineering Issues at 32 – 38 Montgomery Street, Kogarah	2 July 2019		ABC Consultants Structural and Civil Engineers
	Joint Traffic Report of Ross Nettle and Paul Croft	1 July 2019		Ross Nettle and Paul Croft

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~~(This condition has been modified by MOD2019/0245 (DA2018/0139))~~

(This condition has been modified by MOD2020/0148 (MOD2019/0245) (DA2018/0139))

~~2. Building design amendments~~

~~The following design changes are to be incorporated into the construction certificate plans which are to be submitted to the satisfaction of Council as part of the relevant construction certificate application:~~

- ~~(a) The locations of the basement columns adjacent to the Montgomery St boundary and the Moorefield Lane boundary on Basement Levels 0, B3, B2, and B1 are to be amended so that the column locations align between levels. A transfer beam is to be installed at level 0 to facilitate the changes in column location.~~
- ~~(b) Basement Levels 3, 2, 1 and 0 are to be modified in accordance with the plans at Appendix D of the Joint Traffic Report of Ross Nettle and Paul Croft filed 1 July 2019.~~
- ~~(c) Fixed screens shown on the bedroom windows of level 12 are to be deleted.~~
- ~~(d) The extent of the painted areas on the facades of the building is to be reduced or changed to a colour pigmented render and an external finishes board showing a more varied colour palette is to be prepared.~~

~~(This condition has been modified by MOD2019/0245 (DA2018/0139))~~

(This condition is deleted as part of MOD2020/0148 (MOD2019/0245) (DA2018/0139))

Section B Separate Approvals Required Under Other Legislation

3. Section 138 Roads Act 1993 and Section 68 Local Government Act 1993

Unless otherwise specified by a condition of this consent, this Development Consent does not give any approval to undertake works on public infrastructure.

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

An application is required to be lodged and approved prior to the commencement of any of the following works or activities in, on or over a public road;

- a) Placing or storing materials or equipment;
- b) Placing or storing waste containers or skip bins;
- c) Erecting a structure or carrying out work
- d) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
- e) Pumping concrete from a public road;
- f) Pumping water from the site into the public road;
- g) Constructing a vehicular crossing or footpath;
- h) Establishing a “works zone”;
- i) Digging up or disturbing the surface of a public road (e.g. Opening the road for the purpose of connections to utility providers);
- j) Stormwater & 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 6400.

4. **Stormwater Drainage Application**

This Development Consent does not give approval to undertake works on Council stormwater drainage. A separate approval of a Stormwater Drainage Application is required under Section 138 of the *Roads Act 1993* and/or Section 68 of the *Local Government Act 1993* to undertake:

- (1) Stormwater & ancillary works in the road reserve. This includes connections to Council stormwater pits and or pipes. Excludes connection of stormwater to the kerb.
- (2) Stormwater & ancillary to public infrastructure on private land

The Stormwater Drainage Application approval must be obtained and evidence of the approval provided to the Certifying Authority prior to the issue of the Construction Certificate, other than a construction certificate for demolition, excavation, shoring or piling.

To apply for the Stormwater Drainage Application:

- (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. DA2018/0139) and reference this condition number (e.g. Condition 4)

- (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 storm water drainage system are to be arranged by the applicant. The design plans must be lodged and approved by Council prior to the issue of a Construction Certificate, other than a construction certificate for demolition, excavation, shoring or piling.

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

5. **Vehicular Crossing - Major Development**

The following vehicular crossing and road frontage works will be required to facilitate access to and from the proposed development site:

- a) If required by the Council, construct new concrete footpaths for the full length of both frontages of the site (to their existing widths) 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 the Section 138 approval is sought.
- c) If required by the Council, a new 150mm high concrete kerb with 450mm wide gutter for the full frontage(s) of the site in accordance with Council's Specifications for kerb and guttering, applying at the time the Section 138 approval is sought.
- d) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath 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 the section 138 approval is sought.

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

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.

7. **Building - 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 hoarding or C type scaffold, in accordance with the requirements of Work Cover Authority of NSW, must be erected along that portion of the footway/road reserve, where the building is within 3.0 metres of the street boundary.

- 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 where the hoarding is to be constructed on a public road.

8. 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:

Prior to demolition of the buildings on the site, or the commencement of work above ground level, a separate application for the erection of an 'A class' (fence type) or a 'B class' (overhead type) hoarding or 'C type' scaffold, in accordance with the requirements of SafeWork NSW, must be erected along that portion of the footways/roadway where the building is within 3 metres of the street boundary.

An application for this work under Section 68 of the Local Government Act 1993 and the Roads Act 1993 must be submitted for approval to Council where the hoarding is to be constructed on a public road.

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

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

9. 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 car park 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 **\$61,000.00** (based on the Montgomery Street and Moorefield lane frontages);
 - (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.

Section C Requirements of Concurrence, Integrated & Other Government Authorities

10. Trade Waste Agreements

A Trade Waste Agreement with Sydney Water may be required. Details of any work required to comply with the agreement must be detailed on the plans lodged with the Construction Certificate. If no trade waste agreement or grease trap is required, a letter from Sydney Water to this effect must be submitted with the application for the Construction Certificate.

11. Notice of Requirements for a Section 73 Certificate

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

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

The Notice of requirements must be submitted to the certifying authority prior to the issue of a construction certificate, other than a construction certificate for demolition, excavation, shoring and piling. A Section 73 Compliance Certificate will be required at the completion of development in accordance with further conditions.

12. Ausgrid

a) Ausgrid substation

The applicant is to confer with Ausgrid to determine if an electricity distribution substation is required. If so, shall be incorporated within the Construction Certificate (other than a Construction Certificate for demolition, excavation, shoring and piling) and it will be necessary for the final film survey plan to be endorsed with an area having dimensions 5m x 4m over the location of the proposed electricity distribution substation to be

dedicated to Council as public roadway, or as otherwise agreed with Ausgrid. Ausgrid's requirements are to be met prior to release of the occupation certificate.

b) Clearances to Overhead Mains

If any part of the proposed structure, within 5m of a street frontage, is higher than 3m above footway level, the applicant is to confer with Ausgrid to determine if satisfactory clearances to any existing overhead mains will be affected. If so, the applicant is to make arrangements with Ausgrid for any necessary modification to the electrical network in question. These works to be at the applicant's expense and Ausgrid's requirements are to be met prior to actual construction commencing on site or as agreed with Ausgrid.

13. **Sydney Airport**

In accordance with The Airports (Protection of Airspace) Regulations 1996, regulation 14(1) (b), by the Department of Infrastructure, Regional Development and Cities imposes the following conditions on any approval:

- a) The building must not exceed a maximum height of 69.61metres AHD, inclusive of all lift over-runs, vents, chimneys, aerials, antennas, lightning rods, any roof top garden plantings, exhaust flues etc.
- b) The buildings must be obstacle lit by low intensity steady red lighting during the hours of darkness at the highest point of the building. Obstacle lights are to be arranged to ensure the building can be observed in a 360 degree radius as per subsection 9.4.3 of the Manual of Standards Part 139 – Aerodromes (MOS Part 139). Characteristics for low intensity lights are stated in subsection 9.4.6 of Part 139 of the MOS.
- c) The Proponent must ensure obstacle lighting arrangements have a remote monitoring capability, in lieu of observation every 24 hours, to alert SACL reporting staff of any outage. For detailed requirements for obstacle lighting monitoring within the OLS of an aerodrome, refer to subsection 9.4.10 of the MOS.
- d) The obstacle lighting must have a built in alarm system that will provide remote monitoring to notify the person responsible for the maintenance of the obstacle lighting. The designated person must be available 24 hours per day, 7 days per week. Immediate action must be taken to repair the obstacle lighting and notify Sydney Airport of any outage. The contact details of the person responsible for the maintenance of the obstacle lighting must be sent to Sydney Airport prior to the completion of the building being constructed, and must be kept up to date. In the event of the obstacle lighting being inoperable, the person responsible for the maintenance of the obstacle lighting is to immediately contact the Sydney Airport Airfield Operations Supervisor on 0419 278 208 Or 9667 9824.
- e) Following completion of the building, the Proponent must advise SACL, in writing, that the future owner(s) / manager(s) have been informed of their obligation to maintain the obstacle lighting in accordance with conditions of this approval.
- f) The Proponent must advise Airservices Australia at least three business days prior to the controlled activity commencing by emailing ifp@airsservicesaustralia.com and quoting YSSY-CA-131.
- g) Separate approval must be sought under the Regulations for any construction equipment (i.e. cranes) required to construct the building. Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Regulations. Therefore, it is advisable that approval to operate construction equipment (i.e. cranes) be obtained prior to any commitment to construct.

- h) On completion of construction of the building, the Proponent must provide the airfield design manage with a written report from a certified surveyor on the finished height of the building.

Breaches of approval conditions are subject to significant penalties under Section 185 and 187 of the Act.

Section D Prior to the Issue of a Construction Certificate

14. Building - (Structural Certificates prior to Construction Certificate)

The proposed structure must be designed and certified by a practising qualified structural engineer with details submitted at Construction Certificate stage demonstrating this to the satisfaction of the Principal Certifying Authority.

15. Fees Payment

- a) Any fees are to 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) Council must be contacted prior to payment to determine correct total amount to be paid and bank account details (if applicable).

16. 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: **\$75,346.56**.
- (ii) Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee (for two inspections) to enable assessment of any damage and repairs where required: **\$371.00**.

17. 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.

18. Development Contributions

The Section 7.11 contribution is imposed to ensure that the development makes adequate provision for the demand it generates for public amenities and public services within the area.

Contribution Plan	Description	Section 94 contributions payable
Plan No. 8	Streetscape, Open Space & Public Domain	\$877,926.31
Plan No. 8	Traffic Facilities	\$19,671.67
Plan No. 8	Community Facilities	\$16,293.28
Plan No. 9	Kogarah libraries - buildings component	\$15,185.25
Plan No. 9	Kogarah libraries - books component	\$10,827.50
Total Section 7.11 (Section 94) Contributions Currently Payable		\$939,904.01

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a) 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. Please note that these contributions are indexed quarterly according to the relevant sections in each contributions plan. Indexation cannot take the contribution per dwelling above \$20,000 per dwelling.

b) Timing of Payment

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

c) 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.

(This condition is modified as part of MOD2020/0148 (DA2018/0139))

19. **Use of Rooftop open space** - A Plan of Management (**POM**) for use of rooftop open space and swimming pool must be submitted for approval of Council prior to the issue of a construction certificate, other than a construction certificate for demolition, excavation, shoring and piling. The POM must outline the:

- i. hours of use of the rooftop deck and swimming pool which shall be restricted to between 6am until 10pm;
- ii. maximum number of users at any one time;
- iii. provisions for no amplified music to be played; and
- iv. other measures to ensure that the amenity of persons within the development and in nearby existing and future development is maintained;

The approved POM shall be incorporated into the Owners Corporation by-laws in any future Strata subdivision and a sign summarising key rules under the plan of management must be erected in an appropriate location within the rooftop deck area.

20. **Acoustic Report**

The Applicant shall provide an Acoustic Assessment Report (**Acoustic Assessment Report**). The report is to be prepared by a qualified Acoustic Engineer having as a minimum Member grade of the Institution of Engineers Australia or Member grade of the Australian Acoustical Society. The report must include the following:

- (a) Unattended noise logging for both Montgomery Street and Moorefield Lane over a period of not less than 7 days. The loggers should be located at roof level of the existing building with the microphone to be fully exposed to the road traffic.
- (b) The unattended logging is to be supplemented by attended measurements in the day and night time periods to identify other noise sources impacting upon the Site. The results of the attended measurements are to be provided in both a graphical format of noise level over time and the relevant statistical results.
- (c) The Acoustic Assessment Report shall identify the façade reflected traffic noise levels allocated for each level of the development containing windows serving residential apartments
- (d) The assessment of traffic noise intrusion shall be undertaken in accordance with Appendix C10 of the EPA's Road Noise Policy, where the internal traffic noise levels exceed the 35 dB(A) and 40 dB(A) limits identified in the Infrastructure SEPP the appropriate noise controls are to be identified to satisfy the relevant internal criteria with windows and doors closed. If internal noise levels with windows or doors open exceed the criteria by more than 10dBA, the design of the ventilation for these rooms should be such that occupants can leave windows closed, if they so desire, and also to meet the ventilation requirements of the Building Code of Australia.
- (e) The Acoustic Assessment Report shall identify in a table format the glazing and ventilation requirements for every habitable room in each apartment.
- (f) The Acoustic Assessment Report shall identify the ambient background level applicable to existing residential occupancies in proximity to the Site and the relevant intrusiveness and amenity noise targets applicable to those locations.
- (g) The Acoustic Assessment Report shall nominate that the proposed rooftop pool be vibration isolated using minimum 40mm static deflection springs/neoprene vibration isolation mounts and any associated requirements including lateral buffers, isolation joints, etc.
- (h) The Acoustic Assessment Report shall identify the likely sources of mechanical plant to be provided in the development (carpark ventilation, plant for commercial and residential premises) and identify the mechanical noise emission targets applicable to the development.
- (i) If alternative ventilation is to be provided to satisfy 20(d) in the form of air conditioning or alternative ventilation, the relevant noise targets are required for both internal and external noise (both solutions). The Acoustic Assessment Report is to specify those targets and must take into account the inaudibility requirement of the Regulations to the Protection of the Environment Operations Act with respect to air conditioners for residential premises.
- (j) There is potential for the installation of additional air conditioning plant to individual apartments (separate to compliance with the road traffic noise criteria). An external noise specification for such plant it be provided, taking into account the overall noise targets for the site and the requirements of the Regulations to the Protection of the Environment Operations Act with respect to air conditioners for residential premises.
- (k) The Acoustic Assessment Report shall address the specific requirements in relation to aural and visual privacy of the Building Code of Australia (BCA).

The acoustic report is to be submitted and approved by the Certifying Authority prior to the issue of a construction certificate, other than a construction certificate for demolition, excavation, shoring and piling.

21. Prior to release of Construction Certificate, a qualified Acoustic Engineer having as a minimum Member grade of the Institution of Engineers Australia or Member grade of the Australian Acoustical Society is to certify that the plans will comply with the findings of the Acoustic Assessment Report specified in Condition 20 to the satisfaction of the Principal Certifying Authority.
22. **Protection of basement and building from stormwater entry from off the road reserve**
- (a) Full details of proposed design boundary levels on both the Montgomery Street and Moorefield Lane street frontages are to be submitted for approval by Council. Proposed finished levels are to be provided at both edges of the driveway entry, loading bay and at all entrances to the building.
- (b) These levels are to be supported by evidence from a professional engineer who specialises in hydraulic engineering that all entrances to the building including the underground basement shall be protected from possible inundation by surface waters from the street.
- (c) Evidence that Council's Infrastructure department has reviewed and approved the design boundary levels is to be provided to the certifying authority prior to the issuing of a Construction Certificate other than a construction certificate for demolition, excavation, shoring and piling.
23. **Required design changes**

The following changes are required to be made and shown on amended Detailed Stormwater Plans prior to the release of the Construction Certificate (other than a Construction Certificate for demolition, excavation, shoring and piling):

Stormwater and Drainage

- a) The OSD section is to include revised details including an amended top water level, orifice size, variable width of the tank, a sump to be installed below the orifice, and trash screen to be installed over the orifice rather than the outlet downstream of the orifice.
- b) The kerb inlet pit detail would need to be removed and a grated gutter drain detail included on Drawing CI-066-01.
- c) It is to be clearly stated on Drawing CI-066-02 that a Stormwater Drainage Application will need to be lodged and receive written approval by Council for the stormwater works and connection to Council's stormwater pipe in Moorefield Lane.
- d) There is minimal height difference between the maximum overflow height at the Rainwater tank and the top water level of the OSD tank. The design is to be altered to prevent the potential for to discharge back to the Rainwater tank from the On-Site Detention system.

The Detailed Stormwater Plan is to be 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.

Design changes

- e) **One (1) residential visitor car space is to be allocated with a shared space so as to make it an accessible residential visitor car space. The shared space is to be achieved by converting one (1) residential car space along basement 1 (DA102 dated 28/06/2020) to a shared space in favour of the residential visitor car space. A reshuffle of residential and commercial/retail car spaces along basement 1 is permitted as long as the number of commercial/retail car parking spaces is not reduced.**

Note: If a compliant accessible car space for one residential visitor car space can be achieved in basement 1 without converting (1) residential car space into an accessible space, then this is considered to satisfy this condition.

Details are to be shown on the Construction Certificate Plans and Strata Subdivision Plan.

- f) **Appropriate pedestrian access in the form of a door is to be added between the communal open space (residential garden) and apartment 202 located along level 2 (reference DA105 dated 30/06/2020).**

(This condition is modified as part of MOD2020/0148 (DA2018/0139))

24. Natural Cross Ventilation requirement

- (a) In order to achieve the minimum natural cross ventilation performance as per the ADG Guidelines, each of the windows belonging to Apartments 201, **203, 204, 205**, 301, 303, 304, 306, 401, 403, 404, 406, 501, 503, 504, 506, 601, 603, 604, 606, 701, 703, 704, 706, 801, 803, 804, 806, 901, 903, 904 and 906 that discharge air into the central atrium space or to the south-east aspect are to have a minimum ventilating area of no less than the greater of 5% of the floor area of the room required to be ventilated and a total openable area per aspect of 0.4sqm
- (b) These windows must not be obstructed by fly screen mesh, louvres or the like.
- (c) The top of the central atrium must not be covered other than to the extent shown on the drawings nominated in condition 1.
- (d) No obstruction is to be introduced between fire stairs/lift core and the apartments on any of the levels between a height of 1.6m and the height of the soffit or slab.

(This condition is modified as part of MOD2020/0148 (DA2018/0139))

25. Traffic and Parking

A detailed traffic management Plan must be submitted and approved by Georges River Council based on the design as amended. The Plan must include but not limited to:

- a) Driveway access to comply with figure 3.3-Minimum Sight Lines for Pedestrian Safety as per AS 2890.1:2004 of the Australian Standard for off-street car parking. Figure 3.3 specifies the minimum sight lines for pedestrian safety along a circulation driveway or domestic driveway.
- b) **At least 23 retail/commercial car parking spaces shall be freely available for customers of the business to which they are assigned. The spaces must either be freely available to such customers, for vehicles operated by the relevant business or designated retail/commercial staff of the relevant business.**

- c) Any wall or fence or solid object on either side of the driveway/vehicular crossing where it meets the Council's road reserve at the boundary must comply with sight distance requirements stipulated in the *Australian Standards AS2890.1*.
- d) The maximum size of truck/service vehicle using the proposed development shall be restricted to Medium Rigid Vehicle with a maximum length of 12.5 metres.
- e) All vehicles shall enter and exit the premises in a forward direction excepting that a service vehicle may enter the loading dock in a reversing fashion. .
- f) No deliveries to the premises shall be made direct from a public place or street inclusive of footpaths, nature strip, roadway and car parks.
- g) All loading and unloading of vehicles in relation to the use of the premises shall take place wholly within the dedicated loading/unloading areas, which is wholly within the site.

(This condition is modified as part of MOD2020/0148 (DA2018/0139))

26. **Site Management Plan**

A Site Management Plan must be submitted with the application for a Construction Certificate, and include the following:

- a) location of protective site fencing;
- b) location of site storage areas/sheds/equipment;
- c) location of building materials for construction, e.g. stockpiles
- d) provisions for public safety;
- e) dust control measures;
- f) method used to provide site access location and materials used;
- g) details of methods of disposal of demolition materials;
- h) method used to provide protective measures for tree preservation if required;
- i) provisions for temporary sanitary facilities;
- j) location and size of waste containers/skip bins;
- k) details of proposed sediment and erosion control measures;
- l) method used to provide construction noise and vibration management;
- m) construction and demolition traffic management details.

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

27. **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.

28. **Pre and Post Construction Dilapidation Reports on Public Land**

Prior to and upon completion of works, two dilapidation reports must be prepared on Council infrastructure within and/or adjoining the development site. The reports must include both sides of the road and extend 40 metres past the development site in all directions within the road reserve or Council assets. The pre-dilapidation reports must be submitted prior to works commencing. The post dilapidation report must be submitted to Council prior to final inspection and issue of Occupation Certificate.

All dilapidation reports must be prepared by a suitably qualified engineer and include their full name, signature and qualification. The post dilapidation report must show clear detail of all defects following completion of the works.

The reports must be provided to the Principal Certifying Authority and a copy provided to the Council.

The reports must include the following:

- (a) Photographs showing the condition of the road pavement, kerb and gutter including drainage lintels, footway including footpath pavement and the condition of retaining walls.
- (b) Closed circuit television/video (CCTV) inspection, in digital format, of public stormwater drainage systems fronting, adjoining, or within the site, and is to include the inspection and notation of all visible defects and joints along the pipe. The post dilapidation report is to be carried out upon completion of all construction works. (A specialised plumber/contactor who has a CCTV tractor that can access the pipe and provide suitable quality footage will need to be engaged.)
- (c) The post dilapidation report summary is to include all recommended actions to rectify or remediate the defects that have arisen following the initial pre-dilapidation report.

The reports are to be supplied in digital format in Word or PDF. Photographs are to be included in the report and presented in colour and date stamped.

Any works required on Council's road related area require a separate application under Sec 138 Roads Act. The dilapidation reports will be taken into consideration when Council undertakes a final inspection of works on road related areas as part of the section 138 applications.

Council may use both reports to determine whether or not to; accept the works, issue further instructions and/or refund the damage deposit. Any omission in the pre-dilapidation report will be assessed as damage to be rectified.

29. **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.
- b) 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.

- 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 PCA.
- 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.

30. 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, excavation, shoring and piling.
- b) All stormwater shall drain by gravity to the proposed grated gutter pit located in front of the property in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).
- c) A 42.4m³ On-Site Detention system with a Maximum Site Discharge of 23.6 Litres per Second is to be provided in accordance with the Stormwater Concept Plan and associated Design Assessment Report. The overflow is to be directed to the site drainage system.
- 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 (2005 or 2016) and Council's Stormwater Drainage Guidelines, shall accompany the application for the Construction Certificate.
- e) The underground basement car park must pump to and all other stormwater must drain by gravity to the OSD system.
- f) The sub soil drainage for the below ground structures including basement car parks shall be designed in accordance with the findings and recommendations in the geotechnical report. The geotechnical report should assess any possible impact of the proposed development upon existing ground water table and surrounding land and buildings. Should the results of the report indicate that the site is likely to experience issues associated with groundwater management, a fully-tanked dry basement with no sub soil drainage collection or disposal and an allowance made for any hydrostatic pressures.

31. 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 designed in accordance with the requirements of AS/NZS 3500.3:2018 (As Amended) – Plumbing and Drainage - Stormwater Drainage.

- 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 other than a construction certificate for demolition, excavation, shoring and piling.

32. **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.

33. **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. In the design requires changes to the height of the building this will need to be considered as a modification.

34. **Access for Persons with a Disability and Adaptable Housing**

Access for persons with disabilities must be provided throughout the site, including to all common rooms, lobby areas, commercial premises and sanitary facilities in accordance with the requirements of the Premises Standards, the Building Code of Australia and AS 1428.1. Details must be submitted with the Construction Certificate Application other than a construction certificate for demolition, excavation, shoring and piling.

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

35. **Geotechnical report**

Geotechnical Reports: The applicant must submit to the Certifying Authority a Geotechnical Report, prepared by a suitably qualified and practising Geotechnical Engineer. This is to be submitted prior to 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. On-site guidance by a vibration specialist during the early part of excavation.
- c. Rock breaking techniques. Rock excavation is to be carried out with tools such as rock saws which reduce vibration to adjoining buildings and associated structures.

- d. 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.

36. Vibration Damage

To minimise vibration damage and loss of support to the buildings in close proximity to the development, any excavation is to be carried out by means of a rock saw and if available, in accordance with the guidelines of the Geotechnical Engineer's report.

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

The report shall be submitted with the Construction Certificate application.

37. Slip Resistance

All pedestrian surfaces in areas such as foyers, public corridors/hallways, stairs and ramps as well as floor surfaces in the wet rooms in any commercial/retail/residential apartments 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.

38. 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).

- 38A Prior to the issue of a Construction Certificate, a Construction Noise and Vibration Management Plan is to be prepared by the proponent to the satisfaction of the Certifying Authority. The Construction Noise and Vibration Management Plan is to be in accordance with the EPA Interim Construction Noise Guidelines.

The proponent must undertake noise and vibration monitoring during the demolition and excavation and construction phases of the project. The vibration monitoring will incorporate alarms and similar notifications in the event that noise or vibration levels are approaching the threshold limits. Where noise or vibration levels exceed the nominated limits, reasonable and feasible noise/vibration mitigation measures are to be incorporated. During the demolition and excavation and construction works, where any vibration exceedances occur, they will be documented and provided to both the PCA and Council, not more than 7 days after the occurrence of the exceedance

- 38B Prior to the issue of a Construction Certificate, other than a Construction Certificate for demolition, excavation, shoring and piling, a specification shall be provided in relation to individual air conditioners that may be installed to apartments in the subject development, including any restrictions on operating mode or night time use, in accordance with the targets set out in the Acoustic Assessment Report provided pursuant to Condition 20.

- 38C Prior to the issue of a Construction Certificate, other than a Construction Certificate for demolition, excavation, shoring and piling, the proponent must provide certification confirming that the physical noise and vibration controls required for the rooftop deck and pool area have been incorporated into the development.
- 38D Prior to the issue of a Construction Certificate, other than a Construction Certificate for demolition, excavation, shoring and piling, the proponent must provide certification confirming the building will comply with the acoustic requirements of the BCA.

39. **Roof Water and Surface Water Disposal**

All roof water and surface water from paved or concreted areas are to be disposed of in accordance with the Stormwater Plan by means of a sealed pipeline constructed in accordance with AS/NZS 3500.3:2018 (As Amended) – Plumbing and Drainage - Stormwater Drainage.

40. **Acoustic Requirements**

Prior to issuing a Construction Certificate, other than a Construction Certificate for demolition, excavation, shoring and piling, the proponent must provide with a further Acoustic Assessment Report (further Acoustic Assessment Report) assessing the impact of all proposed mechanical plant on the receiving environment as well as demonstrating compliance with Noise Policy for Industry (NSW EPA, 2017). The further Acoustic Assessment Report must address the matters set out in the Acoustic Assessment Report required by Condition 20.

41. **Car Wash Bays**

Plans and specifications of the car washing system which has been approved by Sydney Water must be submitted with the application for the Construction Certificate (other than a Construction Certificate for demolition, excavation, shoring and piling).

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

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

42. **Compliance with Swimming Pool Acts 1992 and Australian Standards**

The construction of the new building subject of this consent must not generate any non-compliances with the Swimming Pools Act 1992, Swimming Pool Regulation 2008, Building Code of Australia and/or AS 1926.1-2007 – Swimming Pool Safety. Details of compliance to be illustrated on the plans lodged with the application for the relevant Construction Certificate.

The fence of the swimming pool located on the rooftop of the development is to comply with Australian Standard AS1926-2012

43. **Swimming Pools – Use and Maintenance**

The following apply to the construction, use and maintenance of swimming pools and spas:

- (a) all pool/spa waste water is to be discharged to the sewer according to the requirements of Sydney Water;
- (b) the swimming pool must not be used for commercial or professional purposes;
- (c) drain paved areas to the landscaped areas or a suitable lawful drainage system;
- (d) arrange any external pool/spa lighting to minimise glare nuisance to adjoining owners; and
- (e) all structures within the bounds of the child-resistant barrier surrounding the swimming pool are to comply with section 12(c) of the Swimming Pools Act 1992 (NSW).

44. **Commonwealth Disability (Access to Premises) Standard**

The Commonwealth Disability (Access to Premises - Buildings) Standards 2010 (the Premises Standards) applies to all applications (i.e. Construction Certificate). This requires any new building, part of a building and the affected part of the existing building to comply with the Premises Standards, the Building Code of Australia and AS 1428

45. **Site Investigation Requirements - Detailed Site Investigation**

A detailed site contamination investigation of the site must be carried out by an appropriately qualified contamination consultant in accordance with the requirements of the relevant NSW EPA Guidelines approved under the Contaminated Land Management Act 1997 including the EPA Guidelines for Consultants Reporting on contaminated sites and shall certify the suitability of the site for the proposed development. If investigation finds that contamination makes the land unsuitable for the proposed development and remediation is required, a Remedial Action Plan (RAP) must be submitted to Council prior to Council making a determination. Council reserves the right to require a site audit of the RAP.

46. **Site contamination – Additional information**

Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately.

The following steps must then be taken before any further works proceed onsite.

A further detailed investigation of the site should then be prepared by a suitably qualified contaminated land consultant and submitted to Council.

This report must consider whether the land is contaminated;

- g) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out; and
- h) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

47. Remedial Action Plan (RAP)

If required as a result of a further detailed investigation under Condition 45, all work is to cease and a Remedial Action Plan (RAP) must be prepared by a suitably qualified consultant in accordance with NSW Department of Environment and Conservation (DEC) and NSW Environmental Protection Authority (EPA) Guidelines and shall document all the remedial works to be undertaken at the site and also contain an environmental management plan and occupational health and safety plan for the remedial works.

48. Remediation Works

Any remediation work must be carried out in accordance with:

- a) The Managing Land Contamination: Planning Guidelines SEPP 55 Remediation of Land; and
- b) The EPA Guidelines made under the Contaminated Land Management Act 1997.
- c) And in accordance with the proposed Remedial Action Plan.

49. Validation Report

If applicable, after completion of all Remediation works, a copy of the Validation and Monitoring Report prepared by suitably qualified contaminated land consultant shall be submitted to Council. The Construction Certificate shall not be issued until Council approves this Report. The validation report shall be prepared in accordance with the Office Environment and Heritage Guidelines, *Consultants Reporting on Contaminated Sites*, and shall certify the suitability of the site for the proposed development.

- a) describe and document all works performed;
- b) include results of validation testing and monitoring;
- c) include validation results of any fill imported on to the site;
- d) show how the objectives of the Remedial Action Plan have been met;
- e) show how all agreed clean-up criteria and relevant regulations have been complied with; and
- f) include clear justification as to the suitability of the site for the proposed development and the potential for off-site migration of any residual contaminants.

50. 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.

51. Waste Storage

The construction certificate plans (other than a construction certificate for demolition, excavation, shoring and piling) shall include details of the waste storage area. The waste storage area shall not be visible from the street. The waste storage area shall be located within the lot/building in accordance with the approved plans.

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

collection day.

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

The required number of bins shall be 5 X1100L bins collected twice per week collected by a private contractor or if Council is contacted for collection, the development shall have a minimum of 24 X 240L recycling bins collected weekly or 12 X240L recycling bins collected twice a week

Commercial Waste

Appropriate waste and recycling containers and facilities will need to be provided for all specific end use businesses in accordance with the following waste generation rates:

- a) Retail Trading – shops, to 100 square metres - 0.1-0.2 cubic metres per 100 square metres of floor area per day;
- b) Restaurants and Food Shops – 0.3-0.6 square metres per 100 meals, plus up to 0.15 cubic metres of beverage containers per 100 meals; and,
- c) Office – 0.01-0.03 cubic metres per 100 square metres of floor area per day.

Details of the waste storage area must be illustrated on the plans submitted with the application for the Construction Certificate for approval.

52. Waste – Commercial/Residential

The waste room will contain the following to minimise odours, deter vermin, protect surrounding areas, and make it a user-friendly and safe area and is to be provided with the construction certificate plans and documents (other than a construction certificate for demolition, excavation, shoring and piling).:

- 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) The 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) types and assist with odour reduction - this process generally takes place at
- j) building handover - building management make the decision to install;
- k) all personnel doors are hinged and self-closing;
- l) waste collection area must hold all bins - bin movements should be with ease of access;
- m) conform to the Building Code of Australia, Australian Standards and local laws; and childproofing and public/operator safety shall be assessed and ensured.
- n) 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.
- o) Cleaners will monitor the bin storage area and all spills will be attended to immediately by cleaners.

53. Landscape Plan

A detailed landscape plan, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate, other than a Construction Certificate for demolition, excavation, shoring and piling. The plan must include:

- a) Location of all existing and proposed structures and services (including all services in the street) and existing and proposed trees with proposed planting depths;
- b) Details of earthworks including mounding and retaining walls and planter boxes;
- c) Location of proposed plants and a plant schedule showing the plant symbol, botanical name/ common name; quantity; pot size/; and mature height x width.
- d) All proposed trees to be planted onsite must be a minimum of 100 litres in size.
- e) Details of planting procedure and maintenance;
- f) Landscape specification;
- g) Details of drainage and watering systems;
- h) Details of garden edging and turf;
- i) Any required fencing, retaining walls and other structures not shown on other approved architectural and engineering plans.

The landscape architect shall liaise with the service authorities (eg Telstra, Sydney Water and Ausgrid) to ensure the street tree pit proposal does not negatively impact the authority's service and shall be designed in accordance with the service authority guidelines/requirements. Note: there is a water main 0.5m from back of kerb.

54. Landscape Plans

~~All landscape works shall be carried out in accordance with the approved landscape plans and specifications, being drawings 18033-LDA00-E, 18033-LDA01-E, 18033-LDA02-E, 18033-LDA03-E, 18033-LDA04-E, 18033-LDA05-E, 18033-LDA06-E, 18033-LDA07-E, 18033-LDA08-E, 18033-LDA09-E, 18033-LDA10-E, 18033-LDA11-E, 18033-LDA12-E, 18033-LDA13-E, 18033-LD15-E prepared by NBRS Architecture Landscape dated 22 July 2019.~~

~~except for the following design change:~~

- ~~(a) The proposed tree plantings on Montgomery Street, Kogarah to be amended to 4 x *Fraxinus griffithii* (Evergreen Ash) minimum size of 100 litres.~~

~~The landscaping shall be maintained in accordance with the approved plans in perpetuity.~~

~~The proposed 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.~~

All landscape works shall be carried out in accordance with the approved landscape plans and specifications, drawn by NBRS Architecture, Ref No 18033 – LDA00F to LDA14F and dated 2/10/19. The landscaping shall be maintained in accordance with the approved plans in perpetuity, subject to the following

- a) The proposed Forty three (43) trees 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) A total of four (4) street trees proposed at 100 litre pot/ bag size, upon the landscape plans as *Fraxinus griffithii*, shall be purchased by the applicant and planted by Council.
 - c) All trees proposed upon the approved landscape plan shall comply with AS 2303 – 2018, *Tree Stock for Landscape use* and *NATSPEC Specifying Trees: a guide to assessment of tree quality (2003)*, and be planted and maintained in accordance with Councils standard specification;
 - d) If the planted forty three (43) 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;
 - e) A certificate of compliance for the planting of all trees and shrubs proposed for the site. An AQF 5 Horticulturist shall be engaged and in writing certify that all trees have been planted as per landscape plan and specifications and forwarded to the PCA – Principal Certifying Authority.

Street Tree planting by Council

- a) Four (4) street trees of species being *Fraxinus griffithii* at 100 litre pot/ bag size must be provided in the road reserve fronting the site.
- b) Council shall be appointed to remove and plant all trees on public land. All costs associated with the removal of trees and the planting of replacement trees shall be met by the applicant.

(This condition is modified as part of MOD2019/0245 (DA2018/0139))

55. Allocation of street addresses

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

Details indicating compliance with this condition must be shown on the plans lodged with a Construction Certificate for approval, other than a Construction Certificate for demolition, excavation, shoring and piling.

56. Consolidation of Site

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

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

57. 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.

58. **Council Infrastructure – Damage Deposit -**

The damage deposit will be refunded in full upon completion of work where no damage occurs, based upon review of the Pre and Post Construction Dilapidation reports and where Council is satisfied with the completion of works. Alternatively, the damage deposit will be forfeited or partly refunded based on the damage incurred.

59. **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 PCA 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)

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.

60. **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.

61. 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.

62. 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.

63. Utility Services

The applicant shall undertake and bear all costs associated with the liaison, approval and relocation of any utility services. All correspondence and approvals between the Applicant and utility authorities shall be provided to the Certifying Authority as it becomes available, with a copy to be provided to Council.

Demolition Conditions**64. Asbestos**

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

- b) All asbestos removal shall be undertaken in accordance with the requirements of WorkCover's 'How to Safely Remove Asbestos' Code of Practice and Council's Asbestos Policy.
- c) Written notice must be provided to Georges River Council five (5) working days (excluding public holidays) prior to commencement of any works. Written notice is to include the following details:
 - (i) Date the demolition will commence
 - (ii) Name, address, contact details (including after hours) and licence number of the demolisher and asbestos removalist (if different)
 - (iii) Work must not commence prior to the nominated demolition date
 - (iv) Note: it is the responsibility of the persons undertaking demolition work to obtain the relevant WorkCover licences and permits.
- d) The owner is to notify all owners and occupiers of premises on either side, opposite and at the rear of the development site five (5) working days prior to demolition. Such notification is to be clearly written on A4 size paper stating the date the demolition will commence and is to be placed in the letterbox of every premises (including every residential flat or apartment, if any). The demolition must not commence prior to the date and time stated in the notification.

65. **Removal of asbestos**

- a) A demolition or asbestos removal contractor licensed under the Work Health and Safety Regulations 2011 must undertake removal of more than 10sqm of bonded asbestos (or otherwise specified by WorkCover or relevant legislation).
- b) Removal of friable asbestos material must only be undertaken by a contractor that holds a current AS1 Friable Asbestos Removal Licence.
- c) Demolition sites that involve the removal of asbestos must display a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent visible position on the site to the satisfaction of Council's officers. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos has been removed from the site to an approved waste facility.
- d) All asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations (Waste) Regulation 2005. All receipts detailing method and location of disposal must be submitted to Council as evidence of correct disposal.
- e) A Clearance Certificate or Statement, prepared by a suitably qualified occupational hygienist must be provided to Council upon completion of
- f) and asbestos related works, which confirms that the relevant legislative requirements in relation to safe removal and disposal have been satisfied.

66. **Work Cover Licensed Demolisher**

A Work Cover Licensed Demolisher is to be engaged to carry out any demolition works

using mechanical equipment where the structure is over 4 metres in height or to carry out any manual demolition works on a structure over 10 metres in height.

67. **Compliance with Australian Standard AS 2601-1991:"The Demolition of Structures"**

Compliance is to be met with the provisions of Australian Standard AS 2601-1991:"The Demolition of Structures", which requires notification of demolition to be submitted at least seven (7) days prior to demolition to the NSW Workcover Authority.

68. **Structural Engineers Details - Supporting Council road/footway**

Prior to the commencement of work in connection with the excavation of the site associated with the basement car park, structural engineer's details relating to the method of supporting the excavation must be submitted to Council.

Section F During Construction

69. **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.

70. **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.

71. **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 the approved plans.

72. **Physical connection of Stormwater to site**

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

73. **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.

74. Swimming Pools – Filling with water

The pool/spa shall not be filled until the safety fences have been completed in accordance with the approved plans and specifications and inspected by the PCA.

75. 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.

76. Building - Structural Certificate During Construction

The proposed building must be constructed in accordance with details designed and certified by the practising qualified structural engineer. All structural works associated with the foundations, piers, footings and slabs for the proposed building must be inspected and structurally certified for compliance by an independent practising geotechnical and structural engineer. In addition a Compliance or Structural Certificate, to the effect that the building works have been carried in accordance with the structural design, must be submitted to the Principal Certifying Authority at each stage of Construction or prior issue of the Occupation Certificate.

77. 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)

78. 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.

Section G Prior to the issue of the Occupation Certificate

79. Section 73 Compliance Certificate

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be submitted to the PCA prior to the issue of the Occupation Certificate.

80. 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 ALL the recommendations in the Acoustic Reports and all certification submitted to meet the requirements necessary to gain a Construction Certificate for this development.

80A. Allocation of car parking spaces

Car parking associated with the development is to be allocated as follows:

(a) Residential dwellings: At least 1 car space is to be provided per residential apartment.

(b) Residential visitors: At least 9 car spaces are to be provided.

(c) Retail:

- i. Apartment 101: At least 5 spaces.**
- ii. Apartment 102: At least 4 spaces.**
- iii. Apartment 103: At least 2 spaces.**
- iv. Apartment 104: At least 3 car spaces.**

(d) Commercial:

- i. Apartment 205: At least 3 car spaces.**
- ii. Apartment 206: At least 3 car spaces.**
- iii. Apartment 207: At least 3 car spaces.**

(This condition is added as part of MOD2020/0148 (DA2018/0139))

81. Completion of Landscape Works

~~Landscape works are to be completed in accordance with drawings 18033-LDA00-E, 18033-LDA01-E, 18033-LDA02-E, 18033-LDA03-E, 18033-LDA04-E, 18033-LDA05-E, 18033-LDA06-E, 18033-LDA07-E, 18033-LDA08-E, 18033-LDA09-E, 18033-LDA10-E, 18033-LDA11-E, 18033-LDA12-E, 18033-LDA13-E, 18033-LD14-E prepared by NBRS Architecture Landscape dated 22 July 2019, except as amended by these conditions to the satisfaction of the Principal Certifying Authority prior to the release of an Occupation Certificate.~~

All landscape works and the payment and provision of four (4) street trees at 100 litre pot/ bag size 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 NBRS Architecture, Ref No 18033 – LDA00F to LDA14F and dated 2/10/19. The landscaping shall be maintained in accordance with the approved plans in perpetuity, subject to the following -

- a) The proposed Forty three (43) trees 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) A total of four (4) street trees proposed at 100 litre pot/ bag size, upon the landscape plans as *Fraxinus griffithii*, shall be purchased by the applicant and planted by Council.
- c) All trees proposed upon the approved landscape plan shall comply with AS 2303 – 2018, *Tree Stock for Landscape use* and *NATSPEC Specifying Trees: a guide to assessment of tree quality (2003)*, and be planted and maintained in accordance with Councils standard specification;
- d) If the planted forty three (43) 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;
- e) A certificate of compliance for the planting of all trees and shrubs proposed for the site. An AQF 5 Horticulturist shall be engaged and in writing certify that all trees have been planted as per landscape plan and specifications and forwarded to the PCA – Principal Certifying Authority.
- f) All trees and plants forming part of the landscaping must be maintained. Maintenance includes watering, weeding, rubbish removal from tree bases, fertilising, pest and disease control, replacement of dead or dying plants and any other operations required to maintain healthy trees, plants and turfed areas.

(This condition is modified as part of MOD2019/0245 (DA2018/0139))

82. **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. This relates to the private land dilapidation report condition above.

83. **Pre and Post Dilapidation Reports on Public Land**

Prior to and upon completion of works, two dilapidation reports must be prepared on Council infrastructure within and/or adjoining the development site. The reports must include both sides of the road and extend 40 metres past the development site in all directions within the road reserve or Council assets. The pre-dilapidation reports must be

submitted prior to works commencing. The post dilapidation report must be submitted to Council prior to final inspection and issue of Occupation Certificate.

All dilapidation reports must be prepared by a suitably qualified engineer and include their full name, signature and qualification. The post dilapidation report must show clear detail of all defects following completion of the works.

The reports must be provided to the Principal Certifying Authority and a copy provided to the Council.

The reports must include the following:

- (a) Photographs showing the condition of the road pavement, kerb and gutter including drainage lintels, footway including footpath pavement and the condition of retaining walls.
- (b) Closed circuit television/video (CCTV) inspection, in digital format, of public stormwater drainage systems fronting, adjoining, or within the site, and is to include the inspection and notation of all visible defects and joints along the pipe. The post dilapidation report is to be carried out upon completion of all construction works. (A specialised plumber/contactor who has a CCTV tractor that can access the pipe and provide suitable quality footage will need to be engaged.)
- (c) The post dilapidation report summary is to include all recommended actions to rectify or remediate the defects that have arisen following the initial pre-dilapidation report.

The reports are to be supplied in digital format in Word or PDF. Photographs are to be included in the report and presented in colour and date stamped.

Any works required on Council's road related area require a separate application under Sec 138 Roads Act. The dilapidation reports will be taken into consideration when Council undertakes a final inspection of works on road related areas as part of the section 138 applications.

Council may use both reports to determine whether or not to; accept the works, issue further instructions and/or refund the damage deposit. Any omission in the pre-dilapidation report will be assessed as damage to be rectified.

84. **Major Development**

Internal driveways and parking spaces are to be adequately paved with concrete or interlocking pavers to provide a dust-free surface. All car parking spaces are to be line marked in accordance with AS1742, 'Australian Standard Manual of Uniform Traffic Control Devices' and the relevant guidelines published by the RMS.

85. **Restriction to Use of Land and Positive Covenant for On-Site Stormwater Management System**

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

86. 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.

87. **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 Certifying Authority.

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

- (a) The location of any detention basin/s with finished surface levels;
- (b) Finished site contours at 0.2 metre intervals (if applicable)
- (c) Volume of storage available in any detention areas;
- (d) The location, diameter, gradient and material (i.e. PVC, RC etc.) of all stormwater pipes;
- (e) The orifice size/s (if applicable);
- (f) Details of any pumping systems installed (including wet well volumes) (if applicable);
- (g) Compliance with conditions of development consent relating to stormwater;
- (h) The structural adequacy of the On-Site Detention system (OSD);
- (i) 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;
- (j) Pipe invert levels and surface levels to Australian Height Datum;
- (k) Contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.
- (l) Council must advise in writing that they are satisfied with the Works-As-Executed prior to the issue of an Occupation Certificate.

88. **Vehicular crossing & Frontage work - Major development**

The following road frontage works shall be constructed in accordance with the 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) If required by Council, construct a concrete footpath to its existing width for the full length of the frontage of the site in Montgomery Street as required by Council in accordance with Council's Specifications for footpaths.
- b) Construct the vehicular crossing in accordance with Council's Specifications for vehicular crossings.
- c) A section 138 Driveway and associated works application is to be lodged with Council for any vehicle crossing over Council's road related area.
- d) The applicant will be required to pay for all costs associated and not limited to the relocation of service utilities affected by the works.
- e) If required by Council, construct a new 150mm high concrete kerb with 450mm wide

gutter for the full frontage(s) of the site in accordance with Council's Specifications for kerb and guttering.

- f) 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.
- g) All vehicles must enter and leave the site in a forward direction.
- h) 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.
- i) The driveway and road frontage works are to be completed before the issue of the Occupation Certificate.
- j) Parking spaces shall be clearly designated (sign posted and marked on ground) and line marked prior to the issuing of an Occupation Certificate. Signage, pavement symbols and line marking shall comply with *Australian Standards, AS1742, Manual of Uniform Traffic Control Devices* and *NSW Road Transport (Safety and Traffic Management) Regulations 1999*.

89. **Completion of major road related 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 Assets and Infrastructure 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 (if required by the Council);
- (d) Relocation of any existing above ground utility services
- (e) Relocation/provision of street signs
- (f) New or replacement street trees;
- (g) New or reinstated kerb and guttering within the road related area (if required by the Council); and
- (h) New or reinstated road surface pavement within the road, adjacent to the site, where damaged by the development works.

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.

90. **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.

91. **Slip Resistance**

At completion of work an in-situ (on-site) test, in wet and dry conditions, must be carried out on the pedestrian floor surfaces used in the foyers, public corridors/hallways, stairs and ramps as well as the floor surfaces in wet rooms in any residential units to ascertain the actual slip resistance of such surfaces taking into consideration the effects of grout, the gradients of the surface and changes from one material to another. The in-situ test must be carried out in accordance with AS/NZS 4663:2002. Proof of compliance must be submitted with the application for the Occupation Certificate for approval.

92. **Building - (Structural Certificates)**

The proposed structure must be constructed in accordance with details designed and certified by the practising qualified structural engineer. In addition, Compliance or Structural Certificates, to the effect that the building works have been carried in accordance with the structural design, must be submitted to the Principal Certifying Authority prior issue of the Occupation Certificate.

93. **Acoustic Compliance - General Operation of Premises**

The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 (as amended) and Regulations.

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

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

94. **Electricity Supply**

Evidence shall be provided demonstrating that the development has been connected to the Ausgrid, if required.

95. **Allocation of street addresses**

Prior to issue of an Occupation Certificate, All house numbering are to be allocated in accordance with AS/NZS 4819:2011 Rural and Urban Addressing & the NSW Addressing User Manual (Geographical Names Board of NSW) and Georges River Council's requirements. Council must be contacted in relation to all specific requirements for street

numbering.

Section H Operational Conditions (Ongoing)

96. Swimming Pools – Resuscitation Notice

An expired air resuscitation warning notice complying with the Swimming Pools Act 1992 must be affixed in a prominent position adjacent to the pool.

97. Private Swimming Pools & Spas – Pump Noise

The swimming pool/spa pump and associated equipment must be located so that the noise emitted does not exceed 5dB(A) above the background level. If this cannot be achieved, a ventilated and sound-proofed enclosure must enclose the pump to achieve the required noise levels.

Swimming pool is to be installed with a timer that limits the recirculation and filtration systems operation such that it does not emit noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):

- (a) before 8 am or after 8 pm on any Sunday or public holiday, or
- (b) before 7 am or after 8 pm on any other day.

98. Maintenance of Landscaping

All trees and plants forming part of the landscaping must be maintained. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilizing, pest and disease control, replacement of dead or dying plants and any other operations required to maintain healthy trees, plants and turfed areas.

98A. Use of Room

Room labelled as ‘ST’ within level 1(G) Plan (reference DA 104 dated 30/06/2020) of apartment 203 is not to be used as a habitable room.

(This condition is added as part of MOD2020/0148 (DA2018/0139))

99. 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.

100. Compliance with POM for use of Communal Open Space

The approved POM for use of the rooftop open space shall be enforced by the Owners Corporation.

101. Similar to above, to be enforced by Owner’s corporation. Prior to issuing a Construction Certificate, other than a Construction Certificate for demolition, excavation, shoring and piling, a specification shall be provided in relation to individual air conditioners that may

be installed to apartments in the subject development, including restriction on operating mode or night time use, in accordance with Condition 19.

102. 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.

103. Entering & Exiting of vehicles

All vehicles shall enter and exit the premises in a forward direction.

104. Maintenance of Sound Attenuation

Sound attenuation must be maintained in accordance with the Acoustic Report submitted as required by this consent.

105. 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.

106. Letter Boxes

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

107. Air Conditioning / Offensive Noise

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

108. Responsibility of Owners Corporation

The Owners Corporation shall be responsible for presenting all approved recycling receptacles for collection on the driveway of the site, 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.

109. 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.

110. 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.

111. 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.

112. 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.

Section I Operational Requirements Under the Environmental Planning & Assessment Act 1979**113. Requirement for a Construction Certificate**

The erection of a building must not commence until a Construction Certificate has been issued

114. Appointment of a Principal Certifying Authority

- a) The erection of a building must not commence until the beneficiary of the development consent has:
 - i. appointed a Principal Certifying Authority (PCA) for the building work; and
 - ii. if relevant, advised the PCA that the work will be undertaken as an Owner-Builder.
- b) If the work is not going to be undertaken by an Owner-Builder, then the beneficiary of the consent 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 PCA 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.

115. Notification of Critical Stage Inspections

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

- a) the consent authority and the Council (if not the consent authority) of his or her appointment; and
- b) the beneficiary of the development consent of the critical stage inspections and other inspections that are to be carried out with respect to the building work.

116. Notice of Commencement

The beneficiary of the development consent must give at least two (2) days notice to the Council and the PCA of their intention to commence the erection of a building.

117. Critical Stage Inspections

The last critical stage inspection must be undertaken by the Principal Certifying Authority. The critical stage inspections required to be carried out vary according to Building Class under the Building Code of Australia and are listed in Clause 162A of the Environmental Planning and Assessment Regulation 2000.

118. Notice to be given prior to critical stage inspections

The principal contractor for a building site, or the owner-builder, must notify the principal certifying authority at least 48 hours before each required inspection needs to be carried out.

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

119. Occupation Certificate

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

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

Section J Prescribed Conditions

120. Clause 98A – Erection of Signs

Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the Principal Certifying Authority and the Principal Contractor.

121. Clause 98E – Protection & support of adjoining premises

- a. 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.
- b. 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.
- c. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
- d. 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.
- e. If the soil conditions require it, retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil shall be provided and adequate provision shall be made for drainage.

END CONDITIONS

NOTES/ADVICES (This section is added as part of MOD2020/0148 (DA2018/0139))

122. 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.

123. 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.

124. 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.

125. Access to NSW Legislations (Acts, Regulations and Planning Instruments)

NSW legislation can be accessed free of charge at www.legislation.nsw.gov.au

126. Principal Certifier

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

127. Building – Referral to FR NSW

Prior to the issue of an Occupation Certificate the applicant may be required, under Clause 152A of the Environmental Planning & Assessment Regulation, 2000 to seek written comment from FR NSW about the construction and location of any hydrant/booster system, developed to meet the performance requirements of the Building Code of Australia.

128. Register your Swimming Pool

All swimming pools in NSW are required to be registered. Fines apply for pools that are not registered. To register please visit: swimmingpoolregister.nsw.gov.au

129. Energy Efficiency Provisions

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

130. 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.

131. 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/nlg.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).

132. **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)

133. **Strata Subdivisions**

- (a) Council will check the consent conditions on the relevant Strata Subdivision consent. Failure to submit the required information will delay endorsement of the plan of subdivision.
- (b) Council will undertake the required inspections to satisfy the requirements of the Strata Schemes Development Regulation 2016 to determine the Strata Certificate.
- (c) Strata Plans, Administration Sheets, 88B Instruments and copies must not be folded.
- (d) All Strata Plans, Strata Plan Administration Sheets and 88B Instruments shall be submitted to Council enclosed in a protective cardboard tube (to prevent damage during transfer).

134. **Sydney Water Section 73 Certificates**

The Section 73 Certificate must be a separate certificate that relates specifically to this development consent. For example, if the development consent relates to the subdivision of the land, a Section 73 Certificate for the construction of the building that is subject to a different development consent will not suffice.

135. **Electricity Supply**

This development may need a connection to the Ausgrid network which may require the network to be extended or its capacity augmented. You are advised to contact Ausgrid on 13 13 65 or www.ausgrid.com.au (Business and Commercial Services) for further details and information on lodging your application to connect to the network.

136. 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.

137. Council as PCA - Total Conformity with BCA - Accompanying Information

Should the Council be appointed as the Principal Certifier, 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) Mechanical ventilation to bathroom, laundry and basement areas not afforded natural ventilation.
- b) Fire-fighting services and equipment including hydrant systems and booster assembly location, sprinkler and valve room systems, hose reels, portable fire extinguishers, smoke hazard management systems, sound and warning systems.
- c) Emergency lighting and exit signs throughout, including communal open space areas, lobby/foyer and basement areas.
- d) Construction of all fire doors including warning and operational signage to required exit and exit door areas.
- e) Egress travel distances to exits and the discharge from fire isolated exits including the swing of exit doors.
- f) The spandrel protection of openings in external walls
- g) The protection of paths of travel from a fire isolated exit when passing within 6m of an opening within the external wall of the building.
- h) Fire compartmentation and fire wall separation details including all stairway, lift and service shaft areas.
- i) The location and construction of an electricity substation, including the location and smoke separation of electrical distribution boards.
- j) Sound transmission and insulation details.
- k) Window schedule is to include the protection of openable windows.

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

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

138. 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.

139. 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.

140. 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).

141. Stormwater & Ancillary Works - Applications under Section 138 Roads Act and/or Section 68 Local Government Act 1993

To apply for approval under Section 138 of the Roads Act 1993:

- (i) Complete the "Stormwater Drainage Application Form" which can be downloaded from Georges River Council's Website at www.georgesriver.nsw.gov.au
- (ii) In the Application Form, quote the Development Consent number and reference this condition number (e.g. Condition 10)
- (iii) Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Council's adopted Fees and Charges for the administrative and inspection charges associated with 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 storm water drainage system to be arranged by the applicant. The design plans must be lodged and approved by Council prior to the issue of a Construction Certificate.

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

142. Council as PCA - Compliance with the BCA

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

143. Energy Efficiency Provisions

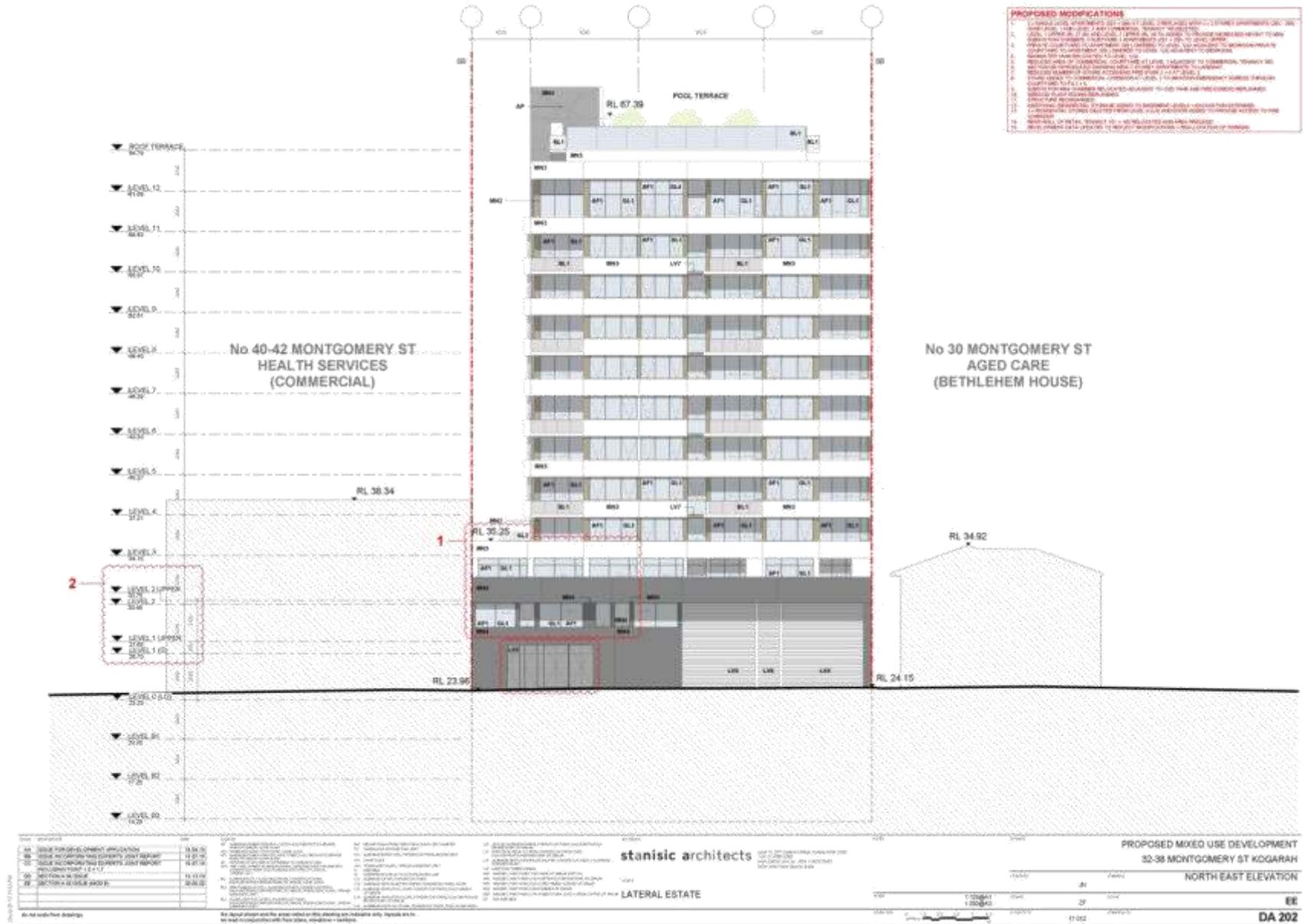
Should Council be appointed as the Principal Certifying Authority, a report prepared and endorsed by an Energy Efficiency Engineer or other suitably qualified person must be submitted, detailing the measures that must be implemented in the building to comply with Section J of the BCA. The proposed measures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

144. 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.

ATTACHMENTS

- Attachment [↓](#)1 Site Plan - 32 Montgomery St Kogarah
- Attachment [↓](#)2 North East Elevation Plan - 32 Montgomery St Kogarah
- Attachment [↓](#)3 Artist Impression from Moorefield Lane - 32 Montgomery St Kogarah



**REPORT TO GEORGES RIVER COUNCIL
LPP MEETING OF THURSDAY, 05 NOVEMBER 2020**

LPP058-20

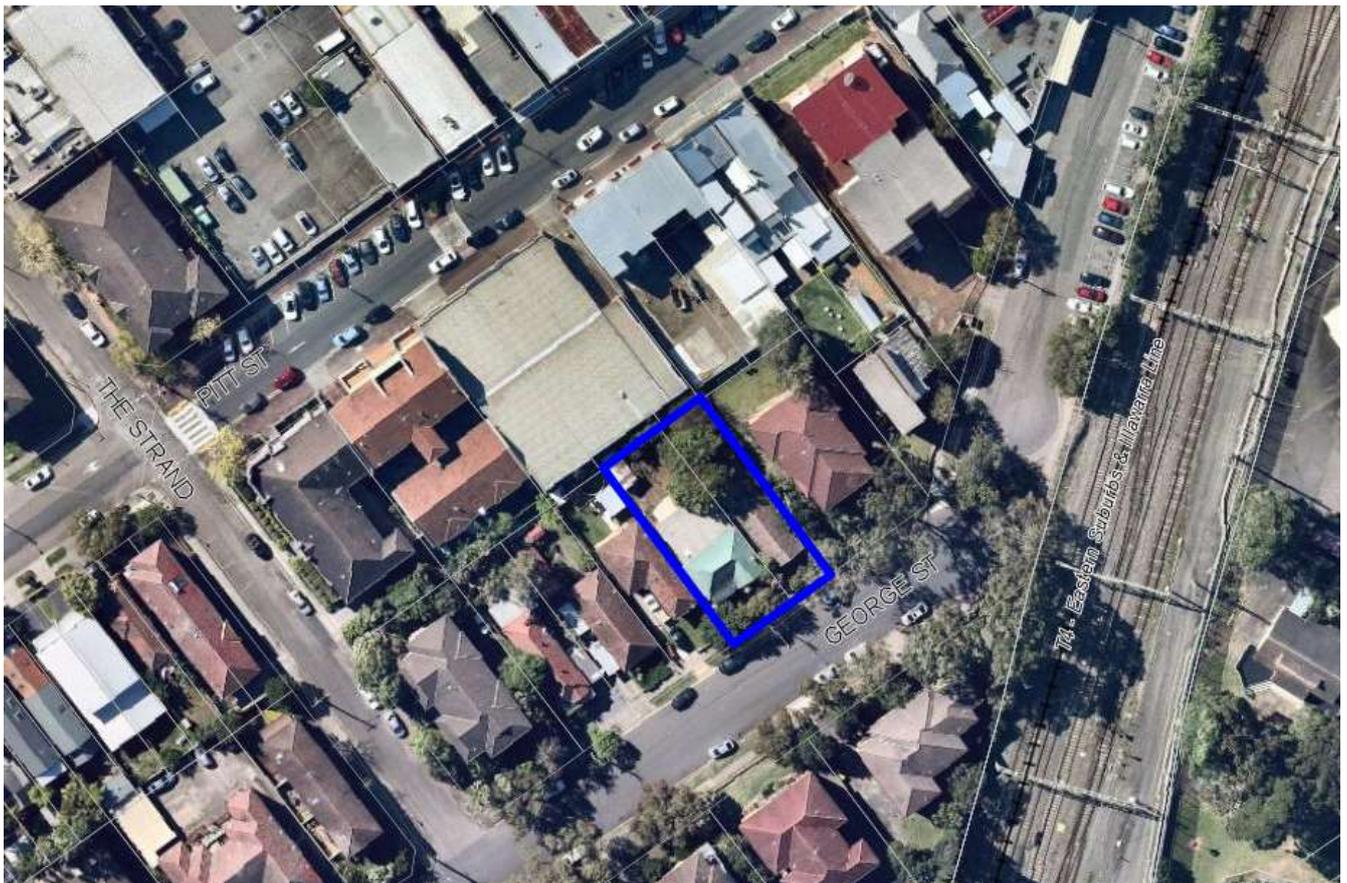
LPP Report No	LPP058-20	Development Application No	DA2019/0199
Site Address & Ward Locality	14-16 George Street Mortdale Mortdale Ward		
Proposed Development	Demolition of existing structures, lot consolidation and construction of a three storey residential flat building containing eight (8) apartments with basement car parking catering for a total of twelve (12) vehicles, roof top area of open space, landscaping and site works		
Owners	ZPP Pty Ltd		
Applicant	Cornerstone Design		
Planner/Architect	BMA Urban and Cornerstone Design		
Date Of Lodgement	27/05/2019		
Submissions	Nil		
Cost of Works	\$2,434,144.17		
Local Planning Panel Criteria	The development is subject to the provisions of State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment, State Environmental Planning Policy No 55 – Remediation of Land, State Environmental Planning Policy - Building Sustainability Index (BASIX) 2004, State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development, State Environmental Planning Policy – Infrastructure, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2007, Draft Environment State Environmental Planning Policy, Draft Remediation State Environmental Planning Policy Hurstville Local Environmental Plan 2012, Hurstville Development Control Plan No 1 and Draft Georges River Local Environmental Plan 2020.		
List all documents submitted with this report for the Panel's consideration	Architectural Plans Statement of Environmental Plans Arborist Report Traffic and Parking Assessment		
Report prepared by	Senior Development Assessment Planner		

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

<p>instruments where the consent authority must be satisfied about a particular matter been listed and relevant recommendations summarised, in the Executive Summary of the assessment report?</p>	
<p>Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?</p>	<p>Yes - Clause 4.6 Statement submitted to vary Clause 4.3 Height of Buildings control</p>
<p>Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?</p>	<p>Not Applicable</p>
<p>Conditions Have draft conditions been provided to the applicant for comment?</p>	<p>No, standard conditions have been attached which can be viewed when the report is published.</p>

Site Plan



Aerial photo with the subject site highlighted in blue

Executive Summary Proposal

1. Development Application DA2019/0199 was lodged with Council on the 27 May 2019 and proposes the demolition of the existing structures on site, lot consolidation and construction of a three (3) storey residential flat building (RFB) containing eight (8)

apartments, basement car parking for twelve (12) vehicles including an area of communal open space on the rooftop level, landscaping and site works. Figure 1 below represents the photomontage of the proposed development.



Figure 1: Photomontage of the originally proposed development (DA2019/0199) (courtesy Cornerstone Design)

2. DA2016/0269 was approved by Council on 31 August 2017 and proposed the demolition of all existing structures and the construction of a three (3) storey RFB containing nine (9) apartments with basement car parking for 12 vehicles with associated landscaping and site works. Figure 2 below is a montage of the front façade of this approved scheme.



Figure 2: Photomontage of the approved development (DA2016/0269) (courtesy Resolut Architects)

3. This consent (DA2016/0269) is currently active and will lapse on 31 August 2022 if physical commencement does not occur by this date.
4. After development consent DA2016/0269 was issued the Applicant applied for a Section 138 Driveway Application. While processing this application Council discovered a large discrepancy between the boundary level used to create the internal driveway profile and the survey plan submitted with development application DA2016/0269. Council's Design Engineer stated that "*The proposed Slab RL of 38.25 does not permit the Australian Standard car (B85 vehicle) to cross over the driveway In accordance with AS/NZS 2890.01:2004 – Parking Facilities Part 1: Off-street car parking. As such Council cannot approve the driveway application at this time.*" As a result the Section 138 application was refused. Resolution of this non-compliance could be achieved by raising the slab height and therefore the overall height of the development.
5. The current application DA2019/0199 seeks to rectify this issue and also changes the mix of dwellings and alter the overall design and appearance of the building. The aesthetics of the approved scheme is considered to be of high quality with simple modern, articulated elements which will contribute positively to the streetscape. The applicant was requested to modify the materiality and design of the current proposal to reflect the approved scheme. The Design Review Panel also requested changes to soften and lighten the appearance of the built form and for it to reflect more closely the approved concept.
6. On 25 September 2020, amended plans were submitted to Council (Issue B dated 23 February 2020) proposing the following design modifications:

Basement

- The fire stairs located along the north eastern side have been relocated closer to the eastern boundary so that car parking spaces for Units G.03 and 1.01 are reduced and setback 3.4m from the rear boundary increasing the amount of deep soil area at the rear.

Ground Floor

- The retaining walls and front retaining planter box has been enlarged and a small change to the main pedestrian entry space by the removal of the covered portico and seating. The fire stairs from the basement also extend to the north-eastern boundary.

First Floor

- The front balcony design has been altered to become more symmetrical, with the balcony finishes to the lounge/living room made solid.

Second Floor

- The laundry/store to Unit 2.02 has been reduced and reconfigured. The front balcony design has been altered to become more symmetrical, with the balcony finishes to the lounge/living room made solid.

Roof Level

- The pergola, roof feature above the roof terrace area has been reduced
- A mechanical vent and riser has been included and a void to contain plant has been included on the plans.

7. Figure 3 below is the updated photo montage of the amended scheme. Although there is some improvement to the front façade the materiality of the scheme is still inconsistent with the approved development (DA2016/0269). A few design changes with respect to the front balcony design, proportions and finishes should be amended which will further soften the built form and create a more geometrically balanced building. The following changes are requested via deferred commencement conditions:

- The central blade wall within the front balconies shall not extend beyond/above the roof of the balcony to Unit 2.01.
- The front terrace and balconies adjoining Bedroom 1 to Units G.01, 1.01 and 2.01 shall be in line with the balustrade of the balconies to the kitchen/living room along the southern side to be consistent and symmetrical.
- The front balconies adjoining Bedroom 1 to Units 1.01 and 2.01 shall be in line with the external western wall of Bedrooms 1 of these units.
- The proposed louvred aluminium privacy screens located along the north-eastern side of the front balconies to Units 1.01 and 2.01 shall be replaced with simple fixed horizontal timber slatted screens along the full width and height of that side of the balconies above the balustrade.
- The same type of horizontal timber slatted screens shall be implemented above the balustrade along the western side of the balconies adjoining Bedroom 1 to Units 1.01 and 2.01 for the full width and height of the balcony. The balustrade along this side of the balcony could be solid and rendered to assist with the design and construction of the screens.
- The proposed darkened obscure glass balustrade to the balconies adjoining Bedroom 1 to Units 1.01 and 2.01 shall be constructed of light frameless opaque glass.

- The roof top terrace area shall be setback a minimum of 3.5m from the front of the building (measurement taken from the roofline of the balconies) to recess this element and reduce its visibility. The minimum area of the roof top communal area of open space shall be 180sqm. The design will include planter boxes around the periphery of this space.
- The ground floor fence around the terrace to Unit G.01 shall be removed so this front area is more open and delineated by the proposed planter box.
- The proposed garbage/recycling area in the basement shall be enlarged and increased by extending this space a minimum of 1m to the north eastern side to align with the fire stairs. This will create a larger, self-contained room and a space which is less visible and safer.
- The proposed letterboxes shall be designed within a sandstone feature wall at the front of the site adjoining the main entry and this structure shall have a maximum height of 1.5m. It shall be well designed and integrated with the front retaining/planter boxes and can include street numbering and/or name of the building.
- Two (2) new trees at the rear of the site shall be installed to the west of the Crepe Myrtle and these shall reach a height of 10m at maturity.
- One (1) new canopy tree shall be included within the front yard of the site, achieving a max height of 4m at maturity.



Figure 3: Photomontage of the amended scheme (courtesy Cornerstone Architects, 2020)

8. The current proposal fails to comply with a number of planning and design controls which include the following:
- The height of the building exceeds the 12m maximum building height limit.
 - The site frontage is below the 24m minimum site frontage width.

- Non-compliance with physical separation distances and side and rear setbacks in accordance with the ADG requirements.
- The front balconies encroach on the 6m front setback control.

Site and Locality

9. The subject site is legally described as Lots 1 and 2 in DP 308338 and is known as 14 and 16 George Street, Mortdale. The subject site is a regular shaped allotment, with a combined frontage to George Street (south east) of 20.115m and a total site area of 720.2sqm. The site has a cross fall from the north eastern corner along George Street to the rear western corner of approximately 1.3m. There are two (2) street trees located within the frontage of the site and three (3) trees located within the site.
10. Existing on each site is a single storey dwelling house with outbuildings. Adjoining development to the north east at 12 George Street is a four (4) storey residential flat building. The adjoining development to the south west at 18A George Street is a single storey detached dwelling known as 18A George Street. Beyond this directly adjoining this dwelling are two (2) other detached single storey dwellings and next to these dwellings is a residential flat building with a side frontage to The Strand. To the rear is a commercial building fronting Pitt Street.
11. The area surrounding the subject site is characterised by three (3) and four (4) storey residential flat buildings, some dwelling houses, and commercial and residential developments to the rear of the site in Pitt Street. Diagonally opposite the site on George Street is the Illawarra railway line.
12. The site is located within close proximity to the Mortdale Train Station and is within some 200m of the station entry and the commercial centre of Mortdale.

Zoning and Permissibility

13. The subject site is zoned R3 Medium Density Residential pursuant to the provisions of the Hurstville Local Environmental Plan 2012. Residential Flat Buildings (RFBs) are permissible in the zone with consent and the development generally satisfies the objectives of the zone.

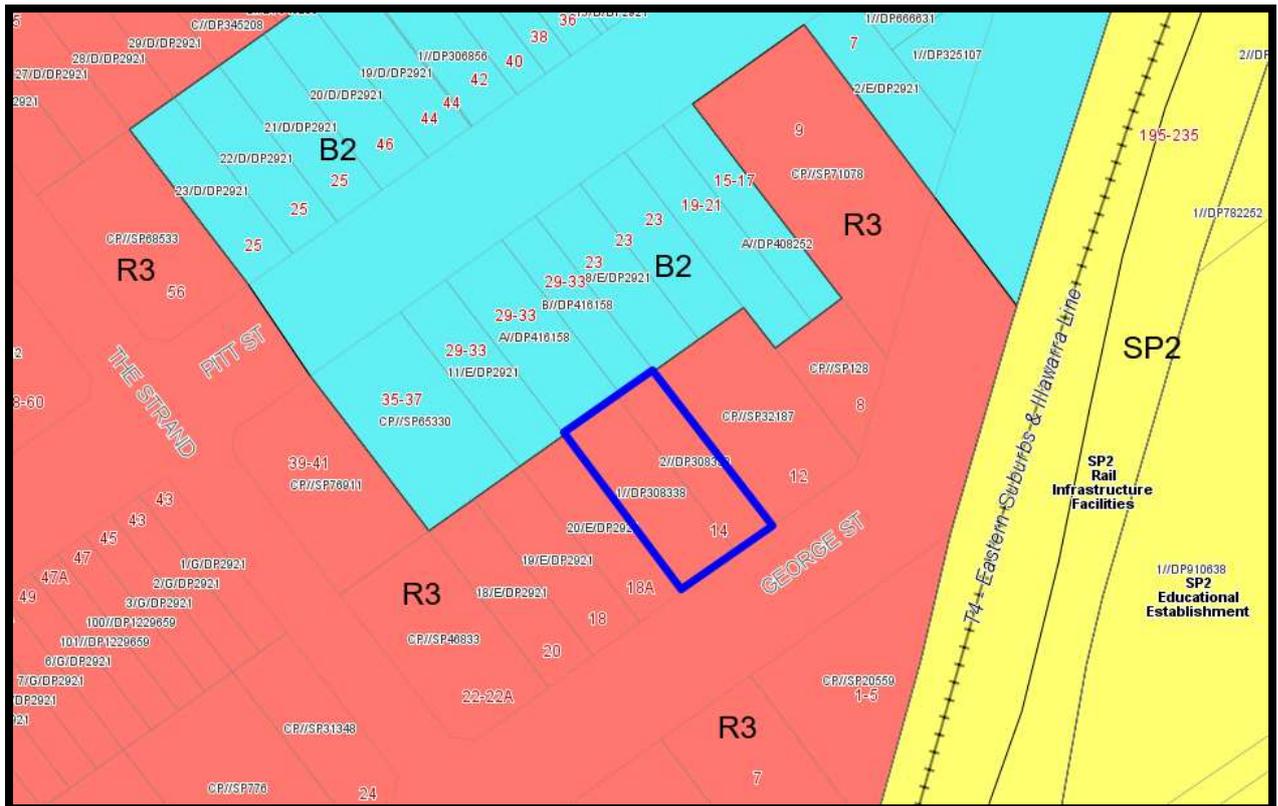


Figure 4: Extract from the Zoning map, showing the site as outlined in blue

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Submissions

14. The application was formally notified in accordance with the provisions of the Hurstville Development Control Plan No 1 (HDCP). The formal 14 day notification period was from 11 June 2019 until 28 June 2019. No submissions were received in this period.
15. Section 2.3.11 (a) of the HDCP states that *"If an application is amended prior to determination, it will be re-notified if, in the opinion of the Council officer, the amendments are considered to result in significant additional environmental impacts."* The proposed amendments to the application were minor in nature and would not create any adverse amenity impacts to adjoining properties. The changes mainly relate to the materials and finishes of the building and not affect window openings, density, scale and general built form. As such the amendments did not need to be renotified.

Conclusion

16. 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 assessment has considered all the areas of non-compliance and it is considered that subject to some further fine tuning. The design changes to the front façade with respect to architectural detailing and the proposed finishes. The development is considered a reasonable and an expected planning, urban design and development outcome for this site and as such the application is recommended for approval subject to the imposition of deferred commencement conditions and once these are satisfied standard conditions have been imposed.

Report in Full Proposal

17. The proposal involves the demolition of the existing structures on site, lot consolidation and construction of a three (3) storey residential flat building (RFB) containing eight (8)

apartments, basement car parking for twelve (12) vehicles including an area of communal open space on the rooftop level, landscaping and site works.

18. A detailed breakdown of the layout of the building is provided below:

Basement level

- Driveway access provided along the south western side of the site.
- Two (2) visitor car parking space. One (1) doubles up as a car wash bay.
- Ten (10) resident car parking spaces including one (1) accessible space.
- Bicycle parking.
- Two (2) egress stairs and central lift lobby.
- Bin store, diesel pump room and space for meters.

Ground Floor level

- Three (3) x two (2) bedroom units (G.01, G.02, G.03) and associated balconies and terraces.
- Central lift lobby area, stairs and foyer.

First Floor level

- Three (3) x two (2) bedroom units (1.01, 1.02, 1.03) with associated balconies.
- Central lift lobby, stairs and foyer.

Second Floor level

- Two (2) x three (3) bedroom units (2.01 and 2.02)
- Central lift lobby, stairs and foyer.

Roof top level

- Area of open space with BBQ.
- Pergola over some of the space.
- Central lift lobby, stairs and foyer.
- Associated plant, mechanical ventilation and risers.

The Site and Locality

19. The subject site is known as 14 and 16 George Street, Mortdale. 14 George Street comprises a small weatherboard single storey detached dwelling house with a small shed at the rear. The site includes a Crepe Myrtle tree (noted as Tree No.5 in the Arborist report) in good condition at the rear. The site has a legal description of Lot 2 DP308338 and has a frontage of 8.23m to George Street, depth of 35.8m and total site area of 294.6sqm.
20. 16 George Street comprises of a brick and weatherboard single storey detached dwelling house with a frontage of 11.885m to George Street, depth of 35.815 and a total site area of 425.6sqm. There is a large established Crepe Myrtle tree located along the rear, north western boundary of the site.
21. Combined, the two (2) sites have a frontage of 20.115m and total site area of 720.42sqm. The site has a cross fall from the north eastern corner along George Street to the rear western corner of approximately 1.3m. There are currently two (2) street trees within the frontage of the development site.
22. Adjoining development to the north east at 12 George Street is a four (4) storey residential flat building. The adjoining development to the south west at 18A George Street is a single storey detached dwelling house which forms a row of two (2) other

detached single storey dwellings and next to these dwellings is a residential flat building which has a secondary frontage to The Strand.

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Photo 1: 16 George Street, part of the subject site

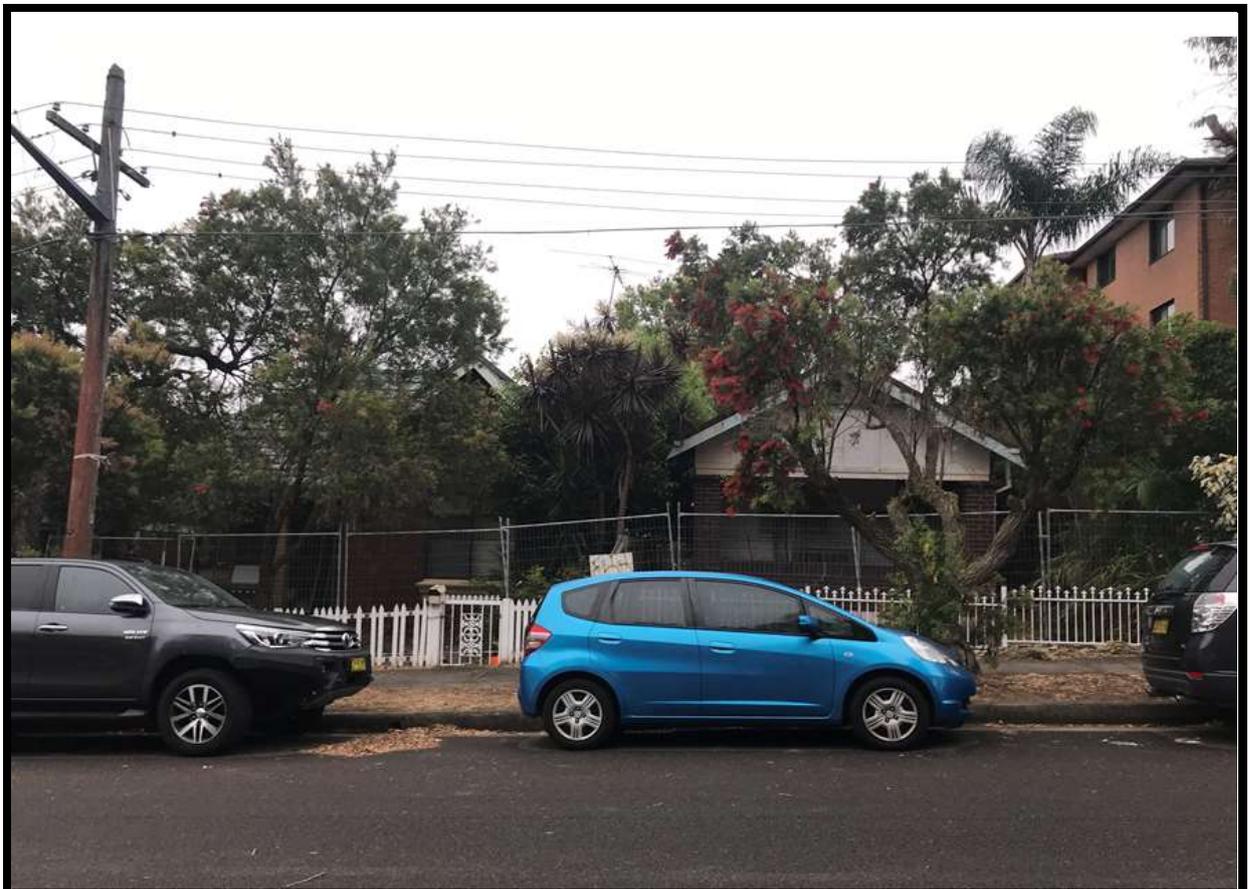


Photo 2: 14 and 16 George Street, the subject sites combined



Photo 3: Single storey dwellings immediately to the west of the site, 18, 20 and 22 George Street



Photo 4: 12 George Street, RFB immediately to the east



Photo 5: RFB located directly across the road, 1-5 George Street



Photo 6: The Illawarra Railway Line at the end of the street, to the north east of the site

23. To the rear is a commercial building fronting Pitt Street. The area surrounding the subject site is characterised largely by medium density developments comprising of three (3) and four (4) storey residential flat buildings, some dwelling houses and commercial and residential developments to the rear of the site.
24. The site is accessible as it is diagonally opposite the Illawarra railway line and located within close walking distance (some 200m) is the Mortdale Train Station and the commercial town centre precinct of Mortdale.

Background

25. DA2016/0269 was approved by Council on 31 August 2017 and development consent issued permitting the demolition of the existing structures and construction of a residential flat building containing 9 units with basement car parking. The scheme was modified and the design of the proposal improved. This consent is still valid.
26. The Applicant lodged a Section 138 Roads Approval application to Council in November 2018 where Council's Engineers identified an inconsistency with the proposed slab levels and the alignment levels. The discrepancy would require the development to be raised by 1m. The Applicant was advised to submit a Section 4.55 modification application to rectify this issue. Instead the current application was submitted to Council which amended the approved dwelling mix and altered the design of the building.
27. One (1) of the key concerns is not to do with the height, bulk or scale of the building but the proposed aesthetics and materiality of the proposal. The approved built form incorporated lighter weight features and proposed a softer colour palette which was considered to be a better visual and urban design outcome for the site. The Design

Review Panel (DRP) agreed with this assessment and also raised concerns regarding the proposed materials and finishes and the approved scheme presented better to the street.

28. The Applicant was advised of the DRP comments which suggested amendments the design to more closely reflect the site planning and materials and finishes of the approved scheme (DA2016/0269).
29. Amended plans were received by Council on 25 September 2020 which sought to improve the visual appearance of the development. The changes proposed are minor and go some way in addressing the concerns raised, however some subtle additional design changes to the front façade and alterations to the finishes will improve the appearance of the building when viewed from the street. The design changes are intended to be implemented through deferred commencement conditions.

State Environmental Planning Policies

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

Table 1: Summary of SEPPs and general compliance

State Environmental Planning Policy	Complies
Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment	Yes
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	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 No 65 — Design Quality of Residential Apartment Development	Partial non-compliance
State Environmental Planning Policy (Infrastructure) 2007	Yes

Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment

31. The main aims and objectives of this plan are (not limited to):

- *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,*

32. United Consulting Engineers designed the stormwater drainage system for the development which is shown on the plans, Drawing No.19MB7952/D01 and D02, dated 26 March 2019 and accompanies the application.
33. The proposed method of stormwater disposal from the basement includes a basement pumping system which relies on a series of sumps and pumps discharging water out to George Street. Stormwater will drain to the lowest point along the southern side of the property boundary.
34. The application has been referred to Council's Engineering Section for comment. Council's Stormwater Engineer stated that "*stormwater drainage from the proposed development will be connected to the street gutter within the property frontage*". Standard conditions are imposed if consent is to be granted.
35. The proposal is not considered to have an adverse impact on the waterway and the Georges River catchment. The proposal aims to protect the existing water quality and the use and functionality of the wider catchment.

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

36. A BASIX Certificate has been issued for the proposal. The BASIX Certificate No.1003528M is dated 22 April 2019 and the proposal meets the minimum provisions and requirements of BASIX in terms of water, thermal comfort and Energy efficiency.
37. The amended plans do not change BASIX requirements as the density, internal layout of units, window openings and the general built form has not altered from the original design and will not affect the original BASIX commitments.

State Environmental Planning Policy No 55 - Remediation of Land

38. 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.
39. 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. In accordance with SEPP 55 the site must be assessed and rated suitable for the proposed development prior to a determination being made.
40. A Preliminary Site Investigation (PSI) Stage 1 report was prepared by Geo-environmental Engineering, dated 4 April 2019. The scope of the works in preparing the report involved a review of the environmental and physical setting, review of the historical development of the site and its surrounds and includes the creation of three (3) boreholes for further testing. Figure 5 below show the location of the boreholes across the site.
41. The report found that since 1916 the site was residential in context with the subdivision of the site occurring in approximately 1924. There is no historical evidence that any contamination is present and there were no activities or sources that would encourage or promote contamination.



Figure 5: The three (3) borehole location for contamination testing. (courtesy: Geo-environmental Engineering, 2019)

42. The results of the report and associated sampling are *“the review of the sites history revealed no evidence of significant contaminating activities associated with the site and there was no other evidence of contamination identified by the site inspection or previous geotechnical boreholes. With this in mind and taking into account the extent of the proposed development which includes excavation works, further investigation in the form of a Stage 2, Detailed Site Investigation is not considered to be warranted. Notwithstanding the above conclusion GEE recommends that an Asbestos Audit be conducted prior to demolition works and that any ACM identified by the audit be removed and disposed off-site in an appropriate manner before demolition”*. A condition will require the findings of the report and to ensure the Asbestos Audit is conducted prior to demolition.
43. The report and proposed development was referred to Council’s Environmental Health Section who raised no objection to the proposed Preliminary Site Investigation and its findings. Standard conditions are recommended to be imposed if consent is to be issued.
44. The proposed development satisfies the provisions of SEPP 55.

Draft Remediation of Land SEPP

45. 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.
46. The main changes proposed to this SEPP 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.

47. 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. The Draft SEPP will not alter or affect the findings in respect to contamination at the Site. As discussed in more detail above, there is no evidence of contamination across the site and as such the proposed development will satisfy the provisions of SEPP 55 and the Draft Remediation of Land SEPP.

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

48. The Vegetation SEPP regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.
49. 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).*
50. The Vegetation SEPP repeals clause 5.9 and 5.9AA of the Standard Instrument - Principal Local Environmental Plan with regulation of the clearing of vegetation (including native vegetation) below the BOS threshold through any applicable DCP.
51. The subject site contains a number of trees and vegetation, many are smaller species. The application is accompanied by an Arboricultural Impact Assessment Report prepared by Jackson Nature Works, dated 4 May 2019.
52. The report assesses the importance of every tree on site and on adjoining sites that may be impacted by the proposal. Figure 6 below shows the location of vegetation across the sites and below is a summary of the trees to be retained and removed;
- Tree No.1 and No.2 are Weeping Bottlebrush (*Callistemon Viminalis*) and are street trees. Tree No.1 is proposed to be removed as it will be affected by the location of the driveway. A new replacement tree of the same type and species is proposed. It is also proposed to retain Tree No.2.
 - Tree No.3 located within the front yard and is also a Weeping Bottlebrush (*Callistemon Viminalis*). Although it is of good vigour, it will be located where the OSD is proposed and therefore will require removal. No new tree is proposed within the front yard. Although the Landscape Plan does propose greening the front yard and includes a number of lower shrubs and plants, a condition will require the planting of one (1) larger canopy tree within the front setback.
 - Tree No.4 is located within the rear yard and has died so its removal is warranted. This tree is shown as being retained on the architectural plans but will be replaced by a large canopy tree within the Landscape Plan which is an appropriate solution.
 - Tree No.5 is a Crepe Myrtle (*Lagerstroemia indica*) which is located along the northern boundary and shows good vitality with an elevated canopy form. The arborists assessment states "*The development works have less than 10% encroachment within this mature specimens TPZ, thus ensuring retention*". Figure 6 below identifies this tree as being removed whilst the arborists report recommends its retention. A condition will require the retention of this tree in line with the Arborists

report. This tree is in good, mature condition and will already provide some dense upper level screening.

- Tree No.6 being a Native Daphne (*Pittosporum undulatum*) and Tree No.7 being a Camphor Laurel (*Cinnamomum Camphora*) are both of good vitality but are centrally located and within the development footprint. The significance of all these trees have also been considered when assessing and approving DA2016/0269 with a similar outcome being achieved. The removal of these trees is therefore considered acceptable given they will be replaced with two (2) larger canopy trees as part of the new build.
- Trees No.8, 9 and 10 are located on adjoining sites and these will be retained as they are not located within the site boundaries despite the Arborist agreeing to the removal of Tree 10 as it's a plain Ficus in Fair condition. Given this tree is located on the adjoining site it shall be retained until such time as the neighbour formally agrees to its removal and a separate application is lodged. Given the tree currently adjoins a driveway the proposed construction works to create the new driveway should be able to occur by retaining the tree and its canopy spread. Conditions are included to maintain this situation.

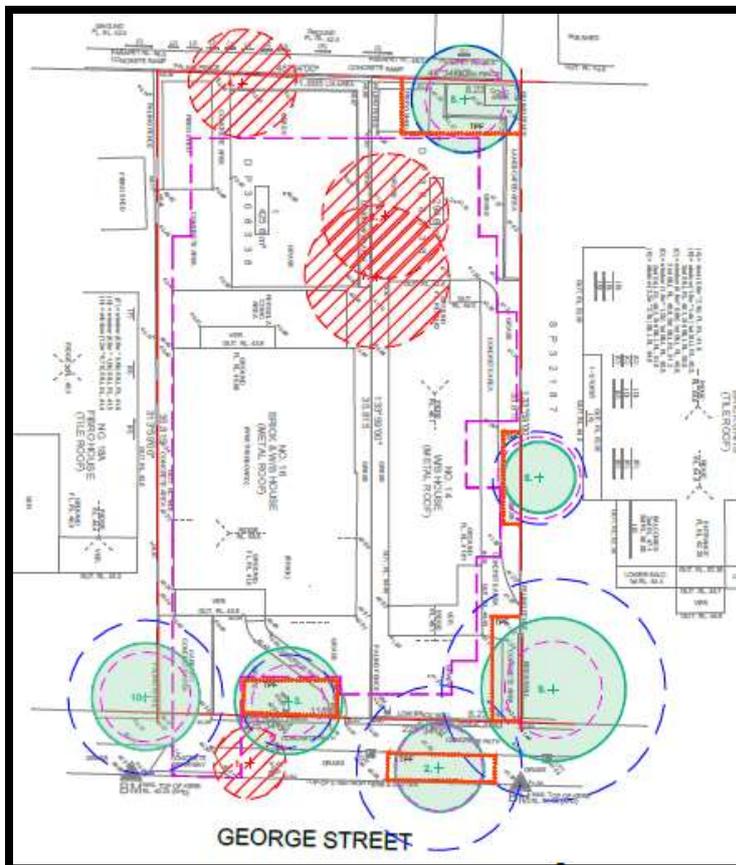


Figure 6: Trees to be removed (shown as red) and trees to be retained (highlighted green) (courtesy: Landscape Plan, Zenith Landscape Designs, 2019)

53. The proposed landscaping arrangement is considered satisfactory. Council's Landscape Officer has reviewed the Arborists assessment and also considered the Landscape works and design, raising no objection to the proposed development and landscape arrangement subject to the implementation of conditions if consent to the scheme is to be granted.

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.
55. 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.
56. The proposal is consistent with the provisions of this Draft Instrument.

State Environmental Planning Policy (Infrastructure) 2007

57. The proposed development is subject to the provisions of Clause 87 of the SEPP (Infrastructure) due to the site's proximity to the Illawarra railway corridor. Clause 86 of the SEPP states;
58. ***“Excavation in, above, below or adjacent to rail corridors***
(1) This clause applies to development (other than development to which clause 88 applies) that involves the penetration of ground to a depth of at least 2m below ground level (existing) on land—
(a) within, below or above a rail corridor, or
(b) within 25m (measured horizontally) of a rail corridor, or
(b1) within 25m (measured horizontally) of the ground directly below a rail corridor, or
(c) within 25m (measured horizontally) of the ground directly above an underground rail corridor.”
59. The subject site is located about 30m from the edge of the railway corridor and as such Clause 86 is not relevant in this case. However, the proposed development must satisfy the provisions of Clause 87 (discussed below) and the application was referred to Sydney Trains on 26 July 2019. No response has been received to date and concurrence can be assumed after 21 days. In this case concurrence from State Rail is not imperative given the separation distance between the Site and the railway corridor.
60. Clause 87 of the SEPP relates to rail noise and its impact on a variety of developments. This clause is applicable to the proposal and stipulates the following;
61. ***“Impact of rail noise or vibration on non-rail development***
(1) This clause applies to development for any of the following purposes that is on land in or adjacent to a rail corridor and that the consent authority considers is likely to be adversely affected by rail noise or vibration—
(a) residential accommodation,
(b) a place of public worship,
(c) a hospital,
(d) an educational establishment or centre-based child-care facility.
(2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Secretary for the purposes of this clause and published in the Gazette.

- (3) *If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded—*
- (a) *in any bedroom in the residential accommodation—35 dB(A) at any time between 10.00 pm and 7.00 am,*
 - (b) *anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

62. The application is accompanied by an Acoustic assessment prepared by Acoustic Noise and Vibration Solutions with the original assessment completed on 12 July 2016 with the assessment being updated and reviewed on 15 May 2019. The assessment considers whether specific building materials and construction methods need to be implemented to reduce the noise and vibration from railway activities.
63. Acoustic measurements were conducted on 6 May 2016 where noise was measured from the activities occurring along the Eastern Suburbs and Illawarra Line. Scheduling and movements would remain fairly similar now as when the measurements were taken in 2016. In respect to vibration occurring from rail noise the report concluded that “*development will comply with vibration criteria without vibration treatments having to be installed*”. In addition, the report stated that “*Further, when windows and doors are left open, indoor sound levels should not exceed the nominated noise criteria by more than 10 dB(A)*”. In this case the development as proposed will comply with the noise and vibration criteria in accordance with Clause 87 and will not require the installation of mechanical ventilation where often doors and windows need to be closed to achieve noise levels and mechanical ventilation is relied upon to ensure internal noise levels are compliant.
64. Given that the street is also a cul-de-sac, this too improves background noise levels as there is no through traffic and acoustic impacts from external noise sources such as traffic are reduced in this case.

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

65. State Environmental Planning Policy No 65 – Design Quality of Residential Flat Buildings (SEPP 65) was gazetted on 26 July 2002 and applies to the assessment of DAs for residential flat developments of three or more storeys in height and containing at least four dwellings. Amendment 3 to SEPP 65 commenced on 17 July 2015 and implemented various changes including the introduction of the Apartment Design Guide (ADG) to replace the Residential Flat Design Code. Given the nature of the development proposed, SEPP 65 applies.
66. Clause 28(2) of SEPP65 requires that the consent authority take into consideration the following as part of the determination of DAs to which SEPP 65 applies:
- a) *the advice (if any) obtained from the design review panel, and*
 - b) *the design quality of the development when evaluated in accordance with the design quality principles, and*
 - c) *the Apartment Design Guide.*
67. The proposed development was referred to the Design Review Panel on 9 August 2019. The Panel raised no objection to the proposed development subject to some changes being made to the design. The Panel considered the development against each of the

nine (9) Design Quality Principles (refer to Table 2) and also considered the design provisions of the Apartment Design Guide (ADG) which are summarised and addressed in Table 3 below.

68. The proposal fails to satisfy a number of the Design Principles of the Apartment Design Guidelines mainly in relation to achieving minimum physical separation distances between buildings. The Tables below provide a comprehensive assessment against the principles, objectives and controls of SEPP 65 and the ADG.

Table 1: Application of SEPP 65

Clause	Standard	Proposal	Complies
3 - Definitions	Complies with definition of "Residential Apartment Development" (RAD)	Complies with the definition. Section 4 (1) (Application of Policy) of the SEPP 65 states that the policy " <i>applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if:</i> <i>(a) the development consists of any of the following:</i> <i>(i) the erection of a new building,</i> <i>(ii) the substantial redevelopment or the substantial refurbishment of an existing building,</i> <i>(iii) the conversion of an existing building, and</i> <i>(b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car</i>	Yes – the residential flat building (RFB) development satisfies the definition of SEPP 65. The proposal is 3 storey's (excluding the roof terrace) in scale and contains 8 apartments.

		<i>parking), and (c) the building concerned contains at least 4 or more dwellings.”</i>	
4 - Application of Policy	Development involves the erection of a new RFB, substantial redevelopment or refurbishment of a RFB or conversion of an existing building into a RFB. The definition of an RFB in the SEPP includes mixed use developments.	Construction of an RFB development which satisfies the SEPP’s definition of the proposed land use. Refer to definition and explanation above in relation to the applicability of the Policy.	Yes
50 – Development Applications	Design verification statement provided by qualified designer Registered Architect Name and Registration No.	Design Verification Statement provided by Registered Architect: Nicholas Lychenko (Registration No.3010).	Yes

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Table 2: Part 2 Design Quality Principles under the SEPP

SEPP 65 – Design Quality of Residential Flat Buildings	DRP Comment	Council Officers comment
<p>Context and Neighbouring Character</p> <p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions. Responding to context involves identifying the desirable elements of an area’s existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for</p>	<p><i>The site is located in close proximity to the train station and is within a predominately residential neighbourhood. The site area of 425sqm is located adjacent to an existing four (4) storey unit to the south and a group of single storey houses to the north. There are a number of other three (3) storey residential flat buildings in the street, these define the evolving character.</i></p> <p><i>There are a number of established trees on and adjacent to the site which contributes to the local landscape character. These include a very large gum tree (Eucalyptus scoparia) on the boundary in 12 George Street which is over 14m high and has a crown spread of 8m. This is a significant specimen and all</i></p>	<p>The issue with tree loss has been addressed in detail earlier in this report. It is recommended that the Crepe Myrtle tree at the rear should be retained and integrated into the final design of the development.</p> <p>The development does not seek to remove or adversely affect the existing, significant trees on immediately adjoining sites and appropriate conditions will be imposed to ensure the trees are protected during and after construction.</p>

<p>change.</p>	<p><i>measures should be taken to minimise impact on this tree.</i></p> <p><i>The proposal removes seven (7) trees (including two (2) outside the site on the neighbouring property and verge). Many are healthy, well established specimens with canopy spreads of up to 10m. This is a poor outcome. In particular the Crepe Myrtle located in the corner boundary is a good specimen and should be retained. This has been identified as in good health in the applicant tree assessment.</i></p> <p><i>Additional large trees should be provided to address this tree loss. This includes trees on the verge and adjacent property.</i></p> <p><i>It is noted that the Arborist report shows site trees and boundary trees affected by the development whereas the architectural and landscape plans show different information. All drawings should accurately represent trees affected by the development.</i></p>	
<p>Built Form and Scale Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings. Good design also achieves an appropriate built form for a site and the building’s purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p><i>The proposal is for a three (3) storey building with communal roof terrace. The configuration of the building particularly the basement car park impacts on tree protection zones for site and neighbouring trees to the south east. The basement also projects close to all boundaries limiting deep soil. It is noted that the deep soil zones do not comply with the minimum 3m width as nominated in the ADG. The basement needs to be redesigned to provide ADG compliant dimensions and to include tree protection zones as nominated in the Arborist’s report. This may require removal of one (1) space in the</i></p>	<p>The proposed development has more deep soil areas around the periphery of the building as opposed to the approved and currently active consent DA2016/0269. The basement design allows for significantly more areas of deep soil. The amended plans have further increased the amount of deep soil areas at the rear by setting car parking spaces G.03 and 1.01 further from</p>

north eastern corner if necessary to retain the existing tree.

The proponent should redesign the basement to minimise intrusions into the deep soil zone of basement parking, diesel pump room and egress stairways, etc.

The street frontage is 20.115m, less than the minimum 24m set by Section DS2.1 of the DCP. The narrow site width challenges achievement of required ADG separation distances on the east and west boundaries.

There is a 12m height limit on this site. The height proposed is 14.045m and a Clause 4.6 statement has been submitted. The Panel feels that this would be acceptable only as lift over run and roof garden access and amenities extend above the height standard.

the rear boundary.

The driveway location and its length does reduce the deep soil area along the western side however this is compensated by the additional areas along the eastern side which will permit the planting of more decent landscaping. Even with the relocation of the fire stairs closer to the common boundary, there are some decent areas of deep soil along the periphery of this boundary.

The proposed diesel pump room in the basement is a necessary requirement as space for mechanical plant and equipment is required.

The site frontage is less than the 24m requirement. The three (3) single allotments to the west (8, 10 and 12) combined will have a frontage of 32m. If the subject site was to be amalgamated with No.12 to achieve the minimum frontage width of 24m, the remaining two (2) sites (8 and 10) are unlikely to achieve the 24m frontage width. So either way the remaining allotments along this

		<p>section of the roadway will in one way or another fail to satisfy the minimum site frontage width unless all three (3) remaining sites amalgamate.</p> <p>Given that Council approved a similar development for this site under the same controls, the width is considered satisfactory in this instance.</p> <p>Although the height exceeds the 12m height limit the non-compliance only relates to ancillary rooftop structures which is considered satisfactory in this case and consistent with the Design Review Panels advice.</p> <p>A Clause 4.6 Statement has been submitted and has been assessed in detail later in this report.</p>
<p>Density Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. Appropriate densities are consistent with the area’s existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	<p><i>The proponent claims that the proposed development has a compliant FSR of 1:1. This is to be confirmed.</i></p>	<p>The FSR and GFA have been confirmed and are compliant.</p>

<p>Sustainability Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</p>	<p>See <i>BASIX</i>. <i>Deep soil zones and tree retention to be incorporated as noted above.</i></p>	<p>A compliant BASIX certificate accompanies the application. The amended design has increased the deep soil zone at the rear to enable the Crepe Myrtle tree to be retained.</p>
<p>Landscape Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well - designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood. Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks. Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and</p>	<p><i>There are a number of recommendations for the landscape proposal:-</i></p> <ul style="list-style-type: none"> • <i>Remove retaining walls in the front setback and increase deep soil zone to George Street and provide medium scale trees (at least two (2)) to supplement the loss of existing trees</i> • <i>Removal of OSD zone from deep soil zones to underground tank under hardstand areas (driveway, basement car park)</i> • <i>Reconfigure the rear boundary landscape to retain the existing tree (T5 in Arborist's report). This requires re-planning Unit G03 to ensure no impact on tree crown. This would require reducing courtyard paving and modifying the parking basement and upper elevations of the building to provide sufficient area for root and crown growth.</i> • <i>Replace the proposed Cheese Trees with larger</i> 	<p>The front retaining wall location and its size and configuration has been simplified in the amended scheme to increase this space to plant a larger canopy tree within the front setback area. Given the location of the basement, the front retaining walls cannot be removed. The approved development under DA2016/0269 included a raised planter in the front setback area, this arrangement is not considered to have an adverse impact on the streetscape if well planned and vegetated. As this planter is stepped and setback from the front boundary with a maximum height of some 1.5m there is no perceived adverse impact on the streetscape.</p>

long-term management.

species - minimum height 10m

- *Provide irrigation to all landscape areas*
- *Provide amenities room (WC) to roof garden terrace*

Provide screening between courtyard and Unit G01 and Unit G02

Where possible a condition will require the new larger trees at the rear to be planted on site to achieve mature heights of 10m.

Along the western side of the site, the basement increases the height of the natural ground level by approximately 1m. The existing ground level is located at RL40.40 and the finished floor level of the ground floor is RL41.45 The increase in height by some 1m will create a slight level change to the dwelling to the west (18 George Street) however the courtyard off Bedroom 2 G.02 is small in size and includes a series of Lilly Pillys which achieve a height of 2m providing appropriate screening with Brush Cherry trees proposed along the western side towards the rear achieving a maximum height of some 4m providing additional screening along this side.

It seems the Panel meant screening between courtyards to Units G02 and G03. There is a blade wall differentiating these spaces.

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<p>Amenity Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well-being. Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	<p><i>Kitchens in all units are very small with limited bench space and ability to prepare meals for a family.</i></p> <p><i>The waiting area at the basement lift is not effectively protected from vehicle movements.</i></p> <p><i>Review storage provision to ADG standards in detailed schedule demonstrating at least 50% of required volume is within the units. Storage proposed in Unit 2.02 laundry is not functional or acceptable.</i></p>	<p>The kitchens are quite small but remain functional. Although it is desirable to have a larger and more spacious kitchen, the ADG does not stipulate minimum area requirements for kitchen spaces/areas. Part 4 of the ADG stipulates that “kitchens should not be located as part of the main circulation space”. The kitchens are not located in the main circulation space within the unit and are similar in design to the preferred apartment layout shown in the ADG.</p> <p>The applicant has provided a plan showing all storage areas are compliant with over 50% of storage space being located within apartments. The space for storage within the laundry is considered acceptable as you can store larger items like a bike etc. in the basement.</p>
<p>Safety Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose.</p> <p>Opportunities to maximise passive surveillance of public and</p>	<p><i>Acceptable</i></p>	<p>Acceptable</p>

<p>communal areas promote safety.</p> <p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>		
<p>Housing Diversity and Social Interaction Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<p><i>The application proposes six (6) x two (2) bedroom units and twelve (2) x three (3) bedroom units. It is noted that the previous approved DA had a different mix including one (1) bedroom units which did not require as many car parking spaces. Given the concerns above regarding the basement car park consideration should be given to altering this mix to reduce car parking numbers.</i></p> <p><i>Opportunities for social interaction are provided on the rooftop terrace.</i></p>	<p>The diversity of housing is considered satisfactory with the 2 x 3 bedroom units being designated as “adaptable”.</p>
<p>Aesthetics Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	<p><i>It is noted that the horizontal white painted concrete façade is somewhat out of character with the basic red brick context. It is felt that the front elevation could be simplified. The excessive number of retaining walls in the front setback impact on the visual landscape and should be removed. Tree planting should be provided in this zone.</i></p>	<p>The aesthetics and materiality of the scheme is of concern as the approved design has a much better design, appearance and streetscape presentation. It is a simple form with classic design features and articulation.</p> <p>A number of deferred commencement conditions are imposed if consent is to be granted requiring the front</p>

		façade to be amended to more closely reflect the design aesthetic of the approved scheme. This being contemporary but more subtle and simple in the proportions with finishes which are softer.
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69. The Panel recommended that the changes be made and the plans referred back to the Council for further consideration.

Table 3: Compliance with Design Provisions in Part 3 and Part 4 of the ADG

Clause	Standard	Proposal	Complies
Part 3 – Siting the development			
3D-1 Communal and public open space	Communal open space has a minimum area equal to 25% of the site. -Where it cannot be provided on ground level it should be provided on a podium or roof -Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should: <ul style="list-style-type: none"> • provide communal spaces elsewhere such as a landscaped roof top terrace or a common room • provide larger balconies or increased private open space for apartments • demonstrate good proximity to public open space and facilities and/or provide contributions to public open space 	The total site area is 720.42sqm. A minimum area of 180.1sqm is required to be dedicated as communal open space. The proposal relies on communal roof top area that amounts to over 183sqm which is compliant with this control. The rooftop area is centrally located and setback further from the rear however the southern section is only setback 900mm from the edge of the building. This setback is insufficient and will make this element visually dominating when viewed from the street (it is noticeable on the photo montage). It is recommended that the whole roof terrace be setback a minimum 3.5m from the edge of the roof at the front. This will reduce the area at the front by some 7.2sqm. This is a small area which can be	Yes

	<p>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)</p>	<p>picked up at the rear. A condition will require that the roof terrace has a minimum area of 180sqm.</p> <p>Over 50% of the rooftop area of open space is orientated towards the north and will achieve compliant direct solar access.</p>	<p>Yes</p>
<p>3E-1 Deep Soil Zones</p>	<p>Deep soil zones are to meet the following minimum requirements: Where the site is less than 650sqm a minimum deep soil area of 7% is required.</p>	<p>Based on the site area of 720.42sqm a minimum of 50.4sqm of deep soil area is required.</p> <p>The rear yard includes an area of deep soil area amounting to some 68sqm (3.4m by 20.1m) equating to 9% which is over 3m in width. There are two other areas (8sqm and 12sqm) which allow for deep soil areas however their width is 1.5m and 2.2m respectively.</p> <p>There are additional areas of deep soil around the periphery of the site however this are only about 1m wide and therefore not included as they cannot accommodate substantial plantings.</p>	<p>Yes</p>
<p>3F-1 Visual Privacy</p>	<p>Separation between windows and balconies is provided to ensure visual privacy is achieved.</p> <p>Minimum required separation distances from buildings to the side and rear boundaries are as follows: -Up to 12m (4 storeys) Habitable rooms and balconies = 6m</p>	<p><u>North West</u> (rear) – Ground floor 6.190m – 6.580m (courtyards encroach upon this setback).</p> <p>First and second floor – 4.020m – 4.375m (measured to the balconies)</p> <p><u>North West/South West</u> – Ground floor 3.010m – 4.605m First Floor – 3.010m to</p>	<p>No</p> <p>No</p> <p>No</p>

	<p>Non-habitable rooms = 3m</p>	<p>4.605m Second Floor – 3.010m – 5.535m</p> <p><u>North East/South East</u> – Ground floor 3.010m – 4.045m First Floor – 3.010m – 4.045m Second Floor – 3.010m - 4.615m</p>	<p>No</p>
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Non-compliance with separation distances

Objective 3F-1 of the ADG states that “*Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy*”.

The rear setback of the building fails to satisfy the minimum separation distance for the upper levels as the balconies encroach on the required 6m setback. The ground floor is satisfactory as the courtyards which are located within the 6m setback are on the ground and the building wall is setback in excess of 6m. The upper level balconies are short of the required 6m setback but include sliding privacy screens which will mitigate the potential for overlooking. The siting of the building at the rear despite the non-compliance is considered acceptable given a commercial building at the rear (the zoning of this land is remaining commercial under the Draft Georges River Local Environmental Plan 2020) and there will be no opportunity for overlooking of any important living spaces or areas of private open space. In addition the rear will be able to accommodate some dense planting and vegetation which will also provide privacy and screening.

Along the western and eastern side of the building the wall is staggered and articulated to provide a variety and breaks in the built form and façade. Where window openings are not highlight, fixed louvred privacy screens have been included which are angled away from the adjoining property, 12 George Street and to 18 George Street. Largely the development will look over the roof of the adjoining dwelling at No.18 On the second floor the setbacks are greater than the lower levels particularly towards the rear of the building.

Along both sides, the building is setback 3m to over 4m on every level. Along both side elevations the main window openings include fixed louvred privacy screens on the external edge of the windows. There should be no direct overlooking and conditions will ensure glazing to windows to secondary spaces are obscure. Most windows along both elevations are highlight windows. Despite non-compliance with the minimum separation distances, the modulation of the built form and elevations, design of the windows, inclusion of privacy screens and additional screen planting will mitigate impacts and the objective of the control will be satisfied.

<p>3J-1 Bicycle and car parking</p>	<p>For development in the following locations: - On sites that are within 800m of a railway station or light rail stop in the Sydney Metropolitan Area;</p>	<p>The Guide to Traffic Generating Developments defines medium density development as “<i>A medium density residential flat building is a building containing at least 2 but less</i></p>	<p>Yes The site is located within an “accessible” area and the ADG</p>
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	<p>- The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant Council, whichever is less.</p>	<p><i>than 20 dwellings. This includes villas, town houses, flats, semi-detached houses, terrace or row houses and other medium density developments. This does not include aged or disabled persons' housing.</i>” High density development relates to developments exceeding 20 dwellings.</p> <p>In this case the development is within 200m walking distance to the Mortdale Train Station and therefore the medium density requirements are applicable.</p> <p>This requires the following; 1 space per unit plus 1 space for every 5 x 2 bedroom units 1 additional space for every 2 x 3 bedroom units 1 space for every 5 units for visitor parking.</p> <p>On this basis the following off-street parking is required;</p> <p>8 units = 8 spaces plus 1 space for the 6/5 for the 2 bedroom units = 1.2 spaces plus 1 spaces for the 3 bedroom units Total residential = 10 spaces</p> <p>Total visitor spaces 8/5 = 2 spaces</p> <p>A total of 12 spaces are required.</p> <p>A total of 12 spaces have been provided and the proposal satisfies the ADG/RMS guidelines.</p>	<p>provisions are applicable. The proposal complies with the ADG parking provisions.</p>
<p>Part 4 – Designing the building</p>			

<p>4A-1 Solar and daylight access</p>	<p>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area</p> <p>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter</p>	<p>The Applicant has not submitted solar access diagrams for the amended scheme from the diagrams previously provided 7 out of 8 units receive a minimum two (2) hours of solar access. This amounts to 87%</p> <p>Unit G.01 on the ground floor, south eastern side does not receive solar access which amounts to 13% of the development. Given this apartment faces the street it will receive filtered sunlight and a good amount of daylight just not direct solar access. This is mainly due to its orientation and the amenity of the apartment will not be compromised given its layout and deep separation at the front.</p>	<p>Yes</p> <p>Yes</p>
<p>4B-3 Natural Ventilation</p>	<p>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.</p> <p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line</p>	<p>All the units are cross ventilated as they have three (3) orientations with openings along every side of the building. The open plan nature of the living/dining spaces provides for effective cross ventilation. So 100% of units are cross ventilated in accordance with the provisions of objective 4B-3 of the ADG.</p> <p>The development does not include any cross-over or cross through units. The maximum depth of the 3 bedroom apartments is 14.5m and the 2 bedroom apartment is approximately 11m.</p>	<p>Yes</p> <p>Yes</p>
<p>4C-1 Ceiling heights</p>	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <p>Habitable rooms = 2.7m</p>	<p>Each residential level has a minimum floor to floor height of 3.15m with the rooftop level having a height of 2.4m which is the foyer area and pergola both non-habitable</p>	<p>Yes</p>

	Non-habitable rooms = 2.4m	areas. The basement has a floor to floor height of 3.0m with the front and rear sections slightly lower to allow for some deep soil area above.	
4D-1 Apartment size and layout	Apartments are required to have the following minimum internal areas: 2 bedroom = 70sqm 3 bedroom = 90sqm	G.01 – 2 bedroom = 80.46sqm G.02 – 2 bedroom = 76.4sqm G.03 – 2 bedroom = 76.4sqm 1.01 – 2 bedroom = 78.17sqm 1.02 – 2 bedroom = 76.4sqm 1.03 – 2 bedroom = 76.4sqm 2.01 – 3 bedroom = 95.03sqm 2.02 – 3 bedroom = 98.53sqm	Yes
	The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each	Each unit has an additional bathroom in the form of an ensuite and this generates the need for the floor space of each apartment to be increased by 5sqm i.e. 2 bedroom units need to exceed 75sqm in internal area and 3 bedroom apartments are to exceed 95sqm. The units exceed these minimum internal areas.	Yes
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms	Each habitable room has at least one window with living spaces having up to three windows. Bedrooms have one to two windows which will achieve compliance with this provision.	Yes
4D-2	Habitable room depths are limited to a maximum of 2.5m x the ceiling height In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	Within range and acceptable. Units facing the street (south east) have maximum depths varying from 6m to 7.1m.	Yes Yes

	<p>Master bedrooms have a minimum area of 10sqm and other bedrooms 9sqm (excluding wardrobe space)</p> <p>Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</p> <p>Living rooms or combined living/dining rooms have a minimum width of: - 4m for 2 and 3 bedroom apartments</p>	<p>Main bedrooms have an average area of 10.5sqm; all other bedrooms have areas greater than 9sqm.</p> <p>All bedrooms have minimum dimensions of 3m.</p> <p>The living rooms have minimum width of 4m in all units.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
<p>4E-1 Private Open space and balconies</p>	<p>All apartments are required to have primary balconies as follows;</p> <p>Two-bedroom = 10sqm/2m depth Three-bedroom = 12sqm/2.4m depth</p> <p>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15sqm and a minimum depth of 3m</p>	<p>G.01 (2 bed) = primary front terrace 24.04sqm G.02 (2 bed) = 102.59sqm (rear private courtyard space) G.03 (2 bed) = 89.87sqm (rear private courtyard space)</p> <p>1.01(2 bed) = 17.67sqm 1.02 (2 bed) = 12.30sqm 1.03 (2 bed) = 12.30sqm (minimum depth 2m)</p> <p>2.01 (3 bed) = primary balcony area 24.68sqm 2.02 (3 bed) = 46.58sqm (minimum depth 2.7m-3.3m)</p> <p>Yes – all ground floor units will satisfy the minimum requirements of 15sqm each area of private open space exceeding this minimum requirement.</p>	<p>Yes</p> <p>Yes</p>
<p>4F-1 Common circulation spaces</p>	<p>The maximum number of apartments off a circulation core on a single level is eight</p>	<p>There is one main lift lobby which provides access to three units on the ground and first floor with two units on the second floor.</p>	<p>Yes</p>
<p>4G-1 Storage</p>	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p>	<p>All units have internal storage cupboards and designated storage spaces within the laundry or some have</p>	<p>Yes</p>

	2 bedroom – 8m ³ 3 bedroom – 10m ³	separate storage cupboards. The internal storage spaces amount to approximately 3cubic metres. The basement car park also includes storage cages above every parking space.	
4H Acoustic Privacy	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 development has been sensitively designed to respect the context of the area. The application is accompanied by an acoustic report given the site is located within close proximity to the railway line. The acoustic assessment confirms that no additional building or construction mechanisms need to be incorporated to ensure compliance with the standard residential noise provisions in accordance with Council's policies and the Infrastructure SEPP.	Yes
4J Noise and Pollution	Design solutions to mitigate noise include: limiting the number and size of openings facing noise sources providing seals to prevent noise transfer through gaps using double or acoustic glazing, acoustic louvres or enclosed balconies (wintergardens) using materials with mass and/or sound insulation or absorption properties e.g. solid balcony balustrades, external screens and soffits	Noise mitigation has been addressed by the provision of smaller window openings along the side elevations and orientation of balconies to the front and rear. No additional construction or building measures need to be implemented to assist with noise mitigation within the building.	Yes
4K Apartment Mix	A range of apartment types and sizes is provided to cater for different household types now and into the future	The development is small scale and comprises of a mix of two (2) and three (3) bedroom units. Given the building comprises of eight (8) units the proposed mix is	Yes

		considered to be acceptable.	
4L Ground Floor Apartments	Direct street access should be provided to ground floor apartments Privacy and safety should be provided without obstructing casual surveillance.	Direct access is achieved from the street to Unit G.01 and could be achieved for Unit G.03 through the courtyard at the side. Direct access cannot be achieved for Unit G.02 as the driveway interferes with this.	Yes
4M Facades	Facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale.	The previously approved application being DA2016/0269 was amended and the aesthetic and materiality of the built form was simple and attractive. The proportions of the building were well considered and the materials and finishes are attractive. The current design is more complex and the proportions and finishes not so well considered. The Applicant was requested to amend the design to create a similar simple form with softer materials and finishes. Amended plans were lodged on 25 September 2020 redesigning small elements of the built form. Deferred commencement conditions will further amend the materials, finishes and design in a subtle way to soften the building and improve its symmetry and proportions.	Yes
4N Roof	Roof treatments are integrated into the building design and positively respond to the street. Opportunities to use roof space for residential accommodation and open space are maximised. Incorporates sustainability features.	The standard flat roof form is contemporary in nature and includes the communal open space on the roof. It is requested that the pergola covering a large proportion of the roof be cut back and reduced with the rooftop area setback from the street and more centralised from the front so that its visibility is reduced.	Yes

		The amended plans have significantly reduced and cut back the proposed roof above the roof terrace which is appropriate and will reduce the visibility of this component.	
4O Landscape Design	Landscape design is viable and sustainable, contributes to the streetscape and amenity	<p>A detailed landscape plan accompanies the application prepared by Zenith Landscape Designers. The landscape design is considered to be functional and well considered. The design includes screen planting along the eastern and western sides and rear that includes a row of Brush Cheery trees that achieve mature heights of 4m.</p> <p>Two large Cheese Trees are proposed in the rear corners of the site where there are deep soil zones. These canopy trees achieve mature heights of 8m. The landscape plan has been modified to retain the Crepe Myrtle Tree.</p> <p>The front yard includes a series of stepped retaining walls that include smaller scale shrubs and greenery. It is requested that the front yard be redesigned to include one larger canopy tree within the central retaining wall/raised planter box.</p> <p>The proposal also includes an additional, replacement street tree being a native weeping bottlebrush which is an acceptable species.</p>	Yes
4P Planting on structures	Planting on structures – appropriate soil profiles are provided, plant growth is optimised with appropriate selection and maintenance, contributes	Planter boxes are proposed along the periphery of the building on the ground floor and also on the roof. The structures are considered acceptable and the	Yes

	to the quality and amenity of communal and public open spaces	landscape treatment also satisfactory.	
4Q Universal Design	<p>Universal design – design of apartments allow for flexible housing, adaptable designs, accommodate a range of lifestyle needs</p> <p>Benchmark of 20% liveable dwellings.</p>	<p>The design of the units is relatively flexible in the design allowing for a variety of different people and lifestyles to occupy the units. Most of the 8 units can be classified as “liveable” as they are designed to accommodate an easy open plan and could be readily altered meet the specific needs and requirements of occupants.</p> <p>Units 2.01 and 2.02 have been designed to be adaptable which accounts for 25% of the development.</p>	Yes
4R Adaptive Reuse	New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place	This is a new purpose built building.	N/A
4S Mixed Use	Mixed use developments are provided in appropriate locations, provide active street frontages, residential levels of the building are integrated within the development and safety and amenity is maximised for residents	N/A to this development being an RFB	N/A
4T Awnings and signage	Awnings and signage – awnings are well located and compliment and integrate with the building design, signage responds to the context and desired streetscape character	This development is not a mixed use development but an RFB. This control is N/A for the proposed development.	N/A
4U Energy Efficiency	Development incorporates passive environmental design, passive solar design to optimise heat storage in winter and reduce heat	The development incorporates BASIX commitments in the design to provide appropriate energy efficiency features. A compliant BASIX certificate	Yes

	transfer in summer, natural ventilation minimises need for mechanical ventilation	accompanies this application.	
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	Development incorporates appropriate stormwater measures and Council's Development Engineers are satisfied with the stormwater/drainage design subject to the implementation of appropriate conditions.	Yes
4W Waste Management	Waste management – storage facilities are appropriately designed, domestic waste is minimised by convenient source separation and recycling	The basement includes a designated garbage area which caters for seven (7) garbage bins. Residential waste is calculated at 1 x 250L bin per 3 apartments for both domestic and recycled waste. Given the density of the development generates the need for a minimum of three (3) waste bins and three (3) recycling bins and one (1) green bin. The seven bins are considered to be satisfactory although ideally a separate waste room would be ideal so that waste is contained.	Yes
4X Building maintenance	Building maintenance – building design provides protection from weathering, enables ease of maintenance, material selection reduces ongoing maintenance cost	The design incorporates large expanses of brick finishes which allows for the long term maintenance of the building. This is considered to be a durable, long-lasting finish.	Yes

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70. The main area of non-compliance with the ADG relates to the physical separation distances. This is largely driven by the narrower width of the site and its orientation. In the context of the street the proposed site planning is consistent with the siting and layout of adjoining properties and the design (subject to a few additional design changes) is considered satisfactory.

HURSTVILLE LOCAL ENVIRONMENTAL PLAN 2012

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

Table 4: Compliance with the HLEP 2012

Clause	Standard	Proposal	Complies
1.2 – Aims of the Plan	In accordance with Clause 1.2 (2)	Consistent with the aims of the plan.	Yes
1.4 - Definitions	Residential flat building	The proposed development is defined as a residential flat building.	Yes
2.3 - Zone objectives and Land Use Table	Meets objectives of R3 Zone Development must be permissible with consent	Meets objectives and is a permissible development with consent.	Yes
2.6 - Subdivision	Subdivision is permissible with consent	Subdivision is not sought with this application.	N/A
2.7 - Demolition	Demolition is permissible with consent	Demolition proposed.	Yes
4.3 – Height of Buildings	12m as identified on Height of Buildings Map	14m maximum (RL55.00) Maximum 2m variation being a 17% non-compliance. A Clause 4.6 Statement has been submitted to justify the non-compliance.	No
4.4 – Floor Space Ratio	1:1 as identified on Floor Space Ratio Map	Proposed 0.997:1 Total GFA 717.91sqm	Yes
4.5 – Calculation of floor space ratio and site area	FSR and site area calculated in accordance with Cl.4.5	The Applicants GFA calculation sheet is accurate and includes all areas apart from the lift core and stairs and associated services.	Yes
4.6 –Exceptions to development standards	A written request to vary a development standard must be submitted by the applicant	Yes, non-compliance with Clause 4.3 (Height of Buildings) An amended and updated Clause 4.6 Statement submitted to address the new mechanical ventilation feature which is assessed in more detail below.	Yes
5.10 – Heritage conservation	Heritage impact statement required if site involves heritage item	The site does not involve a heritage item.	N/A
6.1 – Acid Sulfate Soils	Acid Sulfate Soils Management Plan must be prepared	Site not affected by acid sulphate soils.	N/A
6.7 – Essential Services	The following services that are essential for the development shall be available or that adequate arrangements must be made available		Yes

	<p>when required:</p> <ul style="list-style-type: none"> * Supply of water, electricity and disposal and management of sewerage * Stormwater drainage or on-site conservation * Suitable vehicular access 	<p>Adequate facilities for the supply of water and for the removal of sewage and drainage are available to this land.</p> <p>Council's Development Engineer has raised no objection to the proposed drainage of the site via gravity, subject to conditions of consent.</p> <p>The originally approved development (DA2016/0269) failed to comply with the required alignment levels. The current driveway is compliant with the required gradient levels with a transition of 1:20 (6m length) to 1:6 (for 2m) to 1:4 (for 4m) along the length of the driveway.</p>	
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Clause 4.6 – Height of Buildings

72. The objectives of Clause 4.6 are provided in Clause 4.6(1) and seek;
- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
73. Clause 4.6 (3) of the KLEP states that “*Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard*” by demonstrating:
- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
74. Clause 4.6(4) Development consent must not be granted for development that contravenes a development standard unless:
- (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3)*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out*
 - (b) *the concurrence of the Secretary has been obtained.*

75. As the Court has recently noted in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, the consent authority must first consider whether a 4.6 Request has adequately addressed the matters required to be addressed in clause 4.6(3) of the Standard Instrument. If the consent authority is not satisfied that these matters have not been adequately addressed, the consent authority simply does not have the power to grant consent. It is, therefore, essential that all Clause 4.6 Requests clearly address each of the required elements of clause 4.6(3).
76. There have been a number of other relevant Court cases *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] and *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] which have established that in order for a consent authority to be satisfied that an applicant's written request has "*adequately addressed*" the matters required to be demonstrated by cl 4.6(3), the consent authority needs to be satisfied that those matters have in fact been demonstrated. It is not sufficient for the request merely to seek to demonstrate the matters in subclause (3) (which is the process required by cl 4.6(3)), the request must in fact **demonstrate** the matters in subclause (3) (which is the outcome required by cl 4.6(3) and (4)(a)(i)).
77. Clause 4.6 Requests need to ensure that it contains the following information:
- it must identify the development standard that the applicant seeks to vary as required by clause 4.6(3)(a),
 - it must demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances. This can be done by outlining how the 4.6 Request falls within one of the justifications raised in *Wehbe*,^[3] including:
 - the objectives of the development standard are achieved notwithstanding non-compliance with the standard
 - the underlying objective or purpose of the standard is not relevant to the development
 - the underlying objective or purpose would be defeated or thwarted if compliance was required
 - the standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and/or
 - the zoning of land was unreasonable or inappropriate, such that the standards for that zoning are also unreasonable or unnecessary.
 - As required by clause 4.6(3)(b), it must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard. When addressing this, applicants should:
 - identify the aspect or feature of the development that contravenes the relevant development standard, rather than discussing the development generally
 - justify why the contravention of the development standard is acceptable, rather than simply promoting the benefits of carrying out the development as a whole^[4]
 - explain on what basis there are sufficient environmental planning grounds to justify contravening the development standard. This explanation must be detailed enough so as to enable the consent authority to be satisfied that the written request has adequately addressed the matters outlined in cl 4.6(3).^[5]
 - A discussion of how the proposed development is in the public interest.
78. The application is accompanied by a Clause 4.6 Statement which was updated to reflect the amended plans dated 23 February 2020 (Issue B) and the assessment of the request has been conducted in accordance with the abovementioned process.

Development Standard to be varied

79. The application is seeking to vary Clause 4.3 – Height of Building control. The maximum height stipulated for this site is 12m and defined as “M” on the Height of Buildings map within the HLEP. An extract of the map showing the subject site is shown below as Figure 7.

80. The subject control is a development standard.



Figure 7: Map showing the permitted Height of Buildings, the subject site is outlined in blue

Extent of variation

81. There are several elements on the rooftop which exceed the height control. No habitable area exceeds the height only ancillary structures that are associated with the rooftop area of open space. The following features exceed the height:

- Pergola feature – 405mm to 460mm (max 4% variation)
- Lift overrun – 1.755m to 2.535m (max 21% variation)
- Mechanical ventilation stack – 2.535m (max 21%)

82. Figure 8 below shows the degree of variation to the height by the structures on the roof level as shown in a 3-dimensional montage/rendered form.

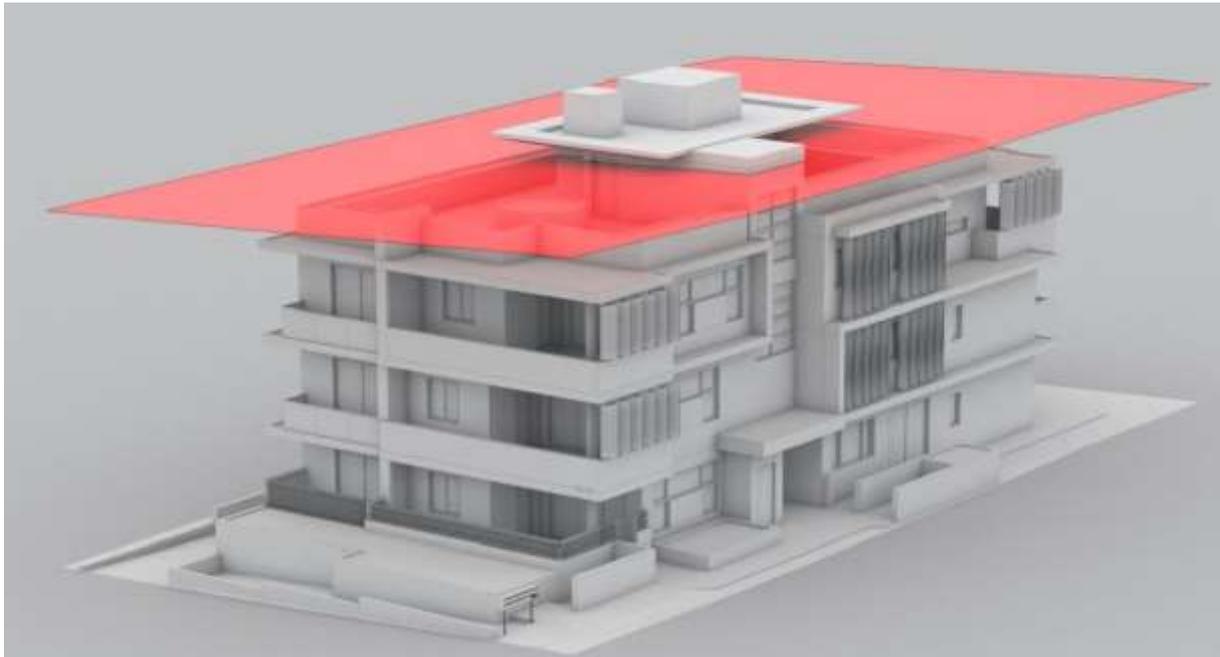


Figure 8: 3D Montage showing the structures that exceed the height control (courtesy: BMA Urban, 2020)

Compliance with the development standard is unreasonable or unnecessary in the circumstance of this case (Clause 4.6(3)(a));

83. The objectives of the height control are;

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

84. The applicant has made the following arguments in relation to the variation and its compliance with the objectives of the standard;

85. *“Objective (a) seeks to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality. The proposal is compliant in height along the George Street frontage consistent with the height and scale of both current and emerging development. Due to the minor non-compliance being*

limited to the lift overrun, mechanical riser and ancillary structures servicing the roof-top communal open space, the volume of the development is not inconsistent with that of a fully compliant scheme when viewed from the neighbouring properties and adjoining street frontage. As such, it cannot be said that the proposal by virtue of the minor height exceedance is incompatible with the desired future character of the surrounding properties.

86. *Objective (b) seeks to minimise the visual impact, disruption of views, loss of privacy and loss of solar access to existing development and the adjoining public domain from buildings. In response, the non-compliant parts of the building will not in themselves create any privacy related impacts to neighbouring properties as a result of their centralised location and appropriate levels of separation with that of established neighbouring building's and public domain.*
87. *With respect to views, the extent of height breach will not unreasonably impede on the ability for neighbouring development to continue to enjoy their current level of outlook, noting that apart from distant district views, the subject and neighbouring sites are not afforded with any iconic or sought after view access.*

In relation to visual impact, the siting, scale and recessive materiality treatment of the breaching elements will not in themselves create any unwarranted visual impact given that all efforts have been made to minimise their pronouncement from both the neighbouring properties and public domain along George Street.

88. *In terms of overshadowing, Figures 7 and 8 below demonstrate the extent of additional shadowing that will be cast on June 21 and 22 March/September upon neighbouring properties as a result of the breach (marked in red). As demonstrated, the extent of additional shadowing impact is minor and not of an intensity where it could be deemed as pernicious with respect to the extent of solar access capable of being provided to neighbouring developments and or public domain”*
89. *On this basis, the proposal is consistent with objective (b).*
90. *There are no heritage items in the vicinity of the subject site and therefore objective (c) is met.*
91. *Objective (d) seeks to nominate heights that will provide a transition in built form and land use intensity. As discussed, the site is located within a medium density area enjoying an interface with a B2 Zone offered with a higher land use intensity than the subject site. In this regard, the proposed building height is commensurate with the existing and future development within the locality where it would serve as a built form transition from the adjoining B2 Zone. The minor height noncompliance would have no adverse bearing on built form or land use intensity and is therefore entirely consistent with this objective.*
92. *The site is not located within Hurstville City Centre and is therefore, objective (e) is not relevant to this development.*
93. *In relation to objective (f), the locality maintains a largely medium density development character while the rear of the site enjoys an interface with the B2 Local Centre. The requirements of objective (f) are therefore not impacted by the proposed height non-compliance.*

94. *Objective (g) seeks to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain.*
95. *In this regard, the increased height to the building will not unreasonably preclude the ability for neighbouring properties to continue to enjoy their properties nor will the variation unreasonably compromise the nature or use of the Public Domain.*
96. *The proposed development is therefore consistent with the objectives for maximum height, despite the numeric non-compliance.”*
97. Council comments: Further to the Applicant’s justification and in respect to objective (a) the proposed variation is consistent with the scale and form of adjoining medium density developments. The adjoining RFB at 12 George Street achieves a maximum height of RL54.9 to the top of the ridge whilst the highest point on the proposed building is RL55.00 (to the top of the central lift overrun and mechanical riser). The finished floor level to the rooftop level has an RL50.9 and achieves approximately RL52.1 (to the top of the balustrade surrounding the rooftop area of open space) whilst the eave of the adjoining RFB at 12 George Street is sited at RL52.35 so the relative heights of the key building and rooftop elements are generally consistent. The streetscape elevation confirms this relationship as shown in Figure 10 below. The four storey scale and height of 1-5 George Street (across the road to the south) looks to be a higher and taller built form than that proposed building given its scale. Therefore the height and scale of the proposal is commensurate with the adjoining properties and general scale and height of RFB’s along the street.
98. In relation to objective (b) the areas of variation are centrally located and will not be visible when viewed from all sides of the building. There is no view loss generated by the non-compliance and given the structures that exceed the control are not habitable, as such there will be no overlooking. In respect to visual impact, this relates to the structure’s ability to be seen and what impact this creates. It may be visible but could be treated and designed in such a way that it will have a positive visual impact to the street and immediate environment. The objective however aims to “minimise” visual impact whether it is positive or negative this is irrelevant. The Applicant has provided some additional evidence in the form of diagrams that show that from varying angles, view lines and positions the structures on the roof will not be visible from the street and immediately adjoining properties. Figures 9 and 10 below show these view lines taken from the most prominent locations.

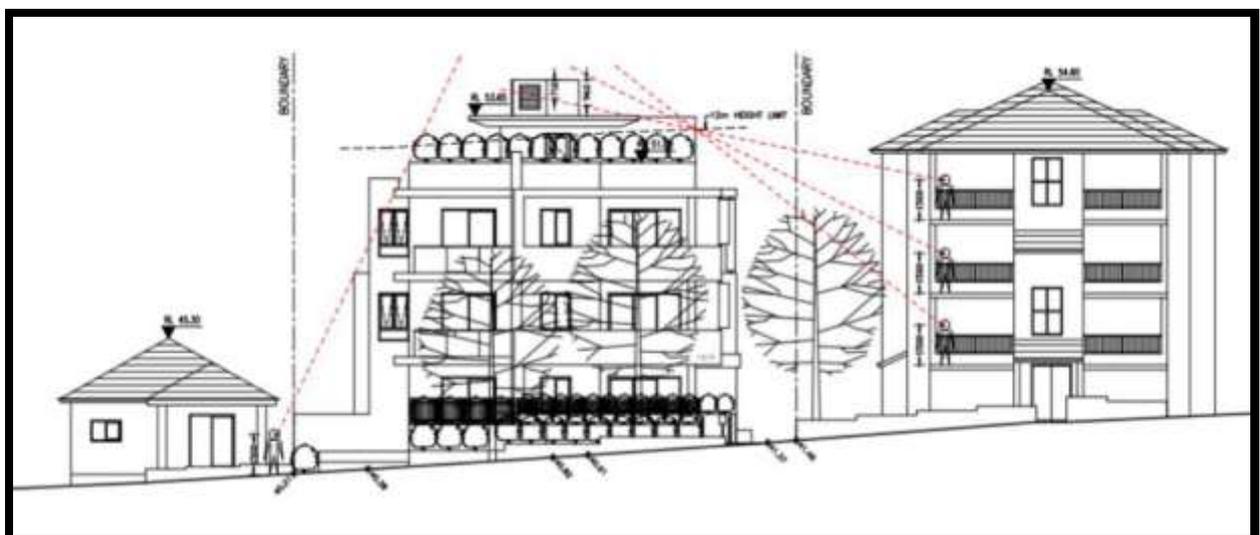


Figure 9: View lines extending along George street to show the visibility of the roof top structures (courtesy: BMA Urban, 2020)

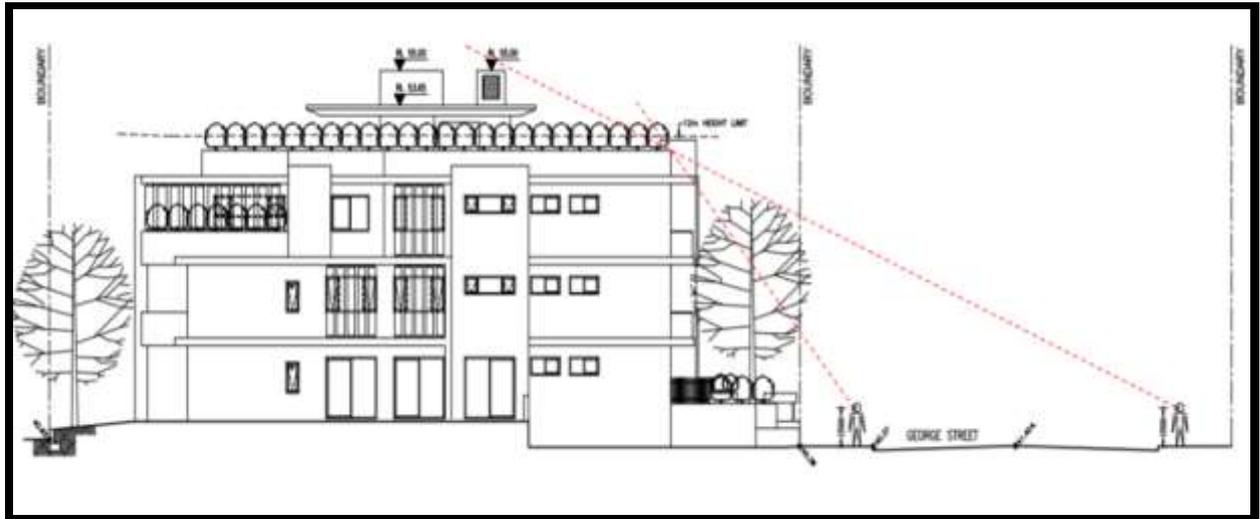


Figure 10: View lines extending along George street to show the visibility of the roof top structures (courtesy: BMA Urban, 2020)

99. In addition to the view lines presented above, the treatment of the rooftop pergola, mechanical riser and lift overrun have been considered and detailed to include soft materials and colours which will further create visually recessive features which will minimise the visual impact of the structures. Figure 11 below shows in 3-Dimensional forms that the structures exceeding the height have been sensitively placed and treated to reduce their visibility.

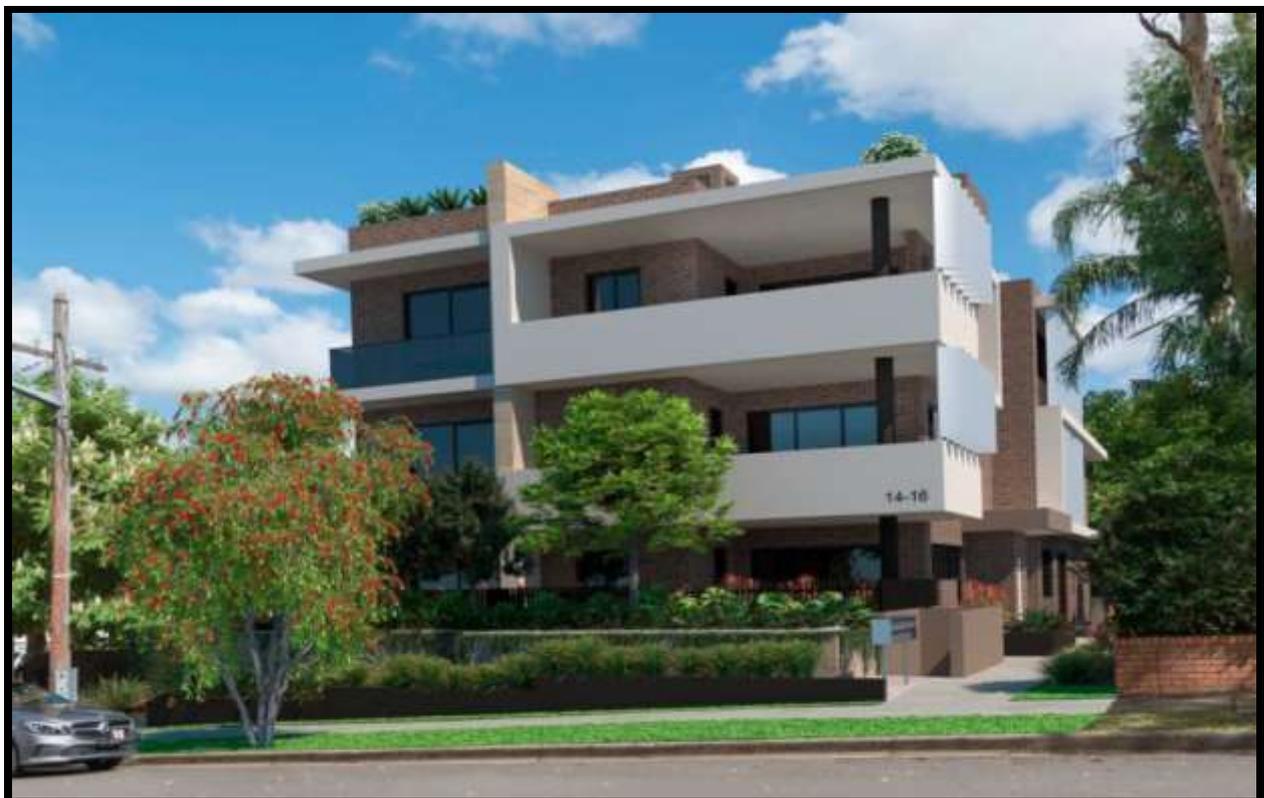


Figure 11: Building rendered indicating the siting, visibility and treatment of the roof top structures (courtesy: BMA Urban, 2020)

100. Objective (b) also relates to solar access and seeks to ensure impacts from overshadowing; in particular the areas exceeding the height control do not impact on

habitable areas, areas of private open space or adversely affect the public domain. The Applicant provided a series of shadow diagrams highlighting the area of exceedance to assist in confirming the additional shadowing impacts created by the variation do not adversely affect any adjoining properties and the shadowing impacts are compliant with Council's DCP controls. The impacts in relation to solar access have been minimised by the centralised location of the structures. Figure 12 below shows the proposed shadowing (21 June).

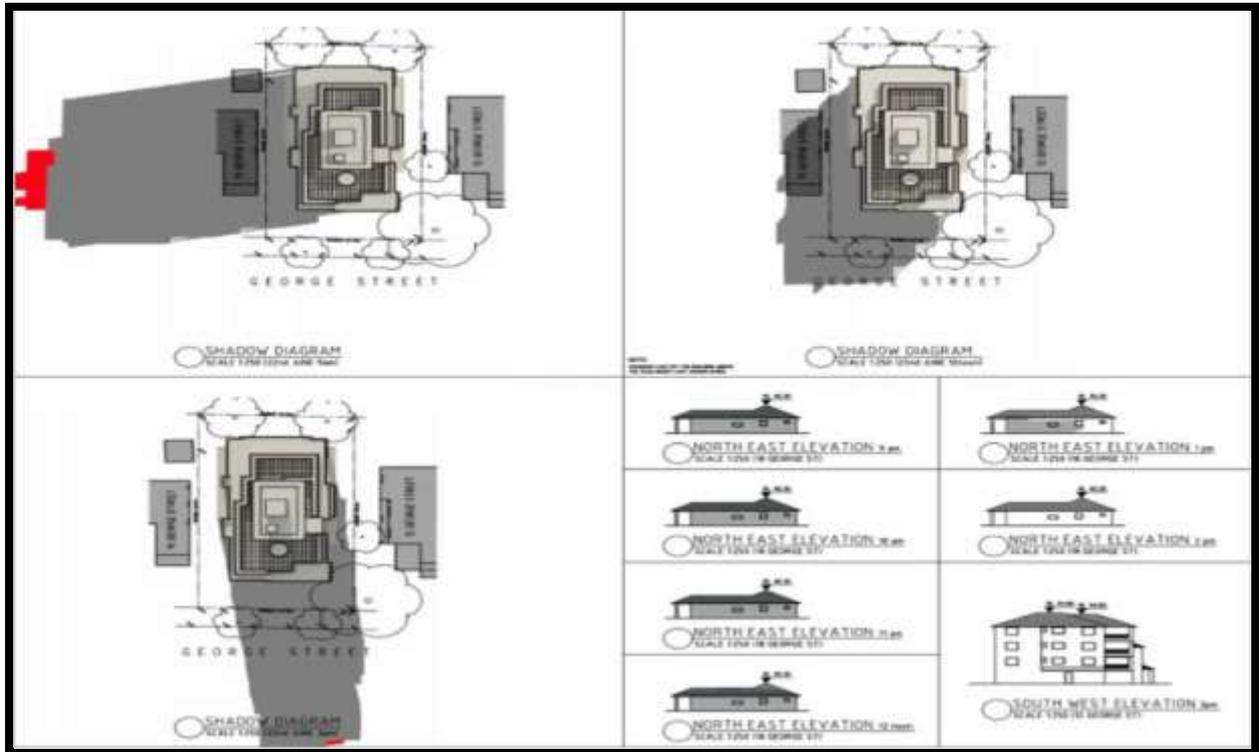


Figure 12: Shadow impacts created by the development showing the area of variation (courtesy: BMA Urban, 2020)

101. Objectives (c) and (e) are not applicable as these relate to development on or within the vicinity of heritage items and relate to development in the Hurstville Commercial Centre.
102. The development will create a transition in development scale and form in accordance with the intention and purpose of objective (f) as development at the rear is zoned B2 Local Centre which permits a greater height and FSR within this zone. Figure 13 below shows the transition with existing development along the streetscape. This part of the locality has been earmarked for redevelopment for medium density development as the site is highly accessible and conveniently located. The non-compliance does not physically impact on the adjoining residences or the public domain which has been previously discussed and therefore compliance with objective (g) is achieved.



Figure 13: Streetscape view of the proposal and its relationship to adjoining properties (courtesy: Cornerstone Design, 2019)

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There are sufficient environmental planning grounds to justify contravening the standard Clause 4.6 (3)(b)

103. The applicant has stated that there are sufficient environmental planning grounds to justify varying the control in this case for the following reasons;

- *The habitable floor areas of the building are located within the 12m height limit. In this regard, there is no tangible nexus between the height non-compliance and overall land use intensity of the land. The non-compliance primarily relates to the roof level of the building and the ancillary structures used to service this area being the top of roof shelter over COS and part of the COS entry foyer and lift overrun.*
- *The non-compliant portion of the roof is predominately set away from the roof edges along the elevations thereby creating a recessive structure when viewed from both the street and neighbouring properties. The highest point is the lift overrun. It is located in most desirable position – towards the centre of the roof and the building.*
- *The maximum height of the building measured to the lift overrun (RL 55) is almost identical to that of the existing adjoining four (4) storey building located at No. 12 George Street which comprises of a maximum ridge RL 54.9.*
- *The lift overrun, COS entry foyer and roof over the COS provide a reasonable level of amenity and access to the rooftop common open space. The rooftop space facilitates the orderly and economic use of the land with the provision of accessible communal open space with good solar access.*
- *The lightweight shade structure provided over the communal open space is required to provide a level of shading enabling the ongoing enjoyment of the area all year round.*
- *The height variation predominately occurs as a result of the need to provide accessible and usable access to the rooftop communal area, noting that the remainder of the building remains under the height control.*
- *The area of the building which encroaches the height is restricted to the lift overrun, stairs, and lightweight structures and amenities associated with the communal open space. The areas of non-compliance with the height will not have an adverse impact on solar access or overshadowing due to their location towards the centre of the site*
- *The development's characteristics ensure that there is no potential for this development to have a jarring effect in the streetscape, given the appropriately sited massing arrangement proposed as part of the development, and the already established surrounding context.*

104. Furthermore, Preston CJ in the Initial Action case stated that the objectives of the Act (as outlined in Section 1.3) need to also be considered. The Applicant has addressed these in the table below (Figure 14) as part of the Clause 4.6 request.

Object	Comment
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,	This object is not relevant to this development
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	The proposal will facilitate an ecologically sustainable development given that no negative impact on environmental and social considerations will arise. This in turn will serve to offer the ongoing sustainment of the economic health of the area.
(c) to promote the orderly and economic use and development of land,	<p>The proposed development will promote the orderly and economic use of the land by way of providing a land use intensity consistent with that envisaged by Council.</p> <p>This is most notably reflected in a number of recent planning decisions on similar lands which for the purpose of determining the orderly use of land, provide identifiable site characteristics to that of the subject site.</p>
(d) to promote the delivery and maintenance of affordable housing,	This object is not relevant to this development.
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,	Given the nature and character of the urban setting the proposed development is located within, no impact on threatened species or ecological communities is likely to result.

(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	This object is not relevant to this development
(g) to promote good design and amenity of the built environment,	The proposed development promotes good design in that it serves to provide a built form and massing arrangement that serves to positively influence the future amenity of the dwelling occupants while adopting an architectural form and language, with an overall silhouette, height and land use intensity compatible with both the established and emerging development and housing typology.
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,	The proposed development will comply with all relevant BCA codes and will promote the health and safety of occupants.
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	This object is not relevant to this development
(j) to provide increased opportunity for community participation in environmental planning and assessment.	The proposed development has been publicly notified in accordance with Council's DCP requirements.

Figure 14: Table indicating compliance with the objectives of the EP and A Act (courtesy: BMU, 2020)

105. Council comment: The rooftop area of open space adds value to the development by providing communal open space on the roof. The only areas of non-compliance relate to the small scale ancillary structures on the roof which are common elements and assist in the functionality of this space. The proposal satisfies the objectives of the Act. The Applicant has justified that there are sufficient environmental planning grounds to support the non-compliance in this case.

The proposal is in the public interest as it is consistent with the objectives of the standard and the zone objectives (Clause 4.6(4)(a)(ii))

106. The written request also needs to ensure that the variation satisfies the objectives of both the development standard and the zone objectives which should justify that the non-compliance is in the public interest. As previously mentioned the proposal satisfies the objectives of the standard and the Applicant has outlined in Figure 15 below that the variation is in accordance with the zone objectives.

Objective	Comment
To provide for the housing needs of the community within a medium density residential environment.	The proposed development is for a five storey residential flat building on the site containing a total of eight (8) units. The variation of the development standard does not result in an inconsistency with this objective. In fact, the variation of the standard more appropriately achieves this objective by enabling for the housing needs of the community without compromise on the existing and emerging character of the locality.
To provide a variety of housing types within a medium density residential environment.	The proposed development comprises a residential flat building within land zoned R3, providing six (6) two bedroom and two (2) three bedroom apartments distributed across three levels. Units also vary in configuration and size to cater to different household types, requirements and levels of affordability.
To enable other land uses that provide facilities or services to meet the day to day needs of the residents	<p>The proposed development does not provide for alternate land uses or facilities that have been designed to meet the day to day needs of residents; however, these services/facilities are available in close proximity to the site within the Mortdale local centre.</p> <p>Furthermore, this breach of the standard does not result in an inconsistency with this objective as it does not preclude the site from being redeveloped in the future for another land use nor does it preclude development in surrounding zones.</p>
To ensure a high level of residential amenity is achieved and maintained	The development is characteristic of that commonly observed within the immediate and local context where it will serve to positively add to the setting of the neighbourhood without disturbing on the character or amenity of the medium density area.
To provide for a range of home business activities where such activities are not likely to adversely affect the surrounding residential amenity.	This objective is not relevant to the proposed development.

Figure 15: Table indicating compliance with the objectives of the R3 zone (courtesy: BMU, 2019)

107. Council comment: The proposal generally satisfies the objectives of the zone. The proposal provides for additional housing within a medium density environment and is in keeping with the desired future character for this precinct. The design of the building has been modified and its materiality and aesthetic appearance improved and simplified. The provision of an area of rooftop communal open space and the provision of generous sized balconies ensures a high level of residential amenity is maintained for the

development and the appearance of the building should establish a positive contribution to the street given it will be a modern and contemporary building with some interesting design and landscape features.

108. The non-compliance and variation to the control does not derogate or diminish the effectiveness and purpose of the height control as it maintains all critical areas of the building that are habitable remain within the height control. The structures on the roof top could be removed and deleted and an area of communal open space could be provided at the rear of the building however this would be a detrimental planning, amenity and design outcome for this development.

Contravention of the standard does not give rise to any matter of significance for State or Regional Environmental Planning (Clause 4.6(5)(a))

109. The variation does not give rise to any matters of State or Regional significance.

There is no public benefit of maintaining the standard (Clause 4.6(5)(b))

110. The variation in this instance is small scale and will not undermine the implementation of the standard. The type and nature of the variation is quite common in that they do not relate to any habitable area but are only for small elements of the design which are ancillary and associated with points of access. Being recessed and centrally located within the building minimises its visual dominance and there are no adverse amenity impacts generated (i.e. overshadowing or overlooking).

Any other matters to be taken into consideration by the Secretary Clause 4.6(5)(c)

111. On 21 February 2018, the Secretary of the Department of Planning and Environment issued a Notice ('the Notice') under cl. 64 of the Environmental Planning and Assessment Regulation 2000 (the EP&A Regulation) providing that consent authorities may assume the Secretary's concurrence for exceptions to development standards for applications made under clause 4.6. As such concurrence can be assumed in this case.
112. The Clause 4.6 written request prepared by BMU Planning has sufficiently addressed and demonstrated compliance with the provisions of Clause 4.6. The areas of non-compliance with the height are small scale and will not generate any adverse environmental or amenity outcomes. The proposed variation is in this case not considered unreasonable or unnecessary and is satisfactory on environmental grounds. The variation satisfies the objectives of the standard and the zone and is therefore well founded and acceptable in this case.

Draft Georges River Local Environmental Plan 2020

113. In relation to this development site the zoning is proposed to change from R3 Medium Density Residential to R4 High Density Residential. The height and floor space ratio remain unchanged. The minimum lot size for subdivision is currently 450sqm pursuant to Clause 4.1 of the KLEP 2012 whilst it is proposed to become a minimum of 1,000sqm pursuant to the draft plan. The draft plan's intended changes do not alter the permissibility of the development nor alter the assessment in any significant manner.
114. Consideration is given to the provisions of Draft Georges River Local Environmental Plan 2020 in the assessment this application.
115. 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 PLAN NO 1 – SECTION 3.1 VEHICLE ACCESS, PARKING AND MANOEUVRING

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

Table 6: Compliance with the DCP No.1

Development	Requirements	Proposed	Complies
3.1.4.2(a) – Layout	AS2890.1 – Minimum dimensions for car spaces. 1 space/1 or 2 bedroom unit (6 units) = 6 spaces 2 spaces/3 bedroom unit (2 unit) = 4 spaces 1 visitor space/4 units (8 units) = 2 spaces Carwash bay = 1 space in a visitor space Total spaces required = 12 spaces	Resident spaces = 10 spaces Visitor spaces = 2 spaces Carwash bay = 1 provided in a visitor space Total spaces provided = 12 spaces	Yes
3.1.2.1(4) – Ramps, transitions and driveways	AS2890.1 – Maximum driveway gradient = 1 in 4 (25%) Minimum headroom at a grade change (driveway and underside of the front balcony) = 2.2m	Compliance with the relevant Australian Standard is achieved. The originally approved proposal (DA2016/0269) failed to comply with the minimum gradient.	Yes

DEVELOPMENT CONTROL PLAN NO 1 – SECTION 3.3 ACCESS AND MOBILITY

Section 3.3 – Access and Mobility	Requirements	Proposal	Complies
Adaptable dwellings	1 adaptable dwelling/10 dwellings or part there of (8 units) = 1 adaptable units required Adaptable dwelling complies with AS4299	1 adaptable unit is provided (Unit 2.02) Standard conditions	Yes
Access requirements	Access in accordance with AS1428 for all	The application is supported by a	Generally compliant

	persons through the principal entrance of the building and to common areas	Statement of Compliance – Access for people with a Disability prepared by ABS (Access building solutions). The majority of the building complies, the areas that are non-compliant relate to some accessways and doorways, ramps, steps, and stairways however the report acknowledges that compliance can be achieved. A condition will require compliance with the recommendations of the report when preparing the CC and during construction.	but conditions will ensure compliance
Accessible car space	1 space per adaptable dwelling Layout complies with Australian Standard	1 space for the adaptable dwelling provided.	Yes

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

117. The extent to which the proposal complies with the requirements of this section of DCP 1 is outlined in the table below.

CPTED	Requirement	Proposed	Complies
Fencing	Front fence: preferred height of 1m	The front fence is higher than 1m but allows viewing of the front setback area and to the street from the units. A condition will require a redesign of the front yard. A large canopy tree shall be installed at the front, the extent of retaining walls and planter boxes are to be reduced and the front fence to the courtyard removed with the planter box forming the barrier.	Yes
Entrances	Clearly visible and not confusing	The main entry lobby is recessed along the eastern side of the site but the entry path and	Yes

		pedestrian access to the main entry is well defined.	
Site and building layout	-Provide surveillance opportunities -Dwelling addresses street -Habitable rooms are directed towards the front of the building	Units face the street and comply with these requirements.	Yes
Landscaping	Avoid medium height vegetation with concentrated top to bottom foliage	The landscape plan prepared by a landscape architect is appropriate. Conditions have been imposed to improve the landscaping treatment throughout the development.	Yes
Building identification	Dwellings to be clearly numbered and identified	Yes, this will be conditioned to ensure letterboxes and address is clearly identified. The amended plans have removed the more formal entry portico and the letterbox design is simple but plain. A condition will require the letterboxes to be located within the front fence design.	Yes

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DEVELOPMENT CONTROL PLAN NO 1 – SECTION 3.5 LANDSCAPING

118. This section of the DCP relates to landscaping as it exists on site and in relation to the proposed design. The proposed design encourages the provision of trees and shrubs around the periphery of the site which will soften and screen the lower levels of the building reducing the visual impact of the development. The DCP encourages the protection of existing significant trees. A condition will require the Crepe Myrtle at the rear to be retained.
119. A minimum of 50% of private and communal open space areas are to be covered in turf and/or planting areas. The majority of the rear area of private open space is softly landscaped and comprises of deep soil area.
120. Trees planted in areas of communal open space are to provide shade to a minimum of 25% of the area at maturity. Additional canopy trees are proposed to be planted at the front, rear and on the street which will satisfy this control.
121. The development generally complies with the remaining landscaping controls which relate to the functioning of the areas of open space and to ensure that the landscaping and planting is practical and easily maintained and managed for the longevity of the building.

DEVELOPMENT CONTROL PLAN NO 1 – SECTION 3.6 PUBLIC DOMAIN

122. The proposal has been assessed against the provisions of Section 3.6 and is found to be consistent, with the development satisfying the objective of this section which seeks to “*create a public domain within streets that protects and enhances the character and visual quality of Hurstville*”.
123. The proposal does not include extensive public domain works and only proposes an additional street tree to replace one being removed to accommodate the new driveway location. Appropriate conditions are included to ensure the type of street tree is appropriate and in accordance with Council’s provisions and specifications.

DEVELOPMENT CONTROL PLAN NO 1 – SECTION 3.7 STORMWATER

124. It is proposed to drain the development to the street via gravity with the exception of the basement. Council’s Stormwater Engineer has reviewed the stormwater/drainage plans and raised no objection subject to conditions of consent being attached if consent is to be granted.

DEVELOPMENT CONTROL PLAN NO 1 – SECTION 4.1 RESIDENTIAL FLAT BUILDINGS

4.1 RFB	Design solution	Proposed	Complies
Neighbourhood Character	<p>The development application is supported by a Statement of Environmental Effects that:</p> <ul style="list-style-type: none"> a. includes a satisfactory neighbourhood and site description, including the identification of the key features of the neighbourhood and site. b. shows how the siting and design response derives from and responds to the key features identified in the neighbourhood and site description. c. demonstrates that the residential development proposal respects the existing or desired neighbourhood character and satisfies objectives of the zone in the LEP. 	A satisfactory Statement of Environmental Effects has been submitted.	Yes

Site Frontage	The minimum street frontage is 24m.	20.115m	No refer to further comments at (1) below
Isolated Sites	Where a site is isolated, Council will consider on merit an application for a Residential Flat Building which does not meet the minimum street frontage requirement contained in this DCP.	The subject site has a reduced frontage but is not an isolated site.	Yes
	Where an application for a Residential Flat Building will result in the creation of an isolated site, the applicant must show that reasonable efforts have been made to amalgamate the site. Where this has not been achieved, it must be shown that the isolated site is capable of accommodating a suitable development in the future. In order to satisfy this requirement the applicant must provide: a. evidence of offers made to acquire the site to be isolated (e.g. correspondence including responses to offers) based on at least two independent valuations. These valuations must be based on the site to be isolated forming part of the development site. b. a schematic design which demonstrates how the isolated site may be developed	No sites will be left isolated by the proposed development. N/A N/A	Yes N/A Not required
Building Height	The maximum building height is in accordance with the Hurstville LEP 2012 and 3 storeys	12.52m maximum 3 storeys	No – Clause 4.6 request has been submitted to justify the height variation. Yes – 3 storeys proposed

Excavation	The natural ground level is not excavated more than 0.5m for the finished ground floor level	Excavation proposed for basement level only. The finished floor level is at or above the existing ground level.	Yes
	The maximum excavation for any building's finished ground floor level facing a public street is 0.5m below natural ground level	No excavation for ground level facing the street.	
Setbacks	The minimum setback to a primary or secondary street is 6m	<p>6m to the building wall adjacent to the kitchen, 10m to the living room wall and 6.2m to Bedroom 1 wall. Balconies and ground floor terraces encroach on this setback.</p> <p>The encroachment by the balconies is considered to be minor and the building will be generally in line with the building at No.12 George Street and the encroachments are also in line with the approved built form in accordance with DA2016/0269 where the balconies encroach on the front setback of 6m by some 500mm. The front setback and alignment of the building is considered to be satisfactory.</p>	Part Yes and Part No. The building wall complies with the front setback but the front courtyard and upper level balconies encroach on the setback.
Vehicle Access, Parking and Manoeuvring	<p>Car parking is provided on site in accordance with the following rates:</p> <ul style="list-style-type: none"> a. 1 resident space for every studio, 1 or 2 bedroom dwelling b. 2 resident spaces for every 3 or more bedroom dwelling c. for developments of 4 dwellings or more, one visitor space per 4 dwellings or part thereof. 	<p>Development complies with car parking requirements as detailed in report above.</p> <p>12 required and 12 provided.</p>	Yes
	Car parking: a. is provided in	Car parking is located within the basement.	Yes

	<p>basement form, or</p> <p>b. where basement car parking cannot be provided due to site constraints, it is located behind the main building face fronting a primary and secondary street and is not visually prominent when viewed from the street.</p>		
	<p>Vehicle access and manoeuvring does not occupy more than:</p> <p>a. 40% of the frontage where the total site frontage to the street is 20m or less</p> <p>b. 33% of the frontage where the total site frontage to street is greater than 20m.</p>	17.9% (3.6m wide driveway)	Yes
	The maximum height of a basement above natural ground level is 1m.	<1m	Yes
	Large exposed foundations, voids and walls facing street frontages are not created as part of basements.	Complies	Yes
	<p>Basement car parking is adequately ventilated.</p> <p><i>Note: a development application that involves basement parking must be supported by details of the proposed method of ventilation. Where mechanical ventilation is proposed, this is to include details of the motor room and exhaust shaft.</i></p>	Natural ventilation can be achieved.	Yes through the main entry.
Landscaping	The minimum amount of landscaped open space is 20% of the site area.	Approximately 29% of the site (excluding the rooftop area of communal open space).	Yes
	The minimum dimension of landscaped open space is 2m in any direction.	Complies for the area calculated.	Yes
	Landscaping between the	Complies through the design	Yes

	front of buildings and the street boundary achieves a balance between reducing the visual impact of building when viewed from the street and facilitating passive casual surveillance of the street.	criterion referenced in the deferred commencement conditions.	
	A development application is to be supported by a landscape plan prepared by a qualified person addressing the performance criteria and design solutions and in particular addressing areas of communal open space and areas that are visible from the street.	Complies.	Yes
Solar Access	Development allows for at least 3 hours of sunlight on the windows of main living areas and adjoining principal private open space of adjacent dwellings between 9.00 am and 3.00 pm on 22 June.	Complies. Every adjoining property will receive a minimum 3 hours of solar access in midwinter to living spaces and private open space. Refer to Figure 12 which includes the shadow diagrams showing impacts.	Yes
Noise	Windows of adjacent dwellings are separated by a distance of at least 3m	Complies.	Yes
	Site layout separates active recreation areas, parking areas, vehicle access-ways and service equipment areas from bedroom areas.	Complies.	Yes
	Dwellings are designed so that the internal noise level from outside sources does not exceed the parameters established by the NSW Environment Protection Authority (EPA).	Complies, subject to conditions	Yes
	Habitable rooms located within 60m of a railway or facing a classified major road satisfy the acoustic criteria contained within the NSW Government's Development Near Rail Corridors and Busy Roads – Interim Guideline (2008), or the most recent version	Complies, subject to condition that the recommendations of the <i>Acoustic Noise and Vibration near Railway Lines</i> report is adopted in the development.	Yes

	Where development is likely to be subject to noise from a railway line, arterial or state road or Sydney airport flight path, council may require the submission of a report prepared by a qualified acoustic engineer to demonstrate that internal noise levels will be acceptable.	A detailed acoustic assessment was conducted and the proposal satisfies the residential requirements.	Yes
Streetscape	Development on corner sites addresses both street frontages and provides opportunities for passive casual surveillance of the public domain from main living areas and principal private open space through the use of large transparent windows and other openings.	The proposal satisfactorily addresses all street frontages in accordance with this clause.	Yes
	In more urban streetscapes, development emphasises corners by increased scale or massing treatments compared to the remainder of the building.	Massing is generally acceptable.	Yes
	Roofs: a.have a pitch of up to 35deg or up to 45deg where an attic is involved b.provide a varied shape with hips, gables or other forms c.mark the entrance to a building by the use of a porch, portico or similar element.	The roof design is flat, consistent with other contemporary developments in the Mortdale area. N/A The entry is recessed but includes a cover for weather protection.	Yes
	The maximum internal width of dormer windows is 2m.	N/A no dormers proposed	N/A
	To reduce the appearance of building bulk and provide visual interest through articulation, maximum wall length in one plane is 6m at the street frontage	Satisfactory. Wall lengths are broken up by windows, privacy screens, balconies different materials and finishes and articulated forms.	Yes
	Stormwater	Stormwater management is in accordance with section 3.7 of this DCP and Council's Stormwater	Complies.

	Management Policy		
Fencing	Fencing is in accordance with Appendix 2 – Fences Adjacent to Public Roads	There is no designated front fence however a condition will require the fence to the front courtyard area to be reduced and designed of glass to be transparent and lighter.	Yes including conditions
Site Facilities	Electricity and telephone lines are provided underground unless there is the connection of electricity and telephone lines directly from the service pole to the fascia of the front dwelling.	The development does not highlight where the hydrant and associated services will be located. Ideally this service is to be provided along the western side adjoining the driveway. A condition will require the plans to include the location of the hydrant booster which is well screened and/or sensitively sited so that it does not interfere with the landscaping treatment at the front and is integrated into the overall design.	Yes
	Mail and garbage collection areas are integrated into the overall design of the development.	Satisfactory the bins are within the basement and the letterboxes have been conditioned to be along the frontage.	Yes
	Development provides space for the storage of recyclable goods, either in the curtilage of each dwelling or in a central storage area in larger developments.	The waste storage area is located in the basement and is satisfactory to accommodate recycling facilities.	Yes
	A master TV antenna is provided for any development of more than two dwellings.	Compliance subject to condition.	Yes
	Storage is provided in accordance with the design criteria of the ADG.	Complies being in the units and the basement.	Yes
	Communal outdoor clothes drying facilities must be visually screened from the street.	None provided as laundry facilities are catered for within each apartment.	Yes

Note 1 - Site frontage

125. The subject site has a frontage of 20.115m whereas DCP 1 requires a minimum frontage of 24m for residential flat buildings. The objective of the control is articulated in Performance Criteria 2 which states that “*site frontage enables:*
- a. *siting of a building and structures*
 - b. *provision of adequate setbacks*
 - c. *provision of adequate landscaped open space*
 - d. *efficient vehicle access, parking and manoeuvring*
 - e. *creation of high quality built form.”*
126. The subject site has a site width of 20.11m and is therefore undersized by 3.89m. While the subject site is under the required site width, it is considered that the proposed development satisfies this performance criteria in the following manner:
- The subject site allows for the provision of a suitable building footprint and associated facilities such as private and communal open space, basement car parking and landscaping. The minor inconsistency with the site frontage controls does not prevent this from being provided on the site.
 - The setbacks to the side and rear boundaries are a minimum of 3m. While there are some inconsistencies with the ADG requirements (discussed above), the proposal is generally setback from adjoining properties a sufficient distance to ensure privacy is maintained and overshadowing is minimised. There are generally only bedroom and bathroom windows which face adjoining properties with the majority of living areas facing the street and to the rear communal open space area. Therefore, it is considered that the narrower site width does not adversely affect the amenity of adjoining properties.
 - The proposal provides for the required amount of car parking, vehicle access and manoeuvring to ensure future residents can enter and leave the site in a forward direction.
 - The proposal as amended is of a higher quality built form with significant architectural detailing with changes in colours and materials ensuring the bulk and scale of the building is reduced and is consistent with the context of the area. Further treatments to improve and soften the overall appearance of the building have been included as conditions.
 - The subdivision plan below (refer to Figure 16 below) indicates that the existing three (3) storey flat building (however in reality it has an appearance of four (4) storeys) adjoining the site at 12 George Street has a similar frontage width of some 20m (including the corner splay). This block of units has a similar built form and building envelope as the proposed development. The frontage width and site area are similar, side setbacks are in the vicinity of 3 - 3.5m and the height and scale is similar. Therefore the proposal will be consistent with the established built forms. The remaining three (3) underdeveloped properties to the west being 18, 20 and 22 George Street have a combined frontage of some 32m. If the subject site was amalgamated with 18 George Street the frontage width would comply with the 24m requirement however this would leave 20 and 22 Georges Street with a combined frontage being less than 24m.
 - The subject site and the sites to the west remain as single dwellings and therefore redevelopment of the subject site is consistent with existing development in the street. Therefore, the narrower site width should not unnecessarily constrain the redevelopment of the subject site to be consistent with surrounding development.

- There will be no site isolation as a result of this development. The proposal will represent an orderly and economic development of the remaining sites (to the west), which is an object of the Act (Section 5(a)(ii) of the EP&A Act).
- In the context of surrounding development the frontage of the proposed development is acceptable. The majority of existing residential flat buildings located in George Street have a frontage of less than 24m and comprise three (3) and four (4) storey developments. The proposed development is three (3) storeys and modest in size containing 8 units with a generous deep soil landscaped areas being 29% of the site located at the front and rear.

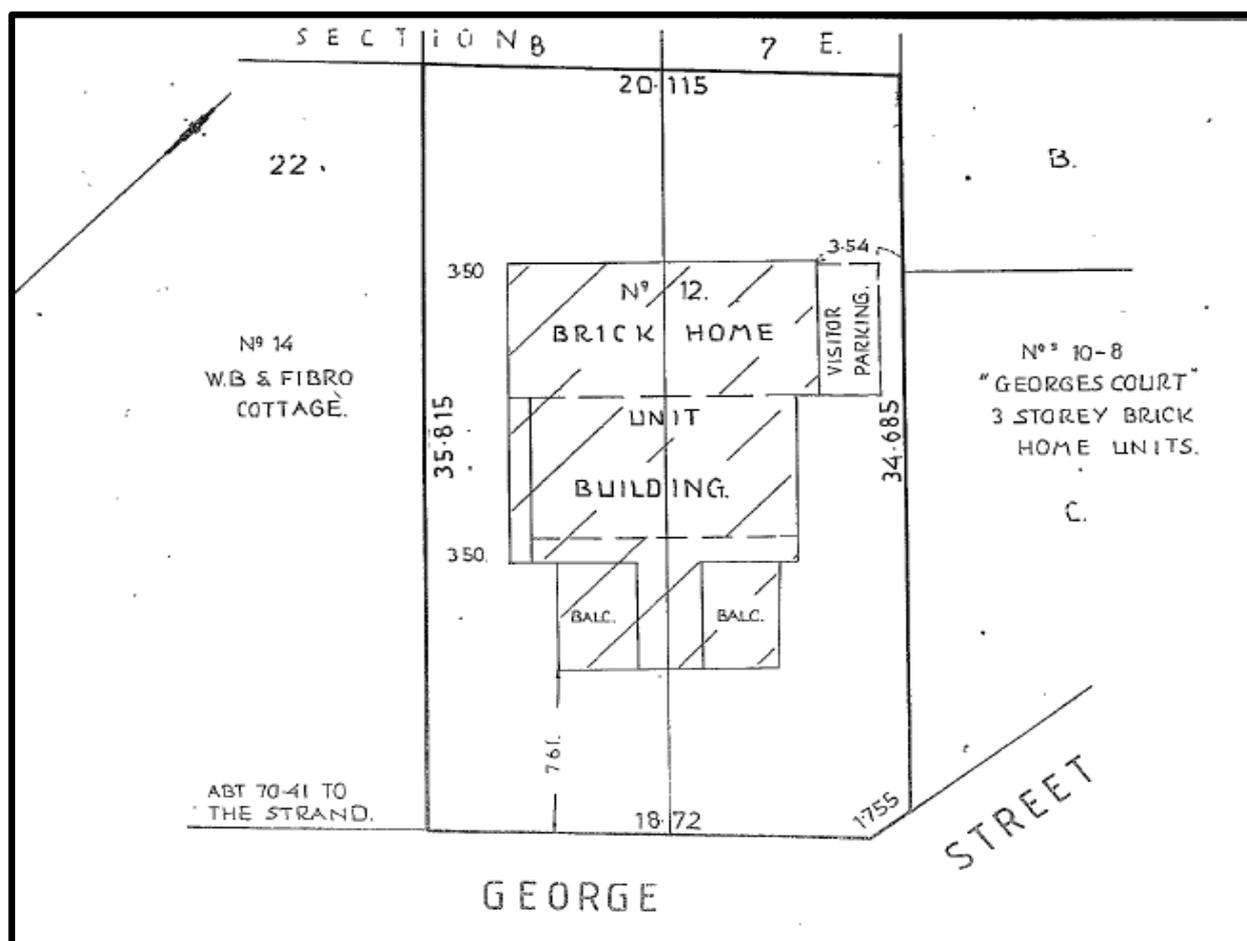


Figure 16: Subdivision Plan for the adjoining RFB at 12 George Street (courtesy: Georges River Council)

DEVELOPMENT CONTROL PLAN NO 1 - APPENDIX 1 - SECTION 7 WASTE MANAGEMENT

127. A waste management plan has been submitted with the application that is consistent with the provisions of DCP 1.

DEVELOPMENT CONTROL PLAN NO 1 - APPENDIX 1 - SECTION 8 ENERGY EFFICIENCY

128. The proposal has achieved a BASIX Certificate and therefore complies with the objectives of Section 3.5 of DCP 1. In terms of overshadowing the proposed development complies with solar access requirements of DCP 1 in that adjoining development will receive at least 3 hours solar access to the principal private open space area and living area window/s between 9am and 3pm on 21 June.

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

129. The issue in relation to landscaping, has been discussed in the report above under the heading Section 3.5 Landscaping. Most of the recommendations within the Arboricultural report are to be imposed and implemented if approval is to be granted.

INTERIM POLICY – GEORGES RIVER DEVELOPMENT CONTROL PLAN 2020

130. 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.
131. 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 Development Control Plan 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 (EP&A Act).
132. The Policy focuses on streamlining controls relating to Dual occupancy, Multi-Dwelling and Residential Flat Building development to provide for consistency when assessing these developments throughout the amalgamated LGA. Table 7 below outlines the compliance of the proposal against the interim provisions.

Table 7: Compliance with the Interim Policy Compliance Table

Interim Policy – Georges River Development Control Plan 2020		
Standard	Proposed	Complies
Site Frontage		
Hurstville - 24m min frontage width for an RFB development Note: The 24m will not be reduced unless the development site is an isolated site.	20.115m	No – this is not an isolated site however a current active DA is applicable to the site and varying the site frontage in this instance is acceptable given the detailed justification provided earlier in this report.
Building Height		
The relevant LEP controls relating to building height will prevail over Development Control Plan controls that relate to height in storeys	The proposal has been assessed against the provisions of the Hurstville Local Environmental Plan 2012, Building Height standard. The proposal does not currently comply.	No – See Hurstville Local Environmental Plan 2012 Compliance Table and the assessment against Clause 4.6 of the HLEP.
Private Open Space		
The ADG requirements prevail over the Development Control Plan	The proposal is fully compliant with the ADG's	Yes

controls for private open space	private open space requirements. Refer to “4E – Private Open Space and Balconies” within the ADG Compliance Table above.	
Communal Open Space		
The ADG requirements prevail over the Development Control Plan controls for COS under the Interim Policy	Yes subject to some minor design changes in relation to the location of communal open space on the roof top.	Yes
Parking		
In accordance with 'A Plan for Growing Sydney' (Department of Planning and Environment): <ul style="list-style-type: none"> If located within 800m of a railway and outside the strategic centres the “Metropolitan Subregional Centre” rates apply. 	The site is located within 800m of the Mortdale Train station. The proposed car parking numbers comply with the provisions of the ADG when calculated against the ‘Metropolitan Subregional Centre’ rates. The proposal has also been assessed against the Hurstville Development Control Plan controls and is numerically compliant.	Yes
Solar Access		
The ADG requirements prevail over the Development Control Plan controls for solar access under the Development Control Plan	The proposal complies with the ADG solar access provisions.	Yes

133. The proposal generally complies with the purpose and intentions of the Interim Policy.

IMPACTS

Natural Environment

134. The proposed development is unlikely to result in an adverse impact on the natural environment. The subject site contains a number of trees within the site. Some of these are in poor condition and others are located within the building footprint. One (1) street tree will be removed to accommodate the development as discussed in the report above. The removal of the trees is subject to their replacement with suitable species. The landscape plan submitted with the application has been prepared by a landscape architect and shows that new landscaping will be provided to the site which will improve the current site conditions and provide for an appropriate level of compensatory planting.

Built Environment

135. The proposed development is unlikely to have an adverse impact on the built environment. The proposed development complies with the relevant requirements except the frontage to the site and building separation distances. Notwithstanding this, the

development provides a built form that is consistent with the streetscape and responds to the circumstances of the site in relation to site isolation.

Social Impact

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

Economic Impact

137. The proposed development has no apparent adverse economic impact.

Suitability of the Site

138. The subject site has no impediments that preclude it from being development for the proposed development.

SUBMISSIONS, REFERRALS AND THE PUBLIC INTEREST

139. The application was notified and re-notified to adjoining owners and occupiers for fourteen (14) days. In response, no submissions were received.

140. Section 2.3.11 (a) of the HDCP states that *“If an application is amended prior to determination, it will be re-notified if, in the opinion of the Council officer, the amendments are considered to result in significant additional environmental impacts.”* The proposed amendments to the application were minor in nature and would not create any adverse amenity impacts to adjoining properties. The changes mainly relate to the materials and finishes of the building and not affect window openings, density, scale and general built form. As such the amendments did not need to be re-notified.

Council Referrals

Development Engineer

141. The proposal seeks to drain to the front of the property and out to the street in accordance with Council’s Stormwater Management Policy. No objection is raised in respect to the stormwater/drainage arrangement subject to the imposition of standard conditions.

Consultant Arborist

142. An arborist report was submitted which supports the proposed removal of some trees on site. Council’s Consultant Arborist has reviewed the Arboricultural assessment and concurs with the recommendations. Conditions have been imposed in respect to tree protection, removal and for a new street tree to be planted.

Senior Traffic Engineer

143. The application was referred to Council’s Senior Traffic Engineer who has provided the following comments;

144. *“The Required Car parking for this DA is 10 Car spaces for the residents and 2 car spaces for visitors. However due to their proximity to Mortdale Railway Station, Their minimum requirements is the RMS guide to traffic generation, which they have met, so the traffic section has no objection to parking provision.*

- *The car parking aisle needs to be 6.1m wide due to a wall on the other end of the parking space. Single sided Aisles , 2890.1:2004 2.4.2 (d)*
- *Due to the ramp into the basement being only one-way ramp, a Traffic Mirror need to be installed to allow visibility between cars entering and cars leaving the basement. “*

145. The proposed aisle at 5.8m is less than required by the Traffic Engineers however this non-compliance is considered minor and the car park will function adequately due to the small amount of cars accessing the basement.

GIS

146. The application was referred to Council's GIS Department for street numbering. If the development is approved the new street numbering has been considered and has been imposed as a condition of consent.

Environmental Health

147. The application was referred to Council's Environmental Health section. The following comments were made;
148. *"The proposal is for the demolition of the existing dwellings and the construction of a four (4) storey residential flat building over basement car parking. The building is to contain a total of eight (8) apartments while twelve (12) car parking spaces are provided within the basement car park.*
149. *The Environmental Health Section has assessed the proposed development in relation to the Protection of the Environment Operations Act 1997. The assessment also includes the review of:*
- *Statement of Environmental Effects – prepared by BMA Urban dated 13 May 2019*
 - *Stage 1 Preliminary Environmental Site Investigation – prepared by geo-environmental engineering dated 4 April 2019*
 - *Acoustic Noise and Vibration report – prepared by Acoustic Noise and Vibration Solutions Pty Ltd dated 15 May 2019*
150. *The Preliminary Site Investigation was undertaken by geo-environmental engineering. There report concluded the following:*
151. *"The review of the site's history revealed no evidence of significant contaminating activities associated with the site, and there was no other evidence of contamination identified by the site inspection or previous geotechnical boreholes. With this in mind and taking into account the extent of the proposed development, which includes excavation works, further investigation, in the form of Stage 2 Detailed Site Investigation, is not considered to be warranted".*
152. *The report then states that the site is suitable for the proposed residential use.*
153. *The Acoustic consultant has prepared a report which includes recommendations relating to the construction specifications necessary to achieve the required noise reduction levels.*
154. Standard conditions have been imposed to ensure compliance is achieved with the acoustic report and contamination recommendations.

Building Services

155. The application was referred to Council's Building Services Section for comment. No objection was raised subject to the imposition of standard conditions if consent is to be issued.

Co-ordinator Environmental Sustainability and Waste

156. Council's Coordinator Environmental Sustainability and Waste has reviewed the application and the proposed number of bins for waste and recycling is considered satisfactory for this size of development. The location for the bins is not ideal given it is a fairly open area however a larger space could be considered but this would require a greater amount of excavation which is not encouraged.
157. It is proposed that the garbage area in the basement be enlarged and extended a further 1m to the north east to align with the edge of the fire stairs. This will enlarge the garbage room, reduce its exposure and create a more self-contained space. Given that the area above this is a pathway and concreted the additional space will not remove any valuable landscaping and deep soil area.

External Referrals

Ausgrid

158. The application was referred to Ausgrid as per Clause 45(2) of the State Environmental Planning Policy (Infrastructure) 2007 for consideration. To date no response has been received however standard conditions will be implemented which ensure that compliance with Ausgrid Network Standards and Safe Work NSW Codes of Practice for Construction Work near existing electrical assets are satisfied. A condition of consent has been imposed to this effect.

Contributions

159. In accordance with Council's Section 7.11 Contributions Plan monetary contributions are applicable for new residential flat development. A condition of consent requiring payment of the contribution has been imposed.

Table 8: Contributions

DEVELOPMENT CONTRIBUTIONS	
Hurstville	
Hurstville Section 94 Development Contributions Plan 2012 - Residential (Community Facilities)	\$11,312.88
Hurstville Section 94 Development Contributions Plan 2012 - Residential (Open Space, Recreation, Public Domain)	\$79,984.74
Total	\$91,297.62

CONCLUSION

160. Development consent is sought for the demolition of existing structures, lot consolidation and construction of a three (3) storey residential flat building comprising of eight (8) units, basement car parking for twelve (12) vehicles rooftop terrace area, landscaping and site works on land known as Lot 1 DP308338 and Lot 2 DP308338 being 14 and 16 George Street, Mortdale. The proposal has been assessed with regard to the matters for consideration listed in Section 4.15 of the Environmental Planning and Assessment Act 1979. The proposal is considered to be an appropriate response to the context of the site and will result in a reasonable planning and urban design outcome.
161. The proposal has been assessed against the provisions of the relevant State Environmental Planning Policies, Hurstville Local Environmental Plan 2012 and Hurstville Development Control Plan No 1 and generally complies with the key development standards and meets the underlying objectives of these controls. It is for these reasons that the development is considered to be a reasonable planning and urban design outcome and the proposal is recommended for approval subject to satisfying the deferred commencement conditions and standard conditions of consent.

DETERMINATION AND STATEMENT OF REASONS

Statement of Reasons

- The proposed RFB development is a permissible use within the R3 Medium Density Residential Zone within the Hurstville Local Environmental Plan 2012.
- The amended design is suitable for the subject site and improves the visual appearance, aesthetics and materiality of the scheme.
- The amended proposal provides a good level of amenity for future occupants and results in minimal adverse material impacts on adjoining properties and surrounding development.
- The building exceeds the height control however the variation is considered to be minor and only affects the lift overrun, staircase, mechanical vent and a small section of the pergola roof above the area of communal open space. The variation is considered to be acceptable and reasonable given there is no impact on the amenity of the streetscape and adjoining properties and all habitable areas are within the height limit. The roof terrace is centralised and its visibility minimised.
- The site fails to satisfy the minimum frontage width of 24m. The shortage is some 8% non-compliance and the 20m frontage is similar to frontages of adjoining properties (12 George Street). The narrower frontage does not create any isolated sites and still allows for redevelopment to the west of suitably sized buildings with a compliant site frontage.
- Despite the non-compliance with some elements of the design when assessed against the ADG (separation distances) the proposal is in keeping with the character, scale and context of medium density development in the streetscape and should have a positive contribution to the streetscape. The proposal will enhance the appearance of the site and is in keeping with the desired future character of the area and locality.

Determination

162. THAT Pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, as amended, the Georges River Local Planning Panel grants deferred commencement consent to DA2019/0199 for the demolition of existing structures, lot consolidation and construction of a three (3) storey residential flat building containing eight (8) units, basement car parking for twelve (12) vehicles, a rooftop area for communal open space, landscaping and associated site works on land known as Lot 1 DP308338 and Lot 2 DP308338 being 14 and 16 George Street, Mortdale subject to the following conditions of consent:

This Development Application is a Deferred Commencement Consent under Section 4.16(3) of the Environmental Planning and Assessment Act (as amended) 1979. Strict compliance is required with **all conditions appearing in Schedule A** within **thirty six (36) months from the Determination Date of this consent**. Upon confirmation in writing from Georges River Council that the Schedule A Conditions have been satisfied, the consent shall commence to operate as a Development Consent for a period of five (5) years from the **Determination Date of this consent**.

Pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, this consent will not operate until the following requirements are satisfied:

SCHEDULE A – DEFERRED COMMENCEMENT CONDITIONS

A. **Deferred Commencement** - Pursuant to Section 4.16(3) of the [Environmental Planning](#)

and Assessment Act 1979 <<http://www.legislation.nsw.gov.au/>>, this consent will not operate until such time as the following requirements are satisfied:

(1) Design changes

- (a) The central blade wall within the front balconies shall not extend beyond/above the roof of the balcony to Unit 2.01.
- (b) The front terrace and balconies adjoining Bedroom 1 to Units G.01, 1.01 and 2.01 shall be in line with the balustrade of the balconies to the kitchen/living room along the southern side to be consistent and symmetrical.
- (c) The front balconies adjoining Bedroom 1 to Units 1.01 and 2.01 shall be in line with the external western wall of Bedrooms 1 of these units.
- (d) The proposed louvred aluminium privacy screens located along the north eastern side of the front balconies to Units 1.01 and 2.01 shall be replaced with simple fixed horizontal timber slatted screens along the full width and height of that side of the balconies above the balustrade. The screens shall be located a minimum of 3m from the common boundary.
- (e) The same type of horizontal timber slatted screens shall be implemented above the balustrade along the western side of the balconies adjoining Bedroom 1 to Units 1.01 and 2.01 for the full width and height of the balcony. The balustrade along this side of the balcony could be solid and rendered to assist with the design and construction of the screens.
- (f) The proposed darkened obscure glass balustrade to the balconies adjoining Bedroom 1 to Units 1.01 and 2.01 shall be constructed of light frameless opaque glass.
- (g) The roof top terrace area shall be setback a minimum of 3.5m from the front of the building (measurement taken from the roofline of the balconies) to recess this element and reduce its visibility. The minimum area of the roof top communal area of open space shall be 180sqm. The design will include planter boxes around the periphery of this space.
- (h) The ground floor fence around the terrace to Unit G.01 shall be removed so this front area is more open and delineated by the proposed planter box.
- (i) The proposed garbage/recycling area in the basement shall be enlarged and increased by extending this space a minimum of 1m to the north eastern side to align with the fire stairs. This will create a larger, self-contained room and a space which is less visible and safer.
- (j) The proposed letterboxes shall be designed within a sandstone feature wall at the front of the site adjoining the main entry and this structure shall have a maximum height of 1.5m. It shall be well designed and integrated with the front retaining/planter boxes and can include street numbering and/or name of the building.
- (k) Two (2) new trees at the rear of the site shall be installed to the west of the Crepe Myrtle and these shall reach a height of 10m at maturity.
- (l) One (1) new canopy tree shall be included within the front yard of the site, achieving a max height of 4m at maturity.

Documentary evidence as requested or the above information must be submitted within 36 months of the granting of this deferred commencement consent. Commencement of the approval cannot commence until written approval of the submitted information has been given by Council.

When conditions in Schedule A above are satisfied, development consent will be issued subject to the following conditions:

SCHEDULE B – GENERAL DEVELOPMENT 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:

The following architectural plans prepared by Cornerstone Design			
Description	Reference No.	Date	Revision
Site analysis plan	DA 01	23/9/2020	Issue B
Basement plan and site/ground floor plan	DA 02	23/02/2020	Issue B
First floor plan and second floor plan	DA 03	23/02/2020	Issue B
Roof Plan	DA 04	23/02/2020	Issue B
Elevations	DA 05	23/02/2020	Issue B
Elevations	DA 06	23/02/2020	Issue B
Section and driveway profile	DA 07	23/02/2020	Issue B
Shadow diagrams 22 nd June	DA 08	23/09/2020	Issue B
Shadow diagrams March/September	DA 09	23/09/2020	Issue B
Landscape Plans prepared by Zenith Design, Drawing No.s 19-3934 LO1 and 19-3934 LO2, Revision A dated 19 April 2019.			
Stormwater Plans prepared by United Consulting Engineers Drawing no.s 19MB7952/D01 (Sheet 1 of 2), Issue B and 19MB7952/D02 (Sheet 2 of 2), Issue B.			

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;

- (a) Placing or storing materials or equipment;
- (b) Placing or storing waste containers or skip bins;
- (c) Erecting a structure or carrying out work
- (d) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
- (e) Pumping concrete from a public road;
- (f) Pumping water from the site into the public road;
- (g) Constructing a vehicular crossing or footpath;
- (h) Establishing a "works zone";
- (i) Digging up or disturbing the surface of a public road (e.g. Opening the road for the purpose of connections to utility providers);
- (j) Stormwater & 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 6400.

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

The following details must be submitted:

- a) That cable anchors will be stressed released when the building extends above ground level to the satisfaction of Council;
 - b) 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.
 - c) Documentary evidence of such insurance cover to the value of \$20 million;
 - d) The applicant must register a non-terminating bank guarantee in favour of Council. An amount will be determined when the application is lodged;
 - e) 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.
 - f) 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.
4. **Road Opening Permit** - A Road Opening Permit must be obtained from Council for every opening of a public road reserve to access services including sewer, stormwater drains, water mains, gas mains, and telecommunications before the commencement of work in the road.

REQUIREMENTS OF CONCURRENCE, INTEGRATED AND OTHER GOVERNMENT AUTHORITIES

5. **Sydney Water – Tap in TM** - 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.

6. **Notice of Requirements for a Section 73 Certificate** - A Notice of Requirements of what will eventually be required when issuing a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the 'Plumbing, building and developing' section of the web site www.sydneywater.com.au then refer to 'Providers' under 'Developing' or telephone 13 20 92 for assistance.

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

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

7. **Electricity Supply** - An application is required to be made to Ausgrid for a network connection. This may require the network to be extended or its capacity augmented. Evidence of this application being lodged with Ausgrid is required to be provided to the Certifying Authority prior to the issue of a Construction Certificate. For further details, you are advised to contact Ausgrid on 13 13 65 or www.ausgrid.com.au (Business and Commercial Services).
8. **Electricity Supply to Development** – The electricity supply to the development must be underground.
9. **Ausgrid - Clearances to electricity mains** - If any part of the proposed structure, within 5m of a street frontage, is higher than 3m above footway level, Ausgrid is to be consulted to determine if satisfactory clearances to any existing overhead High Voltage mains will be affected. If so, arrangements are to be made, at your cost, with Ausgrid for any necessary modification to the electrical network in question. For details visit www.ausgrid.com.au or call 131365.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

10. **Acoustic Requirements** - Compliance with submitted Acoustic Report. The Construction Certificate plans shall demonstrate compliance with the recommendations of the Acoustic Report submitted and approved by Council, titled "*Acoustic Noise and Vibration near Railway Lines for Proposed Development at No. 14-16 George St, Mortdale*" prepared by Acoustic Noise and Vibration Solutions Pty Ltd dated 15 May 2019.
11. **Obscure glazing** – all secondary spaces shall have their window openings constructed of obscure glazing.
12. **Landscape Plans** - All landscape works shall be carried out in accordance with the

approved landscape plans and specifications, drawn by Zenith Landscape Design and dated 09/04/19. The landscaping shall be maintained in accordance with the approved plans in perpetuity, subject to the following -

- a) Councils Tree Management Policy, April 2019, states that trees removed from the subject site, must be replaced at a ratio of 2:1. Tree species selection shall be in accordance with Appendix 1 – Tree Planting (Tree Management Policy, April 2019)
- b) 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.
- c) All trees proposed upon the approved landscape plan shall comply with AS 2303 – 2018, *Tree Stock for Landscape use* and *NATSPEC Specifying Trees: a guide to assessment of tree quality (2003)*, and be planted and maintained in accordance with Councils standard specification.
- d) 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.
- e) A certificate of compliance for the planting of all trees and shrubs proposed for the site. An AQF 5 Horticulturist shall be engaged and in writing certify that all trees have been planted as per landscape plan and specifications and forwarded to the PCA – Principal Certifying Authority.

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

The tree/s to be retained and protected are listed in the table below.

Tree Species	Location of Tree / Tree No.	Tree Protection Zone (metres) Fencing distance from trunk
T2 - <i>Callistemon viminalis</i>	Councils street tree	4.0 metres
T5 – <i>Lagerstroemia indica</i>	Within rear of the site	3.0 metres
T8 – <i>Syagrus romanzoffiana</i>	Within 12 George Street	3.0 metres
T9 – <i>Eucalyptus scoparia</i>	Within 12 George Street	6.2 metres
T10 – <i>Ficus Species</i>	Within No.19 George Street	4.3 metres

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

Tree Species	Location of Tree / Tree No.	Tree Protection Zone (metres) Fencing distance from trunk
T2 - <i>Callistemon viminalis</i>	Councils street tree	4.0 metres
T5 – <i>Lagerstroemia indica</i>	Within rear of the site	3.0 metres

T8 – <i>Syagrus romanzoffiana</i>	Within 12 George Street	3.0 metres
T9 – <i>Eucalyptus scoparia</i>	Within 12 George Street	6.2 metres
T10 – <i>Ficus Species</i>	Within No.19 George Street	4.3 metres

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

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

General Tree Protection Measures

- (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 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) The Project Arborist must be present on-site during the stages of excavation, demolition and construction when works are being undertaken that could impact on the tree canopy or root zone within the tree protection zone of each tree.
- (e) Unless otherwise specified in AS 4970-2009 Protection of trees on development sites, a protective fence consisting of 2.4 x 1.8 metres high, fully supported chainmesh fence shall be used. The distance of the fence from the base of each tree is to be in accordance with the TPZ listed in the table above. A layer of organic mulch 100 millimetres thick shall be placed over the protected area and no soil or fill should be placed within the protection area.
- (f) The Tree Protection Zone of each tree, to be protected, shall be watered thoroughly and regularly to minimise the effects of construction works.
- (g) No building products/ materials or services shall be installed within the TPZ of the tree/s unless approved by Council. This fence shall be kept in place during demolition, construction and also have a sign displaying 'Tree Protection Zone – DO NOT ENTER' attached to the fence and must also include the name and contact details of the Project Arborist.

Excavation works near tree to be retained – T9 *Eucalyptus scoparia* and T10 *Ficus Species*

- (h) 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 and canopy will not adversely be affected.
- (i) Where the Tree Protection Zone (TPZ) of trees on site or adjoining sites become compromised by any excavation works, the Project arborist shall be consulted to establish the position of any major roots and determine the necessary measures to protect these roots. The recommendations of the Arborist shall be submitted to

Council prior to any further demolition or construction works taking place.

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

Details satisfying this condition shall be shown on the Construction Certificate plans.

Pier and Beams – T9 – *Eucalyptus scoparia* and T10 *Ficus* Species

- (k) To preserve the *Eucalyptus scoparia*, the footings of the proposed side fence shall be isolated pier and beam construction within a five (5) metre radius of the trunk. The piers shall be hand dug and located such that no roots of a diameter greater than 50mm are severed or injured in the process of any site works during the construction period. The beam shall be located on or above the existing soil levels.

Details of this construction method shall be shown on the Construction Certificate plans.

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

15. **Tree Removal & Replacement** - 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. 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
T1 – <i>Callistemon viminalis</i>	X1	Council street tree
T3 – <i>Callistemon viminalis</i>	X1	Within front of site
T4 – Dead tree	X1	Rear of site
T6 – <i>Pittosporum undulatum</i>	X1	Backyard of site
T7 – <i>Cinnamomum camphora</i>	X1	Backyard of site

General Tree Removal Requirements

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

Street Tree Removal / Replacement by Council – *Callistemon viminalis* close to driveway

- (a) One (1) street tree of species to be determined in the road reserve fronting the site.
- (b) 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.

- (c) The fees must be paid in accordance with the conditions of this consent. The fee payable is to ensure that the development makes adequate provision for the demand it generates for public amenities and public services within the area.
- (d) The fees payable will be adjusted at the time of payment to reflect changes in the cost of delivering public amenities and public services, in accordance with the indices provided by the relevant conditions set out in this consent.

Fee Type – Tree removal/planting on public land	Amount
Administration Fee for Tree Removal	\$159.50
New Street Tree Planting Fee (per Tree)	\$452.00
Cost of tree removal	N/A
Cost of Stump Grinding	N/A

Tree Replacements within subject site – 2:1 Tree planting Policy

For the five (5) trees recommended to be removed on the subject site, under Georges River Tree Management Policy, ten (10) trees shall be planted within the site and species selection from Appendix 1 – Tree Planting (Tree Management Policy, April 2019)

A minimum of 10 x 45 litre size additional trees, which will attain a minimum mature height of nine (9) metres, shall be planted within the property. The tree/s are to conform to AS2303 – 2018, *Tree stock for landscape use*.

If the replacement / planted 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 Councils Tree Management Controls, they must be replaced with the same species and pot/bag size.

Alternatively if the required number of trees as above cannot be suitably planted upon the site, the applicant must provide an offset fee for tree planting elsewhere within the Municipality.

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 April 2019, can be downloaded from Council's website www.georgesriver.nsw.gov.au.

16. **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).
17. **Stormwater Systems with Basement** - The underground basement car park must pump to and all other stormwater must drain by gravity to the street gutter.

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

- (a) The construction of the building shall be designed to conform to the recommendations and conclusions of [Insert author and date] in regards to the protection of the underground basement from possible inundation by surface waters.

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

18. **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.

19. **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.
20. **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:

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;

The pump system shall be regularly maintained and serviced, every six (6) months; and

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.

21. **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 stormwater drainage guide lines.

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

Evidence from a professional engineer who specialises in hydraulic engineering that this design requirement has been adhered to shall be submitted with the Construction Certificate application demonstrating compliance with this requirement to the satisfaction of the Principal Certifying Authority.

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

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.

Suitable underground provision for the supply of all relevant services to the proposed lots (proposed position of pipes and conduits).

The full length of the driveway designed with a minimum 150mm thick reinforced concrete and minimum of 2.7m wide pavement/kerb face to kerb face width, and a non-slip surface.

24. **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.

25. **Mechanical Plant** – The proposed design and location of the mechanical ventilation system, plant and equipment will need to be provided to the Certifier. All plant and

equipment shall be appropriately treated and sound proofed. It is recommended that prior to the Construction Certificate (CC) being issued a detailed acoustic assessment be conducted once the exact location of the equipment is confirmed.

26. **BCA Compliance** – The development shall comply with the provisions and regulations of the BCA and be implemented as part of the Construction Certificate and the Certifier shall ensure compliance is achieved.
27. **BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No. 1003528M and 22 April 2019 must be implemented on the plans lodged with the application for the Construction Certificate.
28. **Acoustic requirements for timber flooring** - If timber flooring is installed within the development, then appropriate insulation between floors shall be implemented to exceed the minimum sound attenuation.
29. **Acoustic attenuation for apartments adjoining lift core** – Where bedrooms within apartments that adjoin the internal lift core; appropriate noise attenuation measures are to be applied to prevent transmission of noise in accordance with the Building Code of Australia (BCA)
30. **Street trees** – One (1) new street tree shall be planted at the front of the site along William Street adjoining the new driveway. Street. The new tree shall be selected and planted to Council’s specifications.
31. **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 provided to Council with the construction certificate plans and documents.
32. **Site Management Plan** - Site Management Plan must be submitted with the application for a Construction Certificate, and include the following:
 - (a) location of protective site fencing;
 - (b) location of site storage areas/sheds/equipment;
 - (c) location of building materials for construction, e.g. stockpiles
 - (d) provisions for public safety;
 - (e) dust control measures;
 - (f) method used to provide site access location and materials used;
 - (g) details of methods of disposal of demolition materials;
 - (h) method used to provide protective measures for tree preservation;
 - (i) provisions for temporary sanitary facilities;
 - (j) location and size of waste containers/skip bins;
 - (k) details of proposed sediment and erosion control measures;
 - (l) method used to provide construction noise and vibration management;
 - (m) construction and demolition traffic management details.

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

33. **Development Engineering – Alignment Levels** - An Application under Section 138 of the Roads Act 1993 shall be submitted to Council's Engineer for the issue of levels for the new kerb and gutter, footpath design and alignment levels for the full frontage of the site in Noble Street. These kerb and alignment levels shall be issued **prior to the issue of the Construction Certificate.**

Constructing a vehicular crossing, kerb, gutter and/or footpath requires separate approval under Section 138 of the Roads Act 1993, **prior to the issue of the Construction Certificate.**

34. **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.
35. **Health - Acoustic Certification - Rooftop Mechanical Equipment** - The Construction Certificate plans must be accompanied by a certificate from a professional acoustic engineer certifying that noise from the operation of any roof top mechanical plant and equipment will not exceed the background noise level when measured at any boundary of the site. If sound attenuation is required, this must be detailed on the plans lodged with the Construction Certificate.
36. **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.
37. **NBN Connection** - Prior to the issue of the Subdivision or Construction Certificate in connection with a development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:
- (i) the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose; and
 - (ii) the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

(Note real estate development project has the meanings given in section 372Q of the Telecommunications Act).

38. **Fire requirements** - Prior to the issue of a Construction Certificate the applicant may be required, under Clause 144 of the Environmental Planning & Assessment Regulation,

2000 to seek written comment from FR NSW about the location of water storage tanks, construction of hydrant/booster pump and valve rooms, and any Fire Engineered Solution developed to meet the performance requirements under the Category 2 Fire Safety Provisions.

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

39. **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 for General Fees 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 20.115m frontage x \$1236.00 George Street frontage	\$24,862.14
Inspection Fee for refund of Damage Deposit (one inspection)	\$371.00
DEVELOPMENT CONTRIBUTIONS	
Hurstville Section 94 Development Contributions Plan 2012 - Residential (Community Facilities)	\$11,312.88
Hurstville Section 94 Development Contributions Plan 2012 - Residential (Open Space, Recreation, Public Domain)	\$79,984.74
Total Development Contributions (this excludes General Fees – damage deposit and inspections)	\$91,297.62

General Fees

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

Development Contributions

The Section 7.11 contribution is imposed to ensure that the development makes

adequate provision for the demand it generates for public amenities and public services within the area.

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

Indexation

The above contributions will be adjusted after 1 May 2020, at the time of payment to reflect changes in the cost of delivering public amenities and public services, in accordance with the indices provided by the relevant Section 94 Development Contributions Plan.

Timing of Payment

The development contribution that is required to be paid in accordance with this condition of this consent must be paid before the issue of the first Occupation Certificate in respect of any building to which this consent relates, except as noted below in accordance with the Ministerial Direction issued 25 June 2020.

If no Construction Certificate in respect of the erection of any building to which the consent relates has been issued before or on 25 September 2022, the monetary contribution must be paid before the issue of the [first] Construction Certificate after that date for any such building.

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.

40. **Damage Deposit - Major Works** In order to insure against damage to Council property the following is required:
- a) Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development: **\$24,862.14**
 - b) Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee (for two inspections) to enable assessment of any damage and repairs where required: **\$371.00**.
41. **Use of Rooftop open space** - A Plan of Management (POM) for use of rooftop open space must be submitted to the satisfaction of the Principal Certifying Authority with a copy provided to Council prior to the issuing of the Construction Certificate. The POM must outline the following:
- (i) The hours of use of the rooftop deck which shall be restricted from 8am until 10pm;
 - (ii) The maximum number of users at any one time shall be specified (for this development a maximum of 16 persons at any one time is recommended) given the size of the space;
 - (iii) Include provisions to maximise the safety (fire safety and general safety) for users of this area.
 - (iv) no amplified music is permitted;
 - (v) identify other measures to ensure that the amenity and safety of persons within the

development and in nearby existing and future development is maintained.

- (vi) Location and type of signage to be installed in the building to notify residents and visitors in respect to the use of this space.
- (vii) The approved POM shall be incorporated into the Owners Corporation by-laws in any future Strata subdivision and a sign in the front entry of the building shall be included to ensure the use of this space is monitored and understood by all occupants.

42. **Parking and Layout** - The design of the development shall comply with the following requirements with details demonstrating this submitted to the satisfaction of the Principal Certifying Authority prior to the release of a Construction Certificate;
- The layout of the proposed car parking and loading areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) shall be in accordance with AS 2890.1-2004, AS2890.6-2009 and AS 2890.2-2002 for heavy vehicle usage.
 - Bicycle parking associated with the subject development shall be in accordance with AS 2890.3 (Bicycle Parking Facilities).
 - Driveway access is to comply with figure 3.3-Minimum Sight Lines for Pedestrian Safety as per AS 2890.1:2004 of the Australian Standard for off-street car parking. Figure 3.3 specifies the minimum sight lines for pedestrian safety along a circulation driveway or domestic driveway.
 - Any wall or fence or solid object on either side of the driveway/vehicular crossing where it meets the Council's road reserve at the boundary must comply with sight distance requirements stipulated in the *Australian Standards AS2890.1*.
 - All vehicles shall enter and exit the premises in a forward direction.
43. **Construction materials** - Any proposed new cladding shall be constructed of fire resistant materials which comply with the requirements of the National Construction Code (NCC) 2019 Volume (1) One Building Code of Australia (BCA). Details of the proposed materials and finishes shall be to the satisfaction of the Principal Certifier.
44. **Mechanical ventilation** – Any proposed mechanical ventilation system will need to satisfy Council's requirements and those stipulated by the National Construction Code and AS1668.2-2002. Details of the proposed Mechanical Ventilation system shall be provided to the Certifier and shall be sensitively located to minimise visual appearance of these ancillary structures and in a way to minimise any noise or visual impacts from adjoining properties.
45. **Geotechnical Reports** - The applicant must submit a Geotechnical Report, prepared by a suitably qualified Geotechnical Engineer who holds the relevant Certificate of accreditation as required under the Building Professionals Act 2005 in relation to dilapidation reports, all site works and construction. This is to be submitted to the satisfaction of the Principal Certifying Authority **before the issue of the Construction Certificate** and is to include:
- (a) Investigations certifying the stability of the site and specifying the design constraints to be placed on the foundation, any earthworks/stabilization works and any excavations.
 - (b) Dilapidation Reports on the adjoining properties prior to any excavation of site works. The Dilapidation Report is to include assessments on, but not limited to, the

dwellings at those addresses and any external paths, grounds etc. This must be submitted to the Certifying Authority and the adjoining residents as part of the application for the Construction Certificate. Adjoining residents are to be provided with the report five (5) working days prior to any works on the site.

- (c) On-site guidance by a vibration specialist during the early part of excavation.
- (d) Rock breaking techniques. Rock excavation is to be carried out with tools such as rock saws which reduce vibration to adjoining buildings and associated structures.
- (e) Sides of the excavation are to be piers prior to any excavation occurring to reinforce the walls of the excavation to prevent any subsidence to the required setbacks and neighbouring sites.

46. **Vibration Damage** - To minimise vibration damage and loss of support to the buildings in close proximity to the development, any excavation is to be carried out by means of a rock saw and if available, in accordance with the guidelines of the Geotechnical Engineer's report.

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

47. **Slip Resistance** – All pedestrian surfaces in areas such as foyers, public corridors, common areas and stairs 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.
48. **Requirements after the reconstruction works** would include a dilapidation report including CCTV footage (after all works completed on the site) and the lodgement of a works-as-executed plan of the works.
49. **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).
50. **Development Engineering - Driveway Construction Plan Details** - Detailed engineering plans for the driveway shall be submitted with the Construction Certificate application for approval that show:
- (a) Longitudinal and cross sections, gradients, access onto the proposed lots, type of construction materials designed in accordance with Council's Subdivision standards and AS/NZS2890.1-2004.
 - (b) Suitable underground provision for the supply of all relevant services to the proposed lots (proposed position of pipes and conduits).
 - (c) A longitudinal driveway sections are to be prepared by a qualified civil/traffic engineer and be submitted for to and approved by the Certifying Authority. These profiles are to be at 1:100 scale along both edges of the proposed driveway, starting from the centreline of the frontage street carriageway to the proposed

garage/parking level. The civil/traffic engineer shall provide specific written certification on the plans that:

- 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.

51. **Construction Traffic Management Plan (CTMP)** - A Construction Traffic Management Plan is to be prepared detailing:

- (a) construction vehicle routes;
- (b) anticipated number of trucks per day;
- (c) hours of construction activity;
- (d) Access arrangements; and
- (e) Proposed traffic measures to minimise impacts of construction vehicles must be submitted for the approval of Council’s Engineers. Council’s Engineers must specify in writing that they are satisfied with the Traffic Management Plan prior to the issue of the Construction Certificate.

The CTMP shall be sent to Georges River Council email to mail@georgesriver.nsw.gov.au Attention: Traffic Section - Construction Traffic Management Plan for DA2018/0366.

52. **Waste Storage** - The plans shall include details of the waste storage area as below to the satisfaction of the Principal Certifying Authority prior to the release of a Construction Certificate. The waste storage area shall not be visible from the street. The waste storage area shall be located within the lot/building in accordance with the approved plans.

The waste storage area shall be large enough to accommodate the required number of bins for the development and located in an area to suitably facilitate servicing on waste collection day. The path to the bin room is to be at least 1.0metre wide and kept clear and unobstructed at all times. All garbage rooms must have double doors to allow the access of bins from the basement to kerbside. The removal of waste from the site shall occur from the street and the arrangement negotiated with Council.

Residential Waste

The development will require the provision of the following waste and recycling facilities:

Putrescible Waste

- (a) A minimum of 4 x 240L garbage bins.

Recycling Waste

- (b) A minimum of 3 x 240L recycling bins.

Green Waste

- (c) A minimum of 1 x 240 litre mobile bins.

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

- waste room floor to be sealed;
- waste room walls and floor surface is flat and even;

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

This information shall be reflected on construction drawings submitted to the certifying authority to the satisfaction of the Principal Certifying Authority.

54. **Accessibility** – The recommendations shall be implemented in the final construction drawings ensuring compliance with the recommendations of the Statement of Compliance Access for People with a Disability prepared by Accessible Building Solutions and dated 21 March 2019 Job No.219025.
55. **Commonwealth Disability (Access to Premises) Standard** - The Commonwealth Disability (Access to Premises - Buildings) Standards 2010 (the Premises Standards) applies to all applications (including a Construction Certificate). This requires any new building, part of a building and the affected part of the existing building to comply with the Premises Standards, the Building Code of Australia and AS 1428.
56. **Access for Persons with a Disability and Adaptable Housing** – Access for persons with disabilities must be provided direct to the site, including to the foyer, carpark and to sanitary facilities in accordance with the requirements of the Premises Standards, the Building Code of Australia and AS 1428.1. Details must be submitted with the Construction Certificate Application.

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

In the event that full compliance cannot be achieved the services of an accredited access consultant is to be obtained to determine alternative methods of compliance, such a report must be submitted to and endorsed by the Certifying Authority prior to issue of the Construction Certificate.

57. **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 to the satisfaction of the Principal Certifying Authority.

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.

58. **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 Applicant shall liaise with Council's Geographical Information System to confirm the unit addresses.

Primary Address

- 14 George Street, Mortdale NSW 2223

Unit Addresses

Unit description on DA plan	Proposed street address to comply with AS/NZS 4819:2011 and NSW Addressing Manual
Unit G.01	G01/14 George Street, Mortdale Street NSW 2223
Unit G.02	G02/14 George Street, Mortdale Street NSW 2223
Unit G.03	G03/14 George Street, Mortdale Street NSW 2223
Unit 1.01	101/14 George Street, Mortdale Street NSW 2223
Unit 1.02	102/14 George Street, Mortdale Street NSW 2223
Unit 1.03	103/14 George Street, Mortdale Street NSW 2223
Unit 2.01	201/14 George Street, Mortdale Street NSW 2223
Unit 2.02	202/14 George Street, Mortdale Street NSW 2223

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

Additional comments (if applicable)

If there are modifications or changes to the number of units during the DA process, please advise the GIS team before the final approval. Otherwise, please ensure the list of unit addresses (CM9 No. D20/109131) is attached to the consent.

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

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

PRIOR TO THE COMMENCEMENT OF WORK (INCLUDING DEMOLITION AND EXCAVATION)

60. **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).

61. **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.

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

- (a) A site and location plan of the hoarding with detailed elevation, dimensions, setbacks, heights, entry and exit points to/from the site, vehicle access points, location of public utilities, electrical overhead wire protection, site management plan and builders sheds location; and
 - (b) Hoarding plan and details that are certified by an appropriately qualified engineer; and
 - (c) The payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges (available on our website) before the commencement of work; and
 - (d) A Public Risk Insurance Policy with a minimum cover of \$10 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained a copy provided to Council. The Policy is to note Council as an interested party; and
 - (e) The application must be endorsement by the Roads & Maritime Services (RMS) as the hoarding is located within 100m of an intersection with traffic lights. For assistance you should contact the DA unit at RMS and speak to Hans on 88492076. Or email hans.pilly.mootanah@rms.nsw.gov.au to obtain concurrence for the hoarding structure.
62. **Building - Structural Engineers Details - Supporting excavations and adjoining land** - Prior to the commencement of work in connection with the excavation of the site associated with the basement car park, structural engineer's details relating to the method of supporting the excavation must be submitted.
63. **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.
64. **Registered Surveyor's Report - During Development Work** - A report will be submitted to the Certifier 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, the development is to be clear of the easement.
 - (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 will 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 will indicate the reduced level of the main ridge.

Work will 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.

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

- (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,
- (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 structural engineer.

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

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

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

66. **Site Stormwater Discharge Pipe across the Footpath** - The stormwater connections to the street gutter are to discharge via a silt arrestor pit within the site and are to have a minimum 1% fall to the street gutter. The connections are to be made to Council's requirements and are to be spaced a minimum 100mm at the street gutter and shall not connect against the flow in the street.
67. **Pre-Construction Dilapidation Report** - A professional engineer specialising in structural or geotechnical engineering shall prepare a Pre-Construction Dilapidation Report detailing the current structural condition of adjoining premises.

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.

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

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

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

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

69. **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. An Asbestos Audit shall be conducted in accordance with the recommendations of the Stage 1 Preliminary Environmental Site Investigation prepared by geo-environmental engineering and dated 4 April 2019.

70. **Demolition Notification Requirements** - The developer/builder must notify adjoining residents five (5) working days prior to demolition. Such notification is to be a clearly written note giving the date demolition will commence, contact details of the developer/builder, licensed asbestos demolisher and the appropriate regulatory authority. Notification is to be placed in the letterbox of every premises (including every residential flat or unit, if any) either side and immediately at the rear of the demolition site.

Five (5) working days prior to demolition, the developer/builder is to provide written notification to Council advising of the demolition date, details of the SafeWork licensed asbestos demolisher and the list of residents advised of the demolition.

On demolition sites where buildings to be demolished contain asbestos, a standard commercially manufactured sign containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm is to be erected in a prominent visible position (from street frontage) on the site. The sign is to be erected

prior to demolition work commencing and is to remain in place until such time as all asbestos material has been removed from the site to an approved waste facility.

71. **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.
72. **Erosion and Sedimentation Control** - Erosion and sediment controls must be provided to in accordance with the approved Site Management Plan.

Removal or disturbance of vegetation and top soil is confined to within 3 m of the approved building area (no trees to be removed without approval). All disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar.

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

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

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

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

73. **Site sign – Soil and Erosion Control Measures** - Prior to the commencement of works (including demolition and excavation), a durable site sign, issued by Council in conjunction with this consent, must be erected in a prominent location on site. The site sign warns of the penalties which apply to pollution, storing materials on road or footpath and breaches of the conditions relating to erosion and sediment controls. The sign must remain in a prominent location on site up until the completion of all site and building works.
74. **Physical connection of stormwater to site** - No work is permitted to proceed above the ground floor slab level of the building until there is physical connection of the approved stormwater drainage system from the land the subject of this consent to Council's drainage system.
75. **Utility Services** - The applicant shall undertake and bear all costs associated with the liaison, approval and relocation of any utility services. All correspondence and approvals between the Applicant and utility authorities shall be provided to the Council in conjunction with engineering documentation for the stormwater drainage works.
76. **Drainage Works** - Construction inspections shall be required by Council's Asset Engineer for the Council stormwater drainage works on public roads at the following hold points: -
- Upon excavation of trenches shown on the approved drainage drawings.
 - Upon installation of pipes and other drainage structures.

- Upon backfilling of excavated areas and prior to the construction of the final pavement surface.

An inspection fee is applicable for each visit, and at least 24 hours' notice will be required for the inspections.

DURING CONSTRUCTION

77. **Discovery of Additional Information** - 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.
78. **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)
79. **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.
80. **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.
81. **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.

82. **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.

83. **Site contamination – Discovery of Additional information** – If any new information is discovered during demolition or construction (unexpected finds) that has the potential to alter previous conclusions about site contamination, all works must cease the site made secure and the Council and the Principal Certifying Authority (if Council is not the PCA) must be notified as soon as practicable and appropriate action taken, reporting and approvals obtained.
84. **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.
85. **Registered Surveyors Report - During Development Work** - A report must be submitted to the Principal Certifier at each of the following applicable stages of construction:
- (i) Set out before commencing excavation;
 - (ii) Floor slabs or foundation wall, before formwork or commencing brickwork;
 - (iii) Completion of Foundation Walls - Before any construction of flooring, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans;
 - (iv) Completion of Floor Slab Formwork - Before pouring of concrete/walls construction, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans. In multi-storey buildings a further survey must be provided at each subsequent storey;
 - (v) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries;
 - (vi) Completion of all Work - Detailing the location of the structure (including eaves/gutters) relative to adjacent boundaries and its height relative to the datum shown on the approved plans. A final Check Survey must indicate the reduced level of the main ridge of all structures.

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

86. **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 Noise and Vibration near Railway Lines for Proposed Development at No. 14-16 George St, Mortdale*" prepared by Acoustic Noise and Vibration Solutions Pty Ltd dated 15 May 2019.
87. **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.
88. **Completion of Landscape Work**- All landscape works and fees payable for Councils

street tree must be completed **before** the issue of the Final Occupation Certificate. In accordance with approved landscape plans and additional trees, drawn by Zenith Landscape Designs, Ref No 19 – 3968 L01 and dated. The landscaping shall be maintained in accordance with the approved plans in perpetuity, subject to the following -

- a) Councils Tree Management Policy, April 2019, states that trees removed from the subject site, must be replaced at a ratio of 2:1. Tree species selection shall be in accordance with Appendix 1 – Tree Planting (Tree Management Policy, April 2019)
- b) For the removal of Five (5) trees, an additional 10 trees shall be planted and species selection from *Hurstville DCP, Appendix 1, 5 Recommended species for Landscaping, Indigenous trees, all wards* and be able, be of minimum 45 litre pot/bag size and be able to reach a height at maturity of nine (9) metres.
- c) Only two (2) trees have been proposed upon the landscape plan. An additional eight (8) trees shall be planted throughout the southern and eastern lawn and garden areas.
- d) All ten (10) trees proposed shall comply with AS 2303 – 2018, *Tree Stock for Landscape use* and be planted and maintained in accordance with Councils standard specification.
- e) If the planted ten (10) 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 ten (10) 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.

89. **Basement design** - Internal driveways and parking spaces are to be adequately paved with concrete or bitumen, or interlocking pavers to provide a dust-free surface. All car parking spaces are to be line marked in accordance with AS1742, 'Australian Standard Manual of Uniform Traffic Control Devices' and the relevant guidelines published by the RMS.

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

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

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

91. **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

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

- i) keep the system clean and free from silt, rubbish and debris*
- ii) maintain and repair at the sole expense of the registered proprietors the whole of the system so that it functions in a safe and efficient manner*
- iii) permit the Council or its authorised agents from time to time and upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land for the compliance with the requirements of this covenant*
- iv) comply with the terms of any written notice issued by the Council in respect of the requirements of this covenant within the time stated in the notice.*

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

In the event that the registered proprietor fails to comply with the terms of any written notice issued by the Council as set out above the Council or its authorised agents may enter the land with all necessary materials and equipment and carry out any work which the Council in its discretion considers reasonable to comply with the said notice referred to in part b) (iii) above.

The Council may recover from the registered proprietor in a Court of competent jurisdiction:

- i) any expense reasonably incurred by it in exercising its powers under subparagraph (c) hereof. Such expense shall include reasonable wages for the Council's employees engaged in effecting the work referred to in (c) above, supervising and administering the said work together with costs, reasonably estimated by the Council, for the use of materials, machinery, tools and equipment in conjunction with the said work.*
- ii) Legal costs on an indemnity basis for issue of the said notices and recovery of the said costs and expenses together with the costs and expenses of registration of a covenant charge pursuant to section 88F of the Act or providing any certificate required pursuant to section 88G of the Act or obtaining any injunction pursuant to section 88H of the Act.*

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

92. **Maintenance Schedule for On-site Stormwater Management** - A Maintenance Schedule for the proposed on-site stormwater management measures is to be prepared and submitted to Council. The Maintenance Schedule shall outline the required maintenance works, how and when these will be done and who will be carrying out these maintenance works.
93. **Requirements prior to the issue of the Occupation Certificate** - The following shall be completed and or submitted to the Principal Certifier prior to the issue of the Occupation Certificate:
- (a) All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
 - (b) The internal driveway construction works, together with the provision for all services (conduits and pipes laid) shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
 - (c) Construct any new vehicle crossings required.
 - (d) Replace all redundant vehicle crossing laybacks with kerb and guttering, and replace redundant concrete with turf.
 - (e) 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.
94. **Vehicular crossing & Frontage work** – The following vehicular crossing and road frontage works will be required to facilitate access to and from the proposed development site:
- (a) The thickness and design of the driveway shall be in accordance with Council's Specifications applying at the time construction approval is sought.
 - (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. The work shall be carried out in accordance with Council's specification, applying at the time construction approval is sought.
 - (c) Construct a 1.2 metre wide footpath for the full length of the frontage of the site (if it is damaged) in accordance with Council's Specifications applying at the time construction approval is sought.
 - (d) The thickness and design of the driveway shall be in accordance with Council's Specifications applying at the time construction approval is sought.

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

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

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

95. **Completion of major road related 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 and all associated paving;
- (d) Relocation of any existing above ground utility services
- (e) Relocation/provision of street signs
- (f) New or replacement street trees;
- (g) New footway verges, if 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
- (i) New or reinstated road surface pavement within the road.
- (j) New or replaced street trees
- (k) The proposed artwork located along the western elevation of the building.
- (l) If applicable Stormwater pipes, pits and connections to public stormwater systems within the road related area;

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

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

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

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

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

97. **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;
- (c) That the works have been constructed in accordance with the approved construction certificate design and will provide the detention storage volume and attenuation in accordance with the calculations complied with DA conditions.;
- (d) Pipe invert levels and surface levels to Australian Height Datum;

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

98. **Consolidation of Site** - The site shall be consolidated into one allotment and by a Plan of Consolidation being prepared by a Registered Surveyor. This Plan shall be registered at the NSW Land and Property Information prior to the issue of a final occupation certificate.
99. **Fire Safety Certificate before Occupation or Use** - In accordance with Clause 153 of the *Environmental Planning and Assessment Regulation 2000*, on completion of building works and prior to the issue of an Occupation Certificate, the owner must cause the issue of a Final Fire Safety Certificate in accordance with Clause 170 of the aforesaid Regulation. The Fire Safety Certificate must be in the form or to the effect of Clause 174 of the Environmental Planning and Assessment Regulation, 2000. In addition, in relation to each essential fire or other safety measure implemented in the building or on the land on which the building is situated, such a Certificate is to state that:
- (i) the measure has been assessed by a person (chosen by the owner of the building) who is properly qualified to do so;
 - (ii) as at the date of the assessment the measure was found to be capable of functioning at a standard not less than that required by the Schedule.

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

100. **Structural Certificate During Construction** - The proposed building must be constructed in accordance with details designed and certified by the practising qualified structural engineer. All structural works associated with the foundations, piers, footings and slabs for the proposed building must be inspected and structurally certified for compliance by an independent practising geotechnical and structural engineer. In addition a Compliance or Structural Certificate, to the effect that the building works have been carried in accordance with the structural design, must be submitted to the Principal Certifying Authority at each stage of Construction or prior issue of the Occupation Certificate.
101. **Structural Certificates** - The proposed structure must be constructed in accordance with details designed and certified by the practising qualified structural engineer. In addition, Compliance or Structural Certificates, to the effect that the building works have been carried in accordance with the structural design, must be submitted to the Principal Certifier prior issue of the Occupation Certificate.
102. **BASIX Certificate** - All energy efficiency measures as detailed in the approved BASIX

and in the plans approved with the Development Consent must be implemented before issue of any Occupation Certificate.

103. **Certification - Air handling systems (including water cooling system, hot water systems and warm water systems)** - Certification by a suitably qualified person engineer '2012 must be submitted to the PCA prior to the issue of any occupation certificate verifying that the air handling system has been installed in accordance with:
- (a) Public Health Act 2010 (as amended)
 - (b) Public Health Regulation 2012 (as amended)
 - (c) AS/NZS 3666.1:2011 Air-handling and water systems of buildings -Microbial control -Design, installation and commissioning

OPERATIONAL CONDITIONS (ONGOING)

104. **Open structure** - The sub-floor area of the rear of the building is to be built as an open structure to act as an overland flow path in accordance with the approved plans.
105. **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).
106. **Communal Open Space** - A Plan of Management for the use of this space shall *be* adhered to for the perpetuity of the development. The Strata Manager shall ensure that the plan is provided to all residents and occupants of the development and a sign shall be installed communal open space areas to highlight the hours of use of the area and any other operational restrictions i.e keeping the space clean, rules around using the BBQ's.
107. **Final Acoustic Report – Verification of Noise report** - Within three months from the issue of an Occupation Certificate, an acoustic assessment is to be carried out by an appropriately qualified acoustic consultant, in accordance with the EPA's Industrial Noise Policy and submitted to Council for consideration.
108. **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.
109. **Safety** - All communal entrances for the building will be capable of being secured. Entry doors are to be self-closing and signs are to be displayed requesting that building occupants not wedge doors open.
110. **Security** - If any security screens/grilles are installed, they are to be openable from within the building.
111. **Building identification** - The numbering is to be constructed from durable materials and shall not be obscured by vegetation and consistent with the signage of the adjoining building.
112. **Entering & Exiting of vehicles** - All vehicles shall enter and exit the basement in a forward direction.

113. **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:
- Within 12 months after the date on which the fire safety certificate was received.
 - Subsequent annual fire safety statements are to be given within 12 months after the last such statement was given.
 - 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.
 - 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.
114. **Responsibility of Owners Corporation** - The Owners Corporation shall be responsible for presenting all approved waste and recycling receptacles for collection, and returning all receptacles to the Main Waste Collection Room, as soon as practicable after they have been serviced.
- The Owners Corporation shall also be responsible for maintaining all equipment, systems, facilities and storage areas used in conjunction with the provision of waste management services in accordance with all applicable regulatory requirements, relevant health and environmental standards, and to the satisfaction of Council.
115. **Maintenance of Landscaping** - All trees and plants forming part of the approved landscaping in 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.
116. **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.
117. **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.
118. **Activities and Storage of Goods Outside Buildings** - There will 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.
119. **Disability Discrimination Act** - The applicant is responsible to ensure compliance with this and other anti-discrimination legislation.
120. **Intensity of car park lighting** - Prior to occupation, the intensity of lighting at the entrance to the basement car park is to be designed to allow for progressive adjustment of light.

121. **Removal and collection** - Bins are to be collected from the loading bay area or taken to the kerbside for collection and garbage bins and recycling bins are to be collected on a twice a week basis. They are to be removed from the kerbside as soon as possible after collection.
122. **Allocation of Car Parking Spaces** - A total of (12) car parking spaces, and a minimum of three (3) bicycle parking spaces associated with the development are to be provided and allocated in accordance with the basement plan DA 02 Issue B and all spaces shall be appropriately sign posted and/or line marked accordingly:
123. **Development Engineering - Conditions relating to future Strata Subdivision of Buildings**

No approval is expressed or implied for the subdivision of the subject building(s). For any future Strata subdivision, a separate Complying Development Certificate shall be approved by Council or an Accredited Certifier.

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

- (a) **Unit Numbering** - Apartment type numbers shall be installed adjacent or to the front door of each unit. The unit number shall coincide with the strata plan lot numbering.
- (b) **Car Parking Space Marking and Numbering** - Each car space shall be line marked with paint and numbered in accordance with the strata plan lot numbering.

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

- (c) **Designation of Visitor Car Spaces on any Strata Plan** - Any Visitor car spaces shall be designated on the final strata plan as "Visitor Parking - Common Property".
- (d) **Allocation of Car Parking Spaces, Storage Areas and Common Property on any Strata Plan**
- i. All car parking spaces shall be created as a part lot of the individual strata's unit lot in any Strata Plan of the subject building.
 - ii. All storage areas shall be created as a part lot of the individual strata's unit lot or a separate Utility Lot (if practical) in any Strata Plan of the subject building.
 - iii. The minimum number of parking spaces required to be allocated as a part lot to each individual strata's unit lot shall be in accordance with the car parking requirements of Council's Development Control Plan and as required by the relative development consent for the building construction.
 - iv. No parking spaces shall be created as an individual strata allotment on any Strata Plan of the subject building unless these spaces are surplus to the minimum number of parking spaces required.

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

The above requirements regarding car parking spaces and storage areas may only

be varied with the conditions of a separate Development Application Approval for Strata Subdivision of the Building(s).

- (e) **On Site Detention Requirements** - The location any on-site detention facility shall be shown on the strata plan and suitably denoted.
- (f) **Creation of Positive Covenant** - A Positive Covenant shall be created over any on-site detention facility by an Instrument pursuant to Section 88B of the Conveyancing Act 1919, with the covenant including the following wording:

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

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

- (g) **Creation of Positive Covenant for the accessway** – A positive covenant shall be created over the rear driveway access by an Instrument pursuant to Section 88B of the Conveyancing Act 1919, with the covenant including the following wording:

"It is the responsibility of the Owner's Corporation to keep the rear accessway clean at all times and maintained in an efficient working condition. The accessway shall not be modified in any way without the prior approval of Georges River Council."

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

124. **Strata Subdivision** - Council will check the consent conditions on the relevant Strata Subdivision consent. Failure to submit the required information will delay endorsement of the plan of subdivision.

Council will undertake the required inspections to satisfy the requirements of the [Strata Schemes Development Regulation 2016](#) to determine the Strata Certificate.

Strata Plans, Administration Sheets, 88B Instruments and copies must not be folded. All Strata Plans, Strata Plan Administration Sheets and 88B Instruments shall be submitted to Council enclosed in a protective cardboard tube (to prevent damage during transfer).

OPERATIONAL REQUIREMENTS UNDER THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

- 125. **Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued.
- 126. **Appointment of a Principal Certifier** - The erection of a building must not commence until the applicant has:
 - i) appointed a Principal Certifier for the building work; and
 - ii) if relevant, advised the Principal Certifier that the work will be undertaken as an Owner -Builder.

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.

127. **Notification of critical Stage Inspections** - 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.
128. **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.
129. **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.
130. **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.
131. **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.
132. **Major Development** - Internal driveways and parking spaces are to be adequately paved with concrete or bitumen, or interlocking pavers to provide a dust-free surface. All car parking spaces are to be line marked in accordance with AS1742, 'Australian Standard Manual of Uniform Traffic Control Devices' and the relevant guidelines published by the RMS.
133. **Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the [Sydney Water Act 1994](#) must be submitted to the PCA prior to the issue of the Occupation/Subdivision Certificate.

PRESCRIBED CONDITIONS

134. **Clause 97A - BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
135. **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.
136. **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.
137. **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.
138. **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.
139. **Clause 98E - Site Excavation** - Excavation of the site is to extend only to that area required for building works depicted upon the approved plans. All excess excavated material shall be removed from the site.

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

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

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

END CONDITIONS

NOTES/ADVICES

140. **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.

141. **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.
142. **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.
143. **Access to NSW Legislations (Acts, Regulations and Planning Instruments)** - NSW legislation can be accessed free of charge at www.legislation.nsw.gov.au
144. **Principal Certifier** - Should the Council be appointed as the Principal Certifier in determining the Construction Certificate, the building must comply with all the applicable deemed to satisfy provision of the BCA. However, if an alternative solution is proposed it must comply with the performance requirements of the BCA, in which case, the alternative solution, prepared by an appropriately qualified fire consultant, accredited and having specialist qualifications in fire engineering, must justifying the non-compliances with a detailed report, suitable evidence and expert judgement. Council will also require if deemed necessary, for the alternative solution to undergo an independent peer review by either the CSIRO or other accredited organisation. In these circumstances, the applicant must pay all costs for the independent review.
145. **Accompanying Information** - Should the Council be appointed as the Principal Certifier, the Construction Certificate Application must be accompanied by the following details, with plans prepared and certified by an appropriately qualified person demonstrating compliance with the BCA:
- Mechanical ventilation to bathroom, laundry and basement areas not afforded natural ventilation.
 - Fire-fighting services and equipment including hydrant systems and booster assembly location, sprinkler and valve room systems, hose reels, portable fire extinguishers, smoke hazard management systems, sound & warning systems and the location of the fire control centre.
 - Emergency lighting and exit signs throughout, including communal open space areas, lobby/foyer and basement areas.
 - Construction of all fire (smoke) doors including warning and operational signage to required exit and exit door areas.
 - Egress grades, provision of handrails, travel distance and the discharge from fire isolated exits.
 - The protection of openings, entry to basement areas.
 - Fire compartmentation and fire wall separation details including all stairway, lift and service shaft areas.
 - The location and construction of an electricity substation, including the location and smoke separation of electrical distribution boards.
 - Re-entry facilities from fire isolated exit stairways.
 - Sound transmission and insulation details.
 - Window schedule is to include the protection of openable windows.
 - Stretcher facility and emergency lift installation.

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

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

146. **Building – Referral to FR NSW** - Prior to the issue of an Occupation Certificate the applicant may be required, under Clause 152A of the Environmental Planning & Assessment Regulation, 2000 to seek written comment from FR NSW about the construction and location of any hydrant/booster system, developed to meet the performance requirements of the Building Code of Australia.
147. **Energy Efficiency Provisions** - Should Council be appointed as the Principal Certifier, a report prepared and endorsed by an Energy Efficiency Engineer or other suitably qualified person must be submitted, detailing the measures that must be implemented in the building to comply with Section J of the BCA. The proposed measures and feature of the building that facilitate the efficient use of energy must be identified and detailed on the architectural plans. At completion of the building and before the issue of an Occupation Certificate, a certificate certifying that the building has been erected to comply with the energy efficiency provisions must be submitted to the Principal Certifier.
148. **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.
149. **Noise** - Noise related conditions - Council will generally enforce noise related conditions in accordance with the Noise Guide for Local Government (<http://www.environment.nsw.gov.au/noise/nglg.htm>) and the Industrial Noise Guidelines (<http://www.environment.nsw.gov.au/noise/industrial.htm>) publish by the Department of Environment and Conservation. Other state government authorities also regulate the Protection of the Environment Operations Act 1997.

Useful links relating to Noise:

- (a) Community Justice Centres - free mediation service provided by the NSW Government (www.cjc.nsw.gov.au).
- (b) Department of Environment and Conservation NSW, Noise Policy Section web page (www.environment.nsw.gov.au/noise).
- (c) New South Wales Government Legislation home page for access to all NSW legislation, including the Protection of the Environment Operations Act 1997 and the Protection of the Environment Noise Control Regulation 2000 (www.legislation.nsw.gov.au).
- (d) Australian Acoustical Society - professional society of noise-related professionals (www.acoustics.asn.au/index.php).
- (e) Association of Australian Acoustical Consultants - professional society of noise

- related professionals (www.aaac.org.au).
- (f) Department of Gaming and Racing - (www.dgr.nsw.gov.au).
150. **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)
151. **Strata Subdivisions**
- (a) Council will check the consent conditions on the relevant Strata Subdivision consent. Failure to submit the required information will delay endorsement of the plan of subdivision.
 - (b) Council will undertake the required inspections to satisfy the requirements of the Strata Schemes Development Regulation 2016 to determine the Strata Certificate.
 - (c) Strata Plans, Administration Sheets, 88B Instruments and copies must not be folded.
 - (d) All Strata Plans, Strata Plan Administration Sheets and 88B Instruments shall be submitted to Council enclosed in a protective cardboard tube (to prevent damage during transfer).
152. **Sydney Water Section 73 Certificates** - The Section 73 Certificate must be a separate certificate that relates specifically to this development consent. For example, if the development consent relates to the subdivision of the land, a Section 73 Certificate for the construction of the building that is subject to a different development consent will not suffice.
153. **Electricity Supply** - This development may need a connection to the Ausgrid network which may require the network to be extended or its capacity augmented. You are advised to contact Ausgrid on 13 13 65 or www.ausgrid.com.au (Business and Commercial Services) for further details and information on lodging your application to connect to the network.
154. **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.
155. **Council as PCA - Total Conformity with BCA - Accompanying Information** - Should the Council be appointed as the Principal Certifier, 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) Mechanical ventilation to bathroom, laundry and basement areas not afforded natural ventilation.

- b) Fire-fighting services and equipment including hydrant systems and booster assembly location, sprinkler and valve room systems, hose reels, portable fire extinguishers, smoke hazard management systems, sound and warning systems.
- c) Emergency lighting and exit signs throughout, including communal open space areas, lobby/foyer and basement areas.
- d) Construction of all fire doors including warning and operational signage to required exit and exit door areas.
- e) Egress travel distances to exits and the discharge from fire isolated exits including the swing of exit doors.
- f) The spandrel protection of openings in external walls
- g) The protection of paths of travel from a fire isolated exit when passing within 6m of an opening within the external wall of the building.
- h) Fire compartmentation and fire wall separation details including all stairway, lift and service shaft areas.
- i) The location and construction of an electricity substation, including the location and smoke separation of electrical distribution boards.
- j) Sound transmission and insulation details.
- k) Window schedule is to include the protection of openable windows.

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

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

156. **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.

157. **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.

158. **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).

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

- (i) Complete the “Stormwater Drainage Application Form” which can be downloaded from Georges River Council’s Website at www.georgesriver.nsw.gov.au
- (ii) In the Application Form, quote the Development Consent number and reference this condition number (e.g. Condition 10)
- (iii) Lodge the application form, together with the associated fees at Council’s Customer Service Centre, during business hours. Refer to Council’s adopted Fees and Charges for the administrative and inspection charges associated with 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 storm water drainage system to be arranged by the applicant. The design plans must be lodged and approved by Council prior to the issue of a Construction Certificate.

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

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

suitably qualified person must be submitted, detailing the measures that must be implemented in the building to comply with Section J of the BCA. The proposed measures and feature of the building that facilitate the efficient use of energy must be identified and detailed on the architectural plans. At completion of the building and before the issue of an Occupation Certificate, a certificate certifying that the building has been erected to comply with the energy efficiency provisions must be submitted to the Principal Certifying Authority.

162. **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.

ATTACHMENTS

- Attachment [↓](#)1 Site Analysis Plan - Issue B - 14-16 George St Mortdale
Attachment [↓](#)2 Elevations - Issue B - 14-16 George St Mortdale

**REPORT TO GEORGES RIVER COUNCIL
LPP MEETING OF THURSDAY, 05 NOVEMBER 2020**

LPP059-20

LPP Report No	LPP059-20	Development Application No	DA2020/0065
Site Address & Ward Locality	591-611 Princes Highway Blakehurst Blakehurst Ward		
Proposed Development	Installation of a digital advertising sign		
Owners	Georges River Council		
Applicant	QMS Media		
Planner/Architect	Planner: Mecone, Drawings: Outdoor Elements Pty Ltd		
Date Of Lodgement	19/02/2020		
Submissions	No submissions		
Cost of Works	\$295,863.00		
Local Planning Panel Criteria	The subject site is Council owned land		
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 Plan No 2 – Georges River Catchment, State Environmental Planning Policy No 55 - Remediation of Land, State Environmental Planning Policy (Infrastructure) 2007, Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment, State Environmental Planning Policy No 64 – Advertising and Signage Kogarah Local Environmental Plan 2012, Draft Georges River Local Environmental Plan 2020, Kogarah Development Control Plan 2013		
List all documents submitted with this report for the Panel's consideration	Statement of Environmental Effects, Signage Plans, Lighting Impact Assessment, Traffic and Road Safety Assessment Report		
Report prepared by	Independent Assessment		

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	Not Applicable

<p>standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?</p>	
<p>Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?</p>	<p>Not Applicable</p>
<p>Conditions Have draft conditions been provided to the applicant for comment?</p>	<p>No, standard conditions have been attached with no design changes</p>

Site Plan



The development site is outlined in blue.

EXECUTIVE SUMMARY

Proposal

1. This development application (DA) seeks consent for the installation of a digital advertising sign within an on-grade car park that is owned by Georges River Council.
2. The signs structural support is located centrally along the northern boundary of the site. The sign is splayed to take visual advantage of the intersection of King Georges Road and Princes Highway. See Figure 1 below.
3. The sign is supported by a single monopole with an overall height of 8.45m. The LED advertising display board has dimensions of 12.44m x 3.29m (40.93sqm). The sign consists of a digital (LED) screen which will display a series of static images on the screen for no less than 10 seconds being the dwell time before changing to a new static image.
4. The site and elevation plan are shown in Figure 1 below.

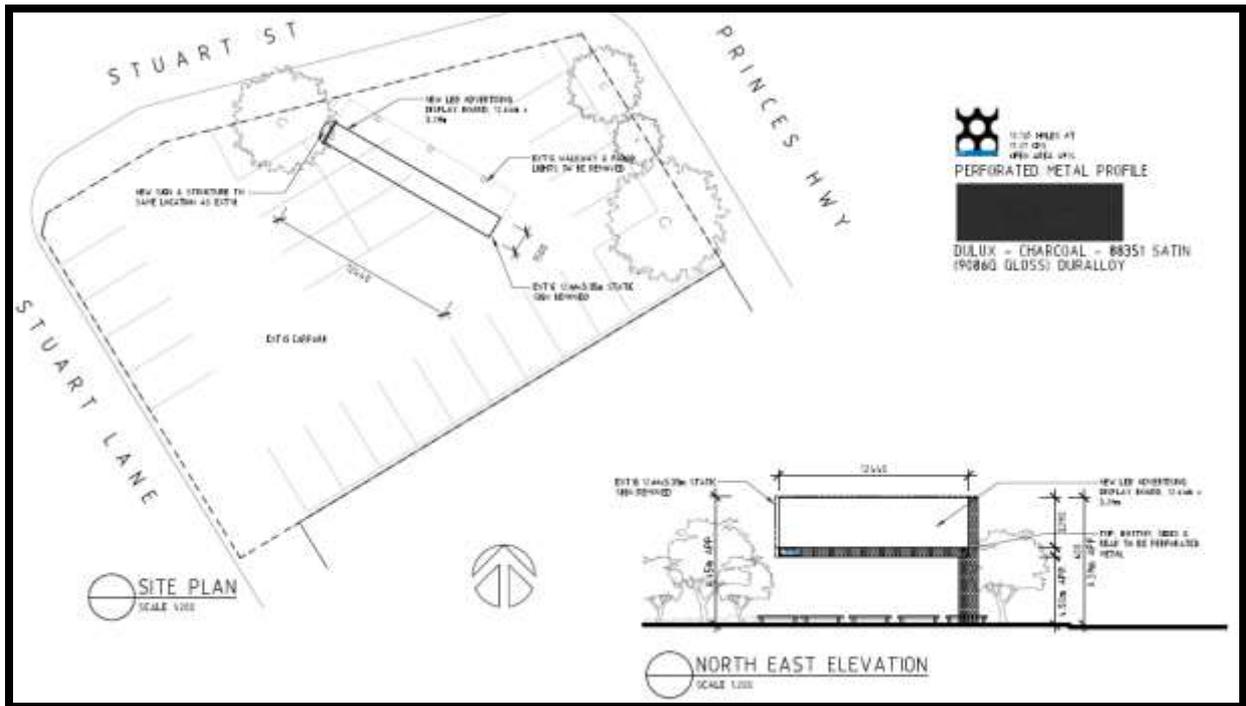


Figure 1: Site and elevation plans

Site and Locality

5. The site consists of Lot 1 and 2 in DP 1108360 and Lot 3 and 4 in DP15830 and is otherwise known as 591-611 Princes Highway, Blakehurst. The site is located on the south western side of the Princes Highway at the intersection of King Georges Road and has three (3) frontages being Princes Highway, Stuart Street and Stuart Lane. The lot is irregular in shape having dimensions of 15.15m to the Princes Highway with 3.905m splay on the corner of Princes Highway and Stuart Street, a depth of 33.785m (north combined), 36.575m (south), splay corner of 2.16m on Stuart Street and Stuart Lane, and boundary of 24.38m to Stuart Lane and a site of 824sqm.
6. The corner is subject to road widening; however this affectation does not impact this allotment.
7. The site is owned by Georges River Council and utilised as a car park, providing at grade parking accessed from Stuart Lane. No built form is present on site with limited vegetation concentrated to the Princes Highway frontage.
8. Surrounding development consists of a restaurant to the north on the opposite side of Stuart Street. Crystal Car Wash (including a digital sign) exists diagonally opposite the site on the corner of Princes Highway and King Georges Road. Todd Park is located on the opposing side of the Princes Highway to the north and east. Commercial development adjoins the southern boundary with detached dwelling houses to the west fronting Stuart Street.

Zoning and Permissibility

9. The subject site is zoned B2 Local Centre under the provisions of Kogarah Local Environmental Plan 2012 (KLEP 2012). The proposal involves the installation of a digital advertising sign which is not listed as a prohibited use in the zone. As a result the development is permissible with consent.

Submissions

10. The DA was publicly notified to neighbours between 16 March and 30 March 2020 in accordance with the Kogarah DCP 2013. No submissions were received.

Reason for Referral to the Local Planning Panel

11. This application is referred to the Georges River Local Planning Panel for determination as the subject site is owned by Georges River Council.

Conclusion

12. The application has been assessed having regard to Section 4.15(1) of the Environmental Planning & Assessment Act 1979, and provisions of State Environmental Planning Policy No. 64 - Advertising and Signage (SEPP64), Kogarah Local Environmental Plan 2012 (KLEP) and Kogarah Development Control Plan 2013 (KDCP).
13. The proposal on its merits and is considered to be acceptable for the reasons outlined within this report. The proposal is reasonable given that the objectives of the controls have been reasonably satisfied.
14. Following detailed assessment contained within this report, it is considered that DA2020/0065 should be approved subject to conditions of consent.

REPORT IN FULL**Description of the Proposal**

15. This development application (DA) seeks consent for the installation of a digital advertising sign within an on-grade car park that is owned by Georges River Council.
16. The signs structural support is located centrally along the northern boundary of the site. The sign is splayed to take visual advantage of the intersection of King Georges Road and Princes Highway. See figure 1 above.
17. The sign is supported by a single monopole with an overall height of 8.45m. The LED advertising display board has dimensions of 12.44m x 3.29m (40.93sqm). The sign consists of a digital (LED) screen which will display a series of static images on the screen for no less than 10 seconds being the dwell time before changing to a new static image.
18. The site and elevation plan are shown in Figure 1 above.

Description of the Site and Locality

19. The site consists of Lot 1 and 2 in DP 1108360 and Lot 3 and 4 in DP15830 and is otherwise known as 591-611 Princes Highway, Blakehurst. The site is located on the south western side of the Princes Highway at the intersection of King Georges Road and has three (3) frontages being Princes Highway, Stuart Street and Stuart Lane. The lot is irregular in shape having dimensions of 15.15m to the Princes Highway with 3.905m splay on the corner of Princes Highway and Stuart Street, a depth of 33.785m (north combined), 36.575m (south), splay corner of 2.16m on Stuart Street and Stuart Lane, and boundary of 24.38m to Stuart Lane and a site of 824sqm.
20. The site is owned by Georges River Council and utilised as a car park, providing at grade parking accessed from Stuart Lane. No built form is present on site with limited vegetation concentrated to the Princes Highway frontage and along Stuart Street.



Figure 2: Subject site as viewed from Stuart Street

21. Surrounding development consists of a restaurant to the north on the opposite side of Stuart Street. Crystal Car Wash (including a digital sign) exists diagonally opposite the site on the corner of Princes Highway and King Georges Road (see Figure 3). Todd Park is located on the opposing side of the Princes Highway to the north and east (see Figure 4). Commercial development adjoins the southern boundary with detached dwelling houses to the west fronting Stuart Street (see Figure 5).



Figure 3: Development to the north east of the site



Figure 4: Todd Park to the east of the site



Figure 5: Stuart Street as viewed to the west

Background

22. On 10 December 2001 the former Kogarah Council approved Development Application 466/01 for the construction of a free-standing advertising sign on the site.
23. The sign was subsequently constructed and operated for several years providing a static display. It is noted that the consent was time limited in accordance with SEPP 64 with the sign removed from the site at the end of 2019. Figure 6 shows a photo of the previous sign.



Figure 6: The previous sign on the site (now removed) (Source: GoogleMaps)

24. This application (DA2020/0065) was initially scheduled to be determined by the Georges River Local Planning Panel on 20 August 2020. The application was subsequently withdrawn from consideration due to an administrative error.

State Environmental Planning Policies (SEPPs)

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

SEPP Title	Complies
State Environmental Planning Policy (Infrastructure) 2007	Yes
State Environmental Planning Policy No. 64 Advertising and Signage	No
State Environmental Planning Policy No 55 - Remediation of Land	Yes
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017	Yes
Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment	Yes

State Environmental Planning Policy (Infrastructure) 2007

26. The objectives of this clause are:

- (a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and
 - (b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.
- (1) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:
- (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and
 - (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:
 - (i) the design of the vehicular access to the land, or

- (ii) *the emission of smoke or dust from the development, or*
- (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

27. The subject site is located on Princes Highway, which is a classified road (State Road).
28. The installation of the proposed sign is considered to satisfy the objectives as it does not compromise the effective and ongoing operation and function of the road which is a classified road or contribute to traffic noise and vehicle emissions.
29. Vehicular access to the site is not altered and remains via Stuart Lane to the rear. The safety, efficiency and ongoing operation will not be impacted. The development is of a type that is not disruptive to traffic noise or vehicle emissions given its location.
30. Transport for NSW (TfNSW) has raised no objections subject to specific conditions being imposed should the application be supported.

State Environmental Planning Policy (Infrastructure) 2007

(1) *The objectives of this clause are:*

- (a) *to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
- (b) *to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*

(2) *The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:*

- (a) *where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
- (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) *the design of the vehicular access to the land, or*
 - (ii) *the emission of smoke or dust from the development, or*
 - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

31. Comment: The installation of the proposed sign upon a site adjacent to the Princes Highway is considered to satisfy the objectives as it does not compromise the effective and ongoing operation and function of the road which is classified or contribute to traffic noise and vehicle emissions.
32. Vehicular access to the site is not altered and remains via Stuart Lane to the rear. Noting the provided reporting and recommended conditions on the safety, efficiency and ongoing operation will not be impacted. The development is of a type that is not

disruptive to traffic noise or vehicle emissions, and is appropriately located and designed and therefore considered satisfactory.

33. TfNSW has raised no objections subject to specific conditions being imposed.

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

34. The Vegetation SEPP regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.
35. 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).
36. 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 the Georges River Council area.
37. 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).
38. No vegetation or trees will require removal as part of this proposal. With respect to existing vegetation Council's Tree Officer has provided conditions to ensure retention and protection during construction activities on site.

State Environmental Planning Policy No. 64 - Advertising and Signage (SEPP 64)

39. SEPP 64 applies to the state and commenced on 16 March 2001. The policy aims to ensure that signage is compatible with the desired amenity and visual character of an area. The SEPP applies to the whole State and particularly as per clause 6, to all signage that:
- (a) *can be displayed with or without development consent under another environmental planning instrument that applies to the signage, and*
 - (b) *is visible from any public place or public reserve.*
40. Clause 3 - Aims, objectives etc. of SEPP 64 are as follows:
- (a) *to ensure that signage (including advertising):*
 - (i) *is compatible with desired amenity and visual character of an area, and*
 - (ii) *provides effective communication in suitable locations, and*
 - (iii) *is of high-quality design and finish, and*
 - (b) *to regulate signage (but not content) under Part 4 of the Act, and*
 - (c) *to provide time-limited consents for the display of certain advertisements, and*
 - (d) *to regulate the display of advertisements in transport corridors, and*
 - (e) *to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.*

41. Noting similarity of the proposed sign to that previously located on site it is considered compatible with the desired amenity and visual character. The site is located on a prominent intersection with signage facilitating effective communication, being suitably separated from residential properties and being of a high-quality design.
42. A condition is recommended with respect to a 15-year time limitation with a public benefit derived by way of revenue generated from the sign being located upon, over and within a Council owned site. The Applicant has also suggested that the sign could be used from time to time for the purposes of promoting community programs, public safety announcements and other public purposes including use by Georges River Council.

Part 3 Advertisements

43. **Clause 13 - Matters for consideration**

- (1) *A consent authority (other than in a case to which subclause (2) applies) must not grant consent to an application to display an advertisement to which this Policy applies unless the advertisement or the advertising structure, as the case requires:*
- (a) *is consistent with objectives of this Policy as set out in clause 3(1)(a), and*
 - (b) *has been assessed by the consent authority in accordance with the assessment criteria in Schedule 1 and the consent authority is satisfied that the proposal is acceptable in terms of its impacts, and*
 - (c) *satisfies any other relevant requirements of this Policy.*
- (2) *If the Minister for Planning is the consent authority or clause 18 or 24 applies to the case, the consent authority must not grant consent to an application to display an advertisement to which this Policy applies unless the advertisement or the advertising structure, as the case requires:*
- (a) *is consistent with objectives of this Policy as set out in clause 3(1)(a), and*
 - (b) *has been assessed by the consent authority in accordance with the assessment criteria in Schedule 1 and in the Guidelines and the consent authority is satisfied that the proposal is acceptable in terms of:*
 - (i) *design, and*
 - (ii) *road safety, and*
 - (iii) *the public benefits to be provided in connection with the display of the advertisement, and*
 - (c) *satisfies any other relevant requirements of this Policy.*
- (3) *In addition, if clause 18 or 24 applies to the case, the consent authority must not grant consent unless arrangements that are consistent with the Guidelines have been entered into for the provision of the public benefits to be provided in connection with the display of the advertisement.*

44. The sign is consistent with the objectives as outlined and the assessment criteria contained in Schedule 1 and other requirements.
45. The Traffic and Road Safety Report prepared by Traffic and Safety Solutions submitted with the application concluded that the sign complied with the road safety criteria specified in the Department of Planning and Environments 'Transport Corridor Outdoor Advertising and Signage Guidelines 2017'. Transport for NSW also reviewed the proposed development and provided concurrence and conditions.
46. Clause 18 does apply to the proposed development. The sign is located on public land and will be subject to a lease agreement and thus raise revenue, although the Applicant has also suggested that the sign could be used from time to time for the purposes of

promoting community programs, public safety announcements and other public purposes including for the use by Georges River Council.

47. **Clause 14 - Duration of consents**

(1) *A consent granted under this Part ceases to be in force:*

- (a) *on the expiration of 15 years after the date on which the consent becomes effective and operates in accordance with section 83 of the Act, or*
- (b) *if a lesser period is specified by the consent authority, on the expiration of the lesser period.*

48. Any consent granted will be limited to a maximum period of 15 years. A condition to this effect is included within the recommendation of this report.

49. **Clause 17 - Advertisements with display area greater than 20 square metres or higher than 8 metres above ground**

(1) *This clause applies to an advertisement:*

- (a) *that has a display area greater than 20 square metres, or*
- (b) *that is higher than 8 metres above the ground.*

(2) *The display of an advertisement to which this clause applies is advertised development for the purposes of the Act.*

(3) *The consent authority must not grant consent to an application to display an advertisement to which this clause applies unless:*

- (a) *the applicant has provided the consent authority with an impact statement that addresses the assessment criteria in Schedule 1 and the consent authority is satisfied that the proposal is acceptable in terms of its impacts, and*
- (b) *the application has been advertised in accordance with section 79A of the Act, and*
- (c) *the consent authority gave a copy of the application to RMS at the same time as the application was advertised in accordance with section 79A of the Act if the application is an application for the display of an advertisement to which clause 18 applies.*

50. This clause applies noting that the display area and height and size of the sign exceed 20sqm in area and is greater than 8m in height. In this regard the applicant has provided an impact statement that addresses assessment criteria within Schedule 1 with the proposal deemed to have minimal impact.

51. The application was advertised from 16 March 2020 and 30 March 2020 and referred to RMS (now Transport for NSW), with no objections raised subject to conditions being imposed on any consent.

52. **Clause 18 - Advertisements greater than 20 square metres and within 250 metres of, and visible from, a classified road**

(1) *This clause applies to the display of an advertisement to which clause 17 applies that is within 250 metres of a classified road any part of which is visible from the classified road.*

(2) *The consent authority must not grant development consent to the display of an advertisement to which this clause applies without the concurrence of RMS.*

(3) *In deciding whether or not concurrence should be granted, RMS must take into consideration:*

- (a) *the impact of the display of the advertisement on traffic safety, and*
- (b) *the Guidelines.*

- (4) *If RMS has not informed the consent authority within 21 days after the copy of the application is given to it under clause 17 (3) (c) (ii) that it has granted, or has declined to grant, its concurrence, RMS is taken to have granted its concurrence.*
- (5) *Nothing in this clause affects clause 16.*
- (6) *This clause does not apply when the Minister for Planning is the consent authority.*

53. This clause applies as the sign is located within 250m of the Princes Highway which is a classified road. The application was referred to RMS (now Transport for NSW) for concurrence. No objections were raised subject to relevant requirements being imposed via a condition on any consent.

54. **Clause 20 - Location of certain names and logos**

- (1) *The name or logo of the person who owns or leases an advertisement or advertising structure may appear only within the advertising display area.*
- (2) *If the advertising display area has no border or surrounds, any such name or logo is to be located:*
 - (a) *within the advertisement, or*
 - (b) *within a strip below the advertisement that extends for the full width of the advertisement.*
- (3) *The area of any such name or logo must not be greater than 0.25 square metres.*
- (4) *The area of any such strip is to be included in calculating the size of the advertising display area.*

55. A condition of consent is recommended in order to ensure compliance.

56. **Clause 23 - Freestanding advertisements**

- (1) *The consent authority may grant consent to the display of a freestanding advertisement only if the advertising structure on which the advertisement is displayed does not protrude above the dominant skyline, including any buildings, structures or tree canopies, when viewed from ground level within a visual catchment of 1 kilometre.*
- (2) *This clause does not prevent the consent authority, in the case of a freestanding advertisement on land within a rural or non-urban zone, from granting consent to the display of the advertisement under clause 15.*

57. Development within the visual catchment comprises of Todd Park to the east and generally of single and two storey-built form with a recently constructed six (6) storey shop top housing development to the south. The sign is generally acceptable though the additional height (440mm) from that previously approved increases its prominence particularly given modest single and two storey-built form that directly adjoins, thus a condition requiring a height reduction to 8m is recommended.

58. Assessment criteria outlined in Schedule 1 of SEPP 64 is addressed below.

Requirement	Complies
1 Character of the area	
<ul style="list-style-type: none"> • Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located? 	<p>Yes - The proposal is considered compatible with the character of the area noting that the form of the sign will be consistent with that which previously existed.</p>

<ul style="list-style-type: none"> • Is the proposal consistent with a particular theme for outdoor advertising in the area or locality? 	<p>Yes - There is no particular theme for outdoor advertising.</p>
<p>2 Special areas</p>	
<ul style="list-style-type: none"> • 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? 	<p>No - The proposal is not considered to impact on amenity or visual quality of any of the stated areas, noting the location of the site upon a busy intersection which in turn provides suitable separation from sites opposing the display.</p>
<p>3 Views and vistas</p>	
<ul style="list-style-type: none"> • Does the proposal obscure or compromise important views? • Does the proposal dominate the skyline and reduce the quality of vistas? • Does the proposal respect the viewing rights of other advertisers? 	<p>No - Noting context.</p> <p>No - The sign will not dominate the skyline or impact vistas.</p> <p>Yes - Noting the context of site and positioning of the signage within.</p>
<p>4 Streetscape, setting or landscape</p>	
<ul style="list-style-type: none"> • Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape? • Does the proposal contribute to the visual interest of the streetscape, setting or landscape? • Does the proposal reduce clutter by rationalising and simplifying existing advertising? • Does the proposal screen unsightliness? • Does the proposal protrude above buildings, structures or tree canopies in the area or locality? • Does the proposal require ongoing vegetation management? 	<p>Yes - Sign as conditioned is considered to be appropriate.</p> <p>Yes - Sign provides an additional element within the streetscape.</p> <p>No - Previous sign has been removed.</p> <p>No</p> <p>No - Sign height as conditioned (8m) is considered consistent.</p> <p>No</p>
<p>5 Site and building</p>	
<ul style="list-style-type: none"> • 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? • Does the proposal respect important features of the site or building, or both? • Does the proposal show innovation and imagination in its relationship to the site or building, 	<p>Yes – This sign is similar to that recently removed noting also that the site is otherwise utilised as a car park and provides no other built form.</p> <p>Yes - Site contains no important features or built form.</p> <p>Yes - Design is simplified from that which existed on site and</p>

or both?	provides for the desired legibility.
6 Associated devices and logos with advertisements and advertising structures	
<ul style="list-style-type: none"> 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? 	No - Elements not proposed.
7 Illumination	
<ul style="list-style-type: none"> Would illumination result in unacceptable glare? Would illumination affect safety for pedestrians, vehicles or aircraft? Would illumination detract from the amenity of any residence or other form of accommodation? Can the intensity of the illumination be adjusted, if necessary? Is the illumination subject to a curfew? 	<p>No - Lighting Impact Assessment accompanied the application and concluded that the proposal complied with applicable criteria, guidelines, and standards.</p> <p>Sign is oriented away from the residential properties which it immediately adjoins. Several conditions are recommended with respect to illumination. As compliance with this is conditioned, no curfew has been imposed.</p>
8 Safety	
<ul style="list-style-type: none"> Would the proposal reduce the safety for any public road? Would the proposal reduce the safety for pedestrians or bicyclists? Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas? 	<p>No - A Traffic and Road Safety Report accompanied the application and concluded that the sign complied with the road safety criteria specified in the Department of Planning and Environments '<i>Transport Corridor Outdoor Advertising and Signage Guidelines 2017</i>'.</p> <p>Transport for NSW reviewed the proposal and raised no objection, subject to conditions.</p>

Transport Corridor Outdoor Advertising and Signage Guidelines 2017

59. SEPP 64 requires signage to be considered in accordance with the guidelines contained within the Transport Corridor Outdoor Advertising and Signage Guidelines 2017. An assessment against the guidelines is provided in the following table.
60. Section 1 - Outlines the main provisions of SEPP 64 and how they relate to these guidelines including the land use compatibility criteria.

Table 1: Land Use Compatibility Criteria - Transport Corridor Advertising	
i. Outdoor advertising should not be inconsistent with the land use objectives outlined in the relevant environmental plan.	The development is not considered inconsistent with the objectives.
ii. Advertisements must not be placed on	The proposal will result in no significant

<p>land where signage is visible from the following areas if it is likely to significantly impact on amenity of those areas.</p> <ul style="list-style-type: none"> • Environmentally sensitive area • Heritage area • Natural or conservation area • Open space • Waterway • Residential area • Scenic protection area • National park or nature reserve 	<p>impact upon the stated areas. The digital display is oriented away from adjoining residential properties with separation from Todd Park to the east and a compliant level of illumination negating any adverse impacts.</p>
<p>iii Advertising structures should not be located so as to dominate or protrude significantly above the skyline or obscure or compromise significant scenic views or views that add to the character of the area.</p>	<p>Subject to a condition which restricts the overall height of the sign to 8m (consistent with previously sign) it is considered appropriate.</p>
<p>iv. Advertising structures should not be located so as to diminish the heritage values of items or areas of local, regional or state heritage significance</p>	<p>The site is not listed as a heritage item or located within the immediate vicinity of any heritage items or conservation areas.</p>
<p>v. Where possible, advertising structures should be placed in the context of other built structures in preference to non-built areas. Signage should be used to enhance the visual landscape where possible (e.g. through screening of unsightly aspects of landscape).</p>	<p>The proposal is considered acceptable with respect to the context of the site.</p>

61. Section 2 - Provides general assessment criteria for all advertisement proposals under SEPP 64 and design criteria for advertising structures in transport corridors.

2.5 Site-specific and structural criteria	
2.5.1 General Criteria	
<p>(a) The advertising structure should demonstrate design excellence and show innovation in its relationship to the site, building or bridge structure</p>	<p>The proposal is considered to be of a high-quality design and a simplified form to that which previously existed on site.</p>
<p>(b) Compatibility with scale, proportion and other characteristics of the site, building or structure on which signage is to be located.</p>	<p>Subject to a condition which restricts the overall height of the sign to 8m (consistent with the previous sign) it is considered appropriate.</p>
<p>(c) The advertising structure should be in keeping with important features of the site, building or bridge structure.</p>	<p>The site is owned by Council and serves as a car park with no built form.</p>
<p>(d) Avoids the removal of significant trees or other native vegetation.</p>	<p>No trees or significant vegetation removed.</p>
<p>(e) Incorporates landscaping that complements the advertising and is in keeping with the landscape and character of the transport corridor.</p>	<p>No landscaping is proposed.</p>

(f) Any safety devices, platforms, lighting devices or logos designed as an integral part of the signage or structure on which it is to be displayed.	Detailed plans have been provided.
(g) Illumination must comply with the requirements in Section 3.3.3.	A Lighting Impact Assessment prepared by Electrolight Australia that accompanied the application concluded that the luminance levels comply with the requirements of section 3.3.3.
(h) Illumination must not cause light spillage, into nearby residential properties, national parks or nature reserves.	Electrolight Australia concluded that the proposed signage should not cause any reduction in visual amenity to nearby residences or accommodation.
2.5.4 Freestanding advertisements criteria	
<i>Freestanding advertisements must comply with the requirements of SEPP 64 Clause 23 and Clause 19 including:</i>	
(a) The advertising structure must not protrude above the dominant skyline, including any buildings, infrastructure or tree canopies, when viewed from ground level within a visual catchment of 1km. Note: This impact should be measured from the vehicle approach location and any other critical viewpoints.	Subject to a condition which restricts the overall height of the sign to 8m (consistent with the previous sign) it is considered appropriate.
(b) For a freestanding advertisement greater than 45sqm that requires consent from local council, a DCP must be in force that has been prepared on the basis of an advertising design analysis for the relevant area or precinct.	N/A - Advertising area measures 40.93sqm.
(c) Where the sign is in a transport corridor a landscape management plan may be required as part of the DA approval for a freestanding advertisement. This may include requirements to provide appropriate vegetation behind and adjacent to the advertising structure to minimise unintended visual impacts. Landscaping should include trees, shrubs and ground covers to provide adequate screening, softening, colour, soil stabilisation and weed reduction.	Noting the use of the site as a car park and retention of the existing vegetation, a landscape management plan is not required.
2.5.8 Digital Signs Criteria (applies to signs greater than or equal to 20sqm)	
<i>In addition to meeting the relevant SEPP 64 assessment criteria, design, road safety and any public benefit test requirements under the Guidelines, the consent authority must be satisfied that the digital sign meets the following criteria.</i>	
a. Each advertisement must be displayed	A dwell time of 10 seconds is proposed in

<p>in a completely static manner, without any motion, for the approved dwell time as per criterion (d) below.</p>	<p>accordance with criterion (d). Conditions have also been recommended by TfNSW with respect to the displayed images and motion.</p>
<p>b. Message sequencing designed to make a driver anticipate the next message is prohibited across images presented on a single sign and across a series of signs.</p>	<p>Suitable conditions of consent recommended.</p>
<p>c. Image must not be capable of being mistaken:</p> <ul style="list-style-type: none"> i. for a prescribed traffic control device because it has, for example, red, amber or green circles, octagons, crosses or triangles or shapes or patterns that may result in the advertisement being mistaken for a prescribed traffic control device ii. as text providing driving instructions to drivers. 	<p>Suitable conditions of consent recommended.</p>
<p>d. Dwell times for image display must not be less than:</p> <ul style="list-style-type: none"> i. 10 seconds for areas where the speed limit is below 80 km/h ii. 25 seconds for areas where the speed limit is 80km/h and over. 	<p>A dwell time of 10 seconds is proposed and compliant noting 70km/h speed limit.</p>
<p>e. Transition time between messages must be no longer than 0.1 seconds, and in event of image failure, default image must be a black screen.</p>	<p>Transition time no longer than 0.1 seconds with default image a black screen. Suitable conditions of consent recommended.</p>
<p>f. Luminance levels must comply with the requirements in Section 3 below.</p>	<p>As previously outlined Electrolight Australia concluded that the luminance levels comply.</p>
<p>g. The images displayed on the sign must not otherwise unreasonably dazzle or distract drivers without limitation to their colouring or contain flickering or flashing content.</p>	<p>Suitable conditions of consent recommended.</p>
<p>h. The amount of text and information supplied on a sign should be kept to a minimum (e.g. no more than a driver can read at a short glance).</p> <p>Any sign that is within 250m of a classified road and is visible from a school zone must be switched to a fixed display during school zone hours.</p>	<p>Suitable conditions of consent recommended.</p> <p>The proposed sign is visible from a nearby school zone and will be required to comply.</p>
<p>j. Each sign proposal must be assessed on a case-by-case basis including replacement of an existing fixed, scrolling or tri-vision sign with a digital sign, and in the instance of a sign</p>	<p>The proposed digital sign replaces a previous static structure. As detailed in this report the proposed structure is considered acceptable.</p>

<p>being visible from each direction; both directions for each location must be assessed on their own merits.</p>	
<p>k. At any time, including where the speed limit in the area of the sign is changed, if detrimental effect is identified on road safety post installation of a digital sign, RMS reserves the right to re-assess the site using an independent RMS-accredited road safety auditor. Any safety issues identified by the auditor and options for rectifying the issues are to be discussed between RMS and the sign owner and operator.</p>	<p>Noted. Suitable conditions of consent referring to this requirement provided by TfNSW.</p>
<p>l. Sign spacing should limit drivers' view to a single sign at any given time with a distance of no less than 150m between signs in any one corridor. Exemptions for low speed, high pedestrian zones or CBD zones will be assessed by RMS as part of their concurrence role.</p>	<p>There is no other digital advertising sign within the same view within 150m, also noting the presence of a similar structure at 1010 King Georges Road which has a different orientation.</p>
<p>m. Signs greater than or equal to 20sqm must obtain RMS concurrence and must ensure the following minimum vertical clearances;</p> <ul style="list-style-type: none"> i. 2.5m from lowest point of the sign above the road surface if located outside the clear zone ii. 5.5m from lowest point of the sign above the road surface if located within the clear zone (including shoulders and traffic lanes) or the deflection zone of a safety barrier if a safety barrier is installed. 	<p>Sign has an area of 40.93sqm and thus it was referred to Transport for NSW concurrence.</p>
<p>n. An electronic log of a sign's operational activity must be maintained by the operator for the duration of the development consent and be available to the consent authority and/or RMS to allow a review of the sign's activity in case of a complaint.</p>	<p>Suitable conditions of consent recommended.</p>
<p>o. A road safety check which focuses on the effects of the placement and operation of all signs over 20sqm must be carried out in accordance with Part 3 of the RMS Guidelines for Road Safety Audit Practices after a 12 month period of operation but within 18 months of the signs installation. The road safety check must be carried</p>	<p>Suitable conditions of consent referring to this requirement provided by TfNSW.</p>

<p>out by an independent RMS-accredited road safety auditor who did not contribute to the original application documentation. A copy of the report is to be provided to RMS and any safety concerns identified by the auditor relating to the operation or installation of the sign must be rectified by the applicant.</p>	
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- 62. Section 4 - Outlines how proposals for certain outdoor advertisements along railway corridors, classified roads and on bridges must meet a public benefit test to ensure that the advertising will result in a positive gain or benefit for the community
- 63. The level of public benefit for a given SEPP 64 advertisement is to be negotiated and agreed upon between the consent authority and the applicant.
- 64. The public benefit can be provided as a monetary contribution or as an ‘in-kind’ contribution. Both monetary and in-kind contributions must be linked to improvements in local community services and facilities including benefits such as:
 - *improved traffic safety (road, rail, bicycle and pedestrian)*
 - *improved public transport services*
 - *improved public amenity within, or adjacent to, the transport corridor*
 - *support school safety infrastructure and programs*
 - *other appropriate community benefits such as free advertising time to promote a service, tourism in the locality, community information, or emergency messages*
- 65. A public benefit is derived by way of revenue generated from the sign being located upon a Council owned site. The Applicant has also suggested that the sign could be used for the purposes of promoting community programs, public safety announcements and other public purposes including use by Georges River Council. Accordingly, the proposed development is considered to result in a public benefit.

Deemed State Environmental Planning Policy – Georges River Catchment

- 66. Due to the nature of the proposal, stormwater management does not form part of the proposed development as a monopole supports the advertising structure.

State Environmental Planning Policy No 55 - Remediation of Land

- 67. 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.
- 68. 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.
- 69. The proposal is for the installation of a digital sign supported by a monopole, where foundation works are only required to facilitate the footings/structural support of the pole. In this regard, no further assessment is warranted with regard to site contamination.

**DRAFT STATE ENVIRONMENTAL PLANNING POLICIES (SEPPs)
Draft Environment SEPP**

70. 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.
71. 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
72. The proposal is not inconsistent with the provisions of this Draft Instrument.

Draft Remediation of Land SEPP

73. 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.
74. 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.
75. 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. The Draft SEPP will not alter or affect the findings in relation to contamination at the site.
76. The proposal is for the installation of a digital sign supported by a monopole, where foundation works are only required to facilitate the footings/structural support of the pole. In this regard, no further assessment is warranted with regard to site contamination.

LOCAL ENVIRONMENTAL PLAN

77. The site is subject to the Kogarah Local Environmental Plan 2012 (KLEP 2012).

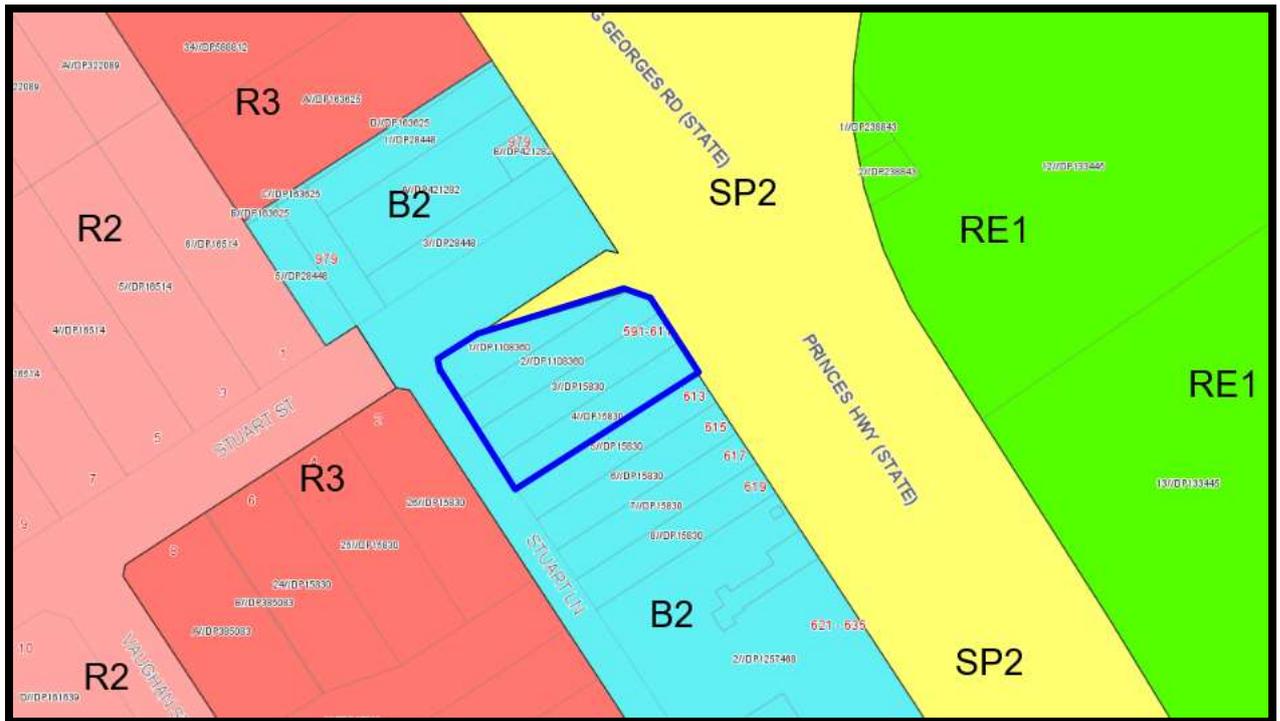


Figure 8: Zoning map with the site outlined in blue

- 78. The site is zoned B2 ‘Local Centre’ under the KLEP 2012. The development is defined as an ‘advertising structure’ is permissible with consent.
- 79. The objectives of the B2 Local Centre zone are as follows:
 - To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
 - To encourage employment opportunities in accessible locations.
 - To maximise public transport patronage and encourage walking and cycling.
- 80. The sign replaces a similar structure that was recently removed from the site and is not considered inconsistent with the stated objectives.
- 81. The extent to which the proposal complies with the relevant standards of Kogarah Local Environmental Plan 2012 (KLEP2012) is outlined in the table below.

Clause	Requirement	Proposed	Complies
4.3 Height of Buildings	21m	Maximum 8.45m	Yes
4.4 Floor Space Ratio	2.5:1	No additional FSR	Yes
6.1 Acid Sulfate Soils	The site is mapped as Class 5 Acid Sulfate Soil	Noting levels of the site and limited excavation for the footings supporting the monopole, the proposed development is considered acceptable, ASS testing is not warranted.	Yes
6.2 Earthworks	Objective of this clause is to ensure that earthworks	Associated earthworks are deemed to be minor	Yes

	for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.	in nature and limited to the structural foundations to support the monopole to which the sign is to be attached.	
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Draft Georges River Local Environmental Plan 2020

82. 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 PLAN

Kogarah Development Control Plan 2013

83. The proposed development is subject to provisions of the Kogarah Development Control Plan 2013 (KDCP 2013). The following comments are made with respect to the proposal satisfying the objectives and controls contained within the DCP.

Control	Complies
Part F1 Advertising and Signage	
1.4 Advertising signs that are prohibited.	
(1) The following types of advertising signs are prohibited in Kogarah local government area: (i) Advertising signs over 45sqm (ii) Advertising signs within navigable waters (except a sign on a vessel that is ancillary to the dominant purpose of the vessel). (iii) Advertising signs on land zoned Residential (but not including a mixed use zone or similar zone), Open Space or Waterways, or in a heritage area, natural or other conservation area or scenic protection area are prohibited, except for advertising signs identified as ‘Exempt Development’ by the Kogarah Local Environmental Plan 2012.	Proposed area is 40.93sqm N/A Site is zoned B2 Local Centre.
(2) The following forms of advertising are not considered appropriate in Kogarah City: (i) Signs with an area greater than 20sqm or higher than 8m above the ground, including billboards; (ii) Signs higher than 8m above the ground; or with a display area greater than 20sqm; and the advertising sign is within 250m of, and any part of the sign is visible from, a	The sign has an area of 40.93sqm and a height of 8.39m - 8.45m. Reference is made to the previous sign approved on the site with the advertising area reduced by 1.45sqm. With respect to the height the sign is increased by up to 440mm. Noting the context and visual catchment,

<p>classified road;</p> <p>(3) Corporate colours, logos and other graphics are acceptable elements of signs only where they achieve a very high degree of compatibility with the architecture, materials, finishes and colours of the building and the streetscape. In many cases, the corporate colours, logo and other graphics will need to be modified to achieve this compatibility</p>	<p>consideration of the Transport Corridor Outdoor Advertising and Signage Guidelines 2017 an 8m height is considered more appropriate and can be reasonably achieved thus a condition is recommended. Further, TfNSW has reviewed the proposal, provided concurrence and conditions.</p> <p>A small associated corporate logo is provided to the sign and considered acceptable.</p>
<p>2.2 General Requirements</p>	
<p><u>Billboard sign</u> Only permissible in Business and Industrial Zones. Note: SEPP 64 should be consulted for additional requirements for the following types of advertising:</p> <ul style="list-style-type: none"> • Sign extends higher than 8m above the ground; • The display area of the sign is greater than 20sqm; • The sign is within 250m of, and any part of the sign is visible from, a classified road, and either of the above applies. <p><u>Illuminated sign</u> Must include suitable screening to avoid nuisance and light spillage to adjoining properties and potential danger to drivers or pedestrians.</p>	<p>Yes - Site located in a B2 Local Centre zone with provisions of SEPP 64 considered.</p> <p>Yes – The lighting Impact Assessment concluded that compliance with the applicable criteria, guidelines, and standards are achieved.</p>
<p>3.1 All Advertising Signs</p>	
<p>(1) Advertising must relate to the use of the premises and products sold on the premises.</p> <p>(2) Signage must be sympathetic to, and integrated with, the architecture and structure of supporting building and not be the dominant visual element on a building.</p> <p>(3) Proposed advertising sign must be compatible with the streetscape, setting or landscape, and not dominating in terms of scale, proportion and form.</p>	<p>N/A - The proposed development relates to an advertising structure for general content noting also that the site is a car park.</p> <p>N/A –The sign is freestanding.</p> <p>Yes – The sign, subject to a condition which slightly reduces height to 8m is considered acceptable and not overly dominant.</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>(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 complete, and using wording and/or numbering that is not larger than English message.</p> <p>(11) Signs must be attractive and professionally sign written.</p> <p>(12) Changes in content or message of advertising sign are allowed without the approval of Council provided that:</p> <ul style="list-style-type: none"> (i) the structure to which the advertising sign is attached has been approved by Council; (ii) the size and dimensions of the sign remain as approved, or are reduced; (iii) there is no change to the intensity of, or hours of illumination; (iv) moving or flashing messages or symbols are not proposed; and (v) the message is not likely to cause distraction to motorists; or (vi) the proposed sign meets exempt development requirements. (vii) The name or logo of the person who owns or leases an advertisement or advertising structure must not be greater than 0.25sqm 	<p>N/A – The sign provides a LED screen.</p> <p>N/A – The sign is freestanding.</p> <p>Yes – Noting the context of the site no adverse view loss is foreseen. With respect to overshadowing the sign is located adjacent to the northern site boundary, setback 9.5m from southern side boundary which provides a commercial use with significant separation provided from the residential dwellings in Stuart Street.</p> <p>N/A – The sign is freestanding.</p> <p>Yes – The Applicant has indicated compliance and conditions recommended.</p> <p>Yes – The signage structure is acceptable with content displayed via the LED display.</p> <p>Yes - Noting the nature of sign which provides digital display content consistently changes. A condition is recommended ensuring ongoing compliance with the stated elements.</p>
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<p>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 have greater dominance over the product or service advertisement.</p> <p>(14) The wording and content of the advertising sign must not:</p> <ul style="list-style-type: none"> (i) offend nearby sensitive land uses (e.g. places of worship, schools, child care centres); (ii) contain undesirable discriminatory advertising messages as specified in the Anti-Discrimination Act 1977; (iii) encourage unlawful purchase or excessive consumption of alcohol; or promote anti-social behaviour. <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>N/A – The sign is an advertising structure/billboard that provides general content.</p> <p>Yes – The Applicant has indicated that future content is expected to meet the requirements.</p> <p>Yes – The sign is considered of high quality.</p> <p>N/A – The sign is contained within the site and readily accessible for maintenance purposes.</p>
<p>3.2 General Commercial Advertising</p>	
<p>The exceptional circumstances where such signs are permissible shall be assessed against the following criteria:</p> <p>(1) Whether the sign directly supports the commercial viability of a significant building tenant or use in or near the building supporting the sign.</p> <p>(2) Whether the sign is advertising a civic / community event involving the Kogarah area.</p> <p>(3) The number of existing signs on the site and in its vicinity, the consistency of those signs with the provisions of this section and whether the cumulative impact contributes to visual clutter.</p> <p>(4) Development consent is required for any colour scheme, lighting scheme or external change to</p>	<p>N/A – The proposed development relates to construction of an advertising structure and not an existing commercial use of the site.</p> <p>Yes - The Applicant has suggested that the sign could be utilised for such a purpose.</p> <p>Yes - The proposed sign is not considered to result in visual clutter and replaces a similar sign recently removed from the site.</p> <p>N/A – The sign is freestanding.</p>

<p>the appearance of a building that constitutes advertising (such as painting of a building to the corporate</p>	
<p>3.4 Traffic and Pedestrian Safety</p>	
<p>(1) Proposed advertising, whether illuminated or not, must not adversely impact safety of pedestrians, cyclists or motorists on any public road</p> <p>(2) Advertising signs must be securely fastened to the structure or building to which they are attached, and must comply with all relevant Australian Standards and Building Code of Australia requirements.</p> <p>(3) Freestanding signboards must be located and designed so that they do not pose any safety risk to pedestrians or motorists.</p> <p>(4) Advertising signs must not be liable to interpretation as an official traffic sign, be confused with instructions given by traffic signals or other devices, or obscure the view of traffic signals, signs or road hazards.</p> <p>(5) Signs facing roads with high traffic volumes, traffic lights or major intersections may be referred to Roads and Maritime Services (RMS) for comment.</p>	<p>Yes – The supporting Traffic and Road Safety Report concluded that the sign complied with road safety criteria of the Department of Planning and Environments ‘<i>Transport Corridor Outdoor Advertising and Signage Guidelines 2017</i>’.</p> <p>N/A - Signage is freestanding.</p> <p>Yes - The sign is contained wholly within the site and not foreseen to result in a safety risk.</p> <p>Yes - Not proposed with a suitable condition of consent recommended by TfNSW.</p> <p>Yes – The application was referred to TfNSW with concurrence and conditions provided.</p>
<p>3.5 Illumination and Electrical Wiring</p>	
<p>(1) Excessive or special illumination schemes expressly designed for the purpose of promoting the business, activity or produce, both on and within sites and buildings, including windows and doorways, are prohibited.</p> <p>(2) Illuminated signs are not to detract from the architecture of supporting building during daylight.</p> <p>(3) Electrical wiring to illuminated signs or spotlights is to be concealed.</p> <p>(4) The ability to adjust the light intensity of illuminated signs is to be installed where Council</p>	<p>N/A – The proposed development relates to an advertising structure with general content and not an associated business or activity.</p> <p>Yes – The sign is freestanding with no existing built form present on site.</p> <p>Yes - All wiring is concealed within structure.</p> <p>Yes - Mechanism to permit adjustment of intensity has</p>

<p>considers necessary.</p> <p>(5) Council may impose a curfew on sign illumination, or restrict illumination to hours of operation for late night trading premises, to preserve local amenity and ensure that the illuminated sign will not unreasonably impact adjoining residential areas.</p> <p>(6) Up lighting of signs is prohibited. Any external lighting of signs is to be downward pointing, focused directly on the sign and is to prevent or minimise the escape of light beyond the sign.</p>	<p>been proposed.</p> <p>Noted - 24-hour operation is sought with the supporting Lighting Impact Assessment concluding that the proposal maintains compliance with more stringent night time luminance thus a curfew is not warranted.</p> <p>Yes – The sign provides for an LED display with no up lighting required or proposed.</p>
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DEVELOPER CONTRIBUTIONS

84. If approved, the proposed development requires payment of developer contributions under Section 7.12 of the Environmental Planning and Assessment Act 1979.

IMPACTS

85. The proposal is not foreseen to have any adverse impact on the natural environment, noting that the site has been previously developed and is within an established local centre. No existing vegetation is to be removed with several conditions recommended to ensure retention and protection during construction.
86. As outlined within this report the proposed sign has been assessed against relevant design criteria contained primarily within SEPP 64, KLEP 2012 and KDCP 2013 with an appropriate level of compliance provided. The sign is located upon a prominent street intersection and by virtue of its dimensions will be highly visible. However, its visibility / display will be primarily towards road users with significant separation provided from sites to the north with existing vegetation within Todd Park to east screening lines of sight. General bulk and scale is considered acceptable with an 8m height limit imposed by condition which maintains a consistent height with the previous sign on site and an appropriate transition to the existing residential dwellings to the west.
87. From an amenity perspective a Lighting Impact Assessment as well as Traffic and Road Safety Report concluded that the sign complied with relevant criteria and the Department of Planning and Environments 'Transport Corridor Outdoor Advertising and Signage Guidelines 2017'.
88. Further, positioning of the sign to the northern component of the site negates any adverse or unreasonable overshadowing towards adjoining residential properties.
89. The proposal is not foreseen to have any adverse social / economic impacts.

Suitability of the site

90. It is considered that the proposed development is suitable for the site as it is not incompatible with the scale, character and amenity of the surrounding development and the locality.

SUBMISSIONS AND THE PUBLIC INTEREST

91. The application was neighbour notified in accordance with Kogarah DCP 2013. No submissions were received.

REFERRALS

Internal Referrals

Environmental Health Officer

92. The application was referred to Council's Environmental Health Officer. No objection was raised subject to the provision of conditions of consent relating primarily to lighting compliance and amenity.

Traffic Engineer

93. The application was referred to Council's Traffic Engineer. No objections were raised noting that the sign is to be installed in the same location as the previous which has been removed and ensures that there is no loss of parking spaces.

Tree Management Officer

94. The application was referred to Council's Tree Management Officer for review. No objection was raised, conditions were recommended if consent is granted to ensure retention and protection of existing trees on site during construction activities.

External Referrals

Transport for NSW (TfNSW)

95. The subject site is located adjacent to the Princes Highway, which is a classified road, and pursuant to Clause 18 of SEPP No. 64 - Advertising and Signage, the application was referred to TfNSW.
96. Concurrence was subsequently provided by TfNSW as well as conditions of consent in correspondence dated 2 April 2020.

Ausgrid

97. Ausgrid reviewed the application and raised no objections and no conditions were recommended.

CONCLUSION

98. The application has been assessed having regard to Section 4.15(1) of the Environmental Planning, Kogarah Local Environmental Plan 2012 and Kogarah Development Control Plan 2013.
99. The proposal on its merits is considered to be acceptable for the reasons outlined within this report. The proposal is reasonable given that the objectives of the controls have been reasonably satisfied.
100. Following detailed assessment contained within this report, it is considered that DA2020/0065 should be approved subject to conditions of consent referenced at the end of this report.

DETERMINATION AND STATEMENT OF REASONS

Statement of Reasons

101. The reasons for this recommendation are:

- The proposal reasonably complies with State Environmental Planning Policy No. 64 – Advertising and Signage standards.

- The size and scale of the proposed digital sign is acceptable on its merits.

Determination

102. That the Georges River Council Local Planning Panel Council as the Consent Authority pursuant to Section 4.16(1)(a) Environmental Planning and Assessment Act 1979, grant consent to Development Application No DA2020/0065 for the installation of a digital advertising sign at 591 - 611 Princes Highway, Blakehurst, subject to the following conditions of consent.

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
Aerial and Photos	Job No. 1822 drawing No. 01	08.11.18	-	Outdoor Elements
Plan and Elevation	Job No. 1822 drawing No. 02	08.11.18	-	Outdoor Elements
Lighting Impact Assessment	1597.19	20.12.19	A	Electrolight Australia
Traffic and Road Safety Assessment Report	-	05.02.20	A	Traffic & Safety Solutions

2. **Duration of Consent** - The duration of this consent is limited to a period of fifteen (15) years in accordance with the provisions of clause 14(1)(A) of SEPP 64. In this regard the sign shall be removed on or before that date or new development consent obtained.

Separate Approvals Required Under Other Legislation

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

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

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

- (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 commencement of works.

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

4. **Road Opening Permit** - A Road Opening Permit must be obtained from Council, 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

5. **Transport for NSW**

- a) All buildings and structures (including signage), together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height or depth), along the Princes Highway boundary.
- b) The proposed luminance levels shall be in accordance with the Transport Corridor Outdoor Advertising and Signage Guidelines 2017 and relevant Australian Standards.
- c) The images displayed on the sign must not contain/use:
 - Flashing or flickering lights or content;
 - Animated displays, moving parts or simulated movement;
 - Complex displays that hold a drivers attention beyond ‘glance appreciation’;
 - Displays resembling traffic control devices by use of colour, shape or words that can be construed as giving instruction to traffic for example, red, amber or green circles, octagons, crosses, triangles and words such as ‘stop’ or ‘halt’;
 - A method of illumination that distracts or dazzles;
 - Dominant use of colours red or green.
- d) The digital sign for its operation must comply with the requirements in Transport Corridor Outdoor Advertising and Signage Guidelines 2017 (refer to Section 2.5.8, Table 3 and Section 3.3) and relevant Australian Standards, as amended from time to time.
- e) A road safety check which focuses on the effects of the placement and operation of the digital signage as it is over 20sqm must be carried out in accordance with Part 3 of the RMS Guidelines for Road Safety Audit Practices after a 12 month period of operation but within 18 months of the sign’s installation. The road safety check must

be carried out by an independent RMS-accredited road safety auditor who did not contribute to the original application documentation.

A copy of the report is to be provided to TfNSW within 4 weeks of the conclusion of the above period and any safety concerns identified by the auditor relating to the operation or installation of the sign must be rectified by the applicant.

- f) Construction and maintenance activities shall be undertaken wholly within the private property of the site. If this is not possible Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on the Princes Highway during installation. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>
- g) All works associated with the proposed sign, including maintenance activities, shall be at no cost to TfNSW

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

Prior to the issue of a Construction Certificate

7. **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 94 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	\$3,750.00
Inspection Fee for Refund of Damage Deposit	\$371.00
DEVELOPMENT CONTRIBUTIONS	

Georges River Council Section 94A Development Contributions Plan 2017	\$2958.63
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General Fees

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

Development Contributions

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

Indexation

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

Timing of Payment

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

Further Information

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

8. **Damage Deposit** - In order to insure against damage to Council property the following is required:
- Pay Council, prior to the commencement of work, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development: **\$3,750.00**
 - Pay Council, prior to the commencement of work a non-refundable inspection fee to enable assessment of any damage and repairs where required: **\$371.00**
 - 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.

9. **Required design changes** - The following changes are required to be made and shown on the Construction Certificate plans:
- Height of the advertising structure is to be reduced and not exceed 8m.
10. **Erosion & Sedimentation Control** - Erosion and sediment controls must be provided to ensure:
- Compliance with the approved Erosion & Sediment Control Plan
 - Removal or disturbance of vegetation and top soil is confined to within 3m of the

- approved building area (no trees to be removed without approval)
- (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.

11. **Structural details** - Engineer's details prepared by a practising Structural Engineer being used to construct all reinforced concrete work, structural beams, columns & other structural members. The details are to be submitted to the Principal Certifying Authority for approval prior to construction of the specified works.

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

12. **Tree Protection and Retention** - Following trees shall be retained and protected:

Tree Species	Location of Tree	Tree Protection Zone (metres) TPZ as per AS4970-2009 Fencing distance from trunk
<i>Eucalyptus robusta</i>	Located adjacent to proposed signage, within car park	3 metres
<i>Callistemon viminalis x 2</i>	Located within south east corner of site/ car park	5 metres

- (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.

Tree Protection Measures

- (a) All trees on Council property, subject site and adjacent sites, to be retained shall be protected before and maintained during site set up, demolition, excavation and construction of the site.
- (b) Although trees may be on adjacent sites, the tree protection fencing must be placed on the nominated distances as per table above, out from the trees trunk, within the subject site to minimise impacts to neighbours trees and kept for the entirety of the project.
- (c) The tree protection measures must be undertaken in accordance AS4970 -2009 Protection of trees on development sites.

- (d) Details of the tree protection measures to be implemented must be provided with the application for a Construction Certificate by a qualified Arborist who holds an AQF Level 5 or above in Arboriculture and who is a current practicing and financial member of an Arboricultural Association or Affiliation.
- (e) The engaged AQF 5 Consulting Project Arborist must be present on-site during the stages of excavation, demolition and construction when works are being undertaken that could impact on the tree canopy or root zone within the tree protection zone of each tree.
- (f) In accordance with AS 4970-2009 *Protection of trees on development sites*, a protective fence consisting of 2.4 x 1.8 metres high, fully supported chainmesh fence shall be used. The distance of the fence from the base of each tree is to be in accordance with the TPZ listed in the table above. A layer of organic mulch 100 millimetres thick shall be placed over the protected area and no soil or fill should be placed within the protection area.
- (g) The Tree Protection Zone of each tree, to be protected, shall be watered thoroughly and regularly to minimise the effects of construction works.
- (h) No building products/ materials or services shall be installed within the TPZ of the tree/s unless approved by Council. This fence shall be kept in place during demolition, construction and also have a sign displaying 'Tree Protection Zone – DO NOT ENTER' attached to the fence and must also include the name and contact details of the Project Arborist.

Excavation works near trees to be retained

- (i) Excavations around the trees to be retained on site or the adjoining properties shall be supervised by the AQF 5 Project Arborist to ensure that the root system will not adversely be affected.
- (j) Where the Tree Protection Zone (TPZ) of trees on site or adjoining sites become compromised by any excavation works, the AQF 5 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.
- (k) Tree Protection Zones around the trees to be retained are not to have soil level changes, building product / materials stored or services installed in this area. Any structures proposed to be built in this area of the trees are to utilise pier and beam or cantilevered slab construction.

Prior to the Commencement of Works

13. **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 Pool Formwork - Before concreting of pool shell, detailing the location of the pool relative to the adjacent boundaries and its height relative to the

datum shown on the approved plans.

- (f) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries.
- (g) 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.

14. **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

15. **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.
16. **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.
17. **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 or otherwise enclosing public road reserve; (refer: work zone application);
- (b) Placing or storing waste containers or skip bins; (refer Application To Place Waste Skip Bin On Roadway)
- (c) Erecting a structure or carrying out work (refer: Temporary Structures Application, Roads Act Application)
- (d) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like; (refer: Road Lane and Footpath Closure Application)
- (e) Pumping concrete from a public road; (refer Road Lane and Footpath Closure Application)
- (f) Pumping water from the site into the public road; (refer: Roads Act application)
- (g) Constructing a vehicular crossing or footpath; (refer: Application for Driveway)

- Crossing & Associated Works)
- (h) Establishing a “works zone”; (refer Works Zone Application)
 - (i) Digging up or disturbing the surface of a public road (e.g. Opening the road for the purpose of utility connections to stormwater kerb outlet connection); (refer: Road Opening Permit Application)
 - (j) If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council’s roadways/footways. (refer: Temporary Structures Application)

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.

18. **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.
19. **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.
20. **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, water mains, gas mains, connecting of stormwater to the kerb and telecommunication. This is for any work that involves excavation through or within a public road, kerb and gutter, and or the public footway between the road and the property boundary. The permit is to be lodged prior to the commencement of works. Additional approval is required from Roads and Maritime Services for works on a State Road.
21. **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

22. **Tree Protection Measures** - A final certificate of compliance letter, once all site 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.

23. **Lighting Compliance** - Prior to the issue of any Occupation Certificate, a report prepared by a suitably qualified lighting consultant must be submitted to the PCA certifying that the construction has incorporated recommendations in the Lighting Impact Assessment prepared by Electolight Australia Pty Ltd and dated 20 December 2019.

Operational Conditions (On-Going)

24. **Outdoor Lighting** - To avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads, outdoor lighting must comply with AS 4282-2019: Control of the obtrusive effects of outdoor lighting.
25. **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.

26. **Amenity of the neighbourhood** - 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, odour, or other harmful or nuisance products.
27. **Electrical wiring** - Electrical wiring to all signs is to be concealed.
28. **Location of names and logos** - Comply with clause 20 of SEPP 64.
29. **Public Benefit** - From time to time and subject to negotiation the sign shall be made available for promoting community programs, public safety announcements and other public purposes.
30. **Content of LED screen sign (Transport for NSW and Council conditions)** - The images displayed on the sign must not contain/use:
- (a) Flashing or flickering lights or content;
 - (b) Animated displays, moving parts or simulated movement;
 - (c) Complex displays that hold a drivers attention beyond 'glance appreciation';
 - (d) Displays resembling traffic control devices by use of colour, shape or words that can be construed as giving instruction to traffic for example, red, amber or green circles, octagons, crosses, triangles and words such as 'stop' or 'halt';
 - (e) A method of illumination that unreasonably distracts or dazzles;
 - (f) Dominant use of colours red or green;

The content of the LED screen sign must comply with the below:

- (g) Dwell times between displays shall be no shorter than 10 seconds;
- (h) Transition time between messages shall be no longer than 0.1 seconds.
- (i) All signage must be displayed in English but may include a translation in another language. Any translated message must be accurate and complete, and using wording and/or numbering that is not larger than the English message;
- (l) Sign is not to have any associated audio speaker and is not permitted to generate any sound;
- (m) Signage must not be liable to interpretation as an official traffic sign or to be confused

with instructions given by traffic signals or other devices;

(n) The wording and content of the advertising sign must not contain undesirable discriminatory advertising messages as specified in the Anti-Discrimination Act 1977.

31. **Illumination intensity of signage** - The LCD sign shall be equipped with a sensor to measure the ambient light levels of the surrounding environment and adjust the sign luminance levels accordingly.

Operational Requirements under the Environmental Planning and Assessment Act 1979

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

33. **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 work is not going to be undertaken by an Owner - Builder, applicant must:

- (c) 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
- (d) notify the PCA of the details of any such appointment; and
- (e) 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.

34. **Notification of Critical Stage Inspections** - 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.

35. **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.

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](#).

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.

37. **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

38. **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.
39. **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 Contractor and any Principal Supervisor.
40. **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.

Advice

41. **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.

42. **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.
43. **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.
44. **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.

45. **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.

46. **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).

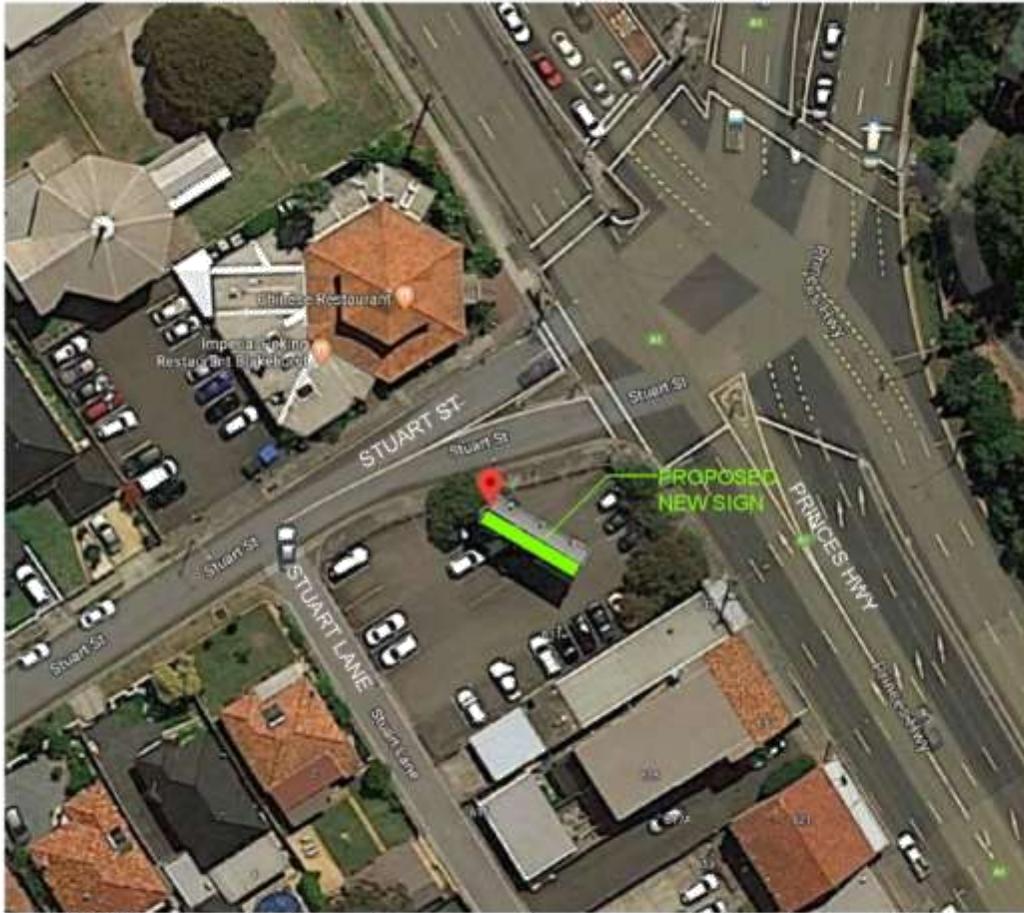
47. **Noise** - Council will generally enforce noise related conditions in accordance with the *Noise Guide for Local Government* (<http://www.environment.nsw.gov.au/noise/nglg.htm>) and the *Industrial Noise Guidelines* (<http://www.environment.nsw.gov.au/noise/industrial.htm>) publish by the Department of Environment and Conservation. Other state government authorities also regulate the [Protection of the Environment Operations Act 1997](#).

Useful links relating to Noise:

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

ATTACHMENTS

Attachment [↓](#) 1 Signage Plans - 591-611 Princes Hwy Blakehurst



 AERIAL PHOTO



 EXISTING PHOTO



 ALTERED PHOTO



REV.	DATE	DESCRIPTION



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