

## AGENDA - LPP

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| <b>Meeting:</b>       | Georges River Local Planning Panel (LPP)   |
| <b>Date:</b>          | Thursday, 19 November 2020   |
| <b>Time:</b>          | 4.00pm   |
| <b>Venue:</b>         | Council Chambers, Civic Centre, Hurstville   |
| <b>Panel Members:</b> | Sue Francis (Chairperson)<br>John Brockhoff (Expert Panel Member)<br>Milan Marecic (Expert Panel Member)<br>George Vardas (Community Representative) |

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### **1. On Site Inspections - 1.00pm –3.30pm**

- a) 32 The Avenue Hurstville
- b) 29A-35 Greenacre Road South Hurstville
- c) 43 Cronulla Street Carlton

### **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**

- LPP060-20      29A-35 Greenacre Road South Hurstville – DA2020/0292**  
(Report by Senior Development Assessment Officer)
- LPP061-20      32 The Avenue Hurstville – DA2020/0165**  
(Report by Senior Development Assessment Officer)
- LPP062-20      43 Cronulla Street Carlton – DA2020/0264**  
(Report by Development Assessment Planner)

**4. Confirmation of Minutes****LPP060-20**

**REPORT TO GEORGES RIVER COUNCIL  
LPP MEETING OF THURSDAY, 19 NOVEMBER 2020**

LPP060-20

|  |  |                                   |                    |
|--|--|-----------------------------------|--------------------|
| <b>LPP Report No</b>   | <b>LPP060-20</b>   | <b>Development Application No</b> | <b>DA2020/0292</b> |
| <b>Site Address &amp; Ward Locality</b>  | 29A-35 Greenacre Road South Hurstville<br>Blakehurst Ward  |                                   |                    |
| <b>Proposed Development</b>  | Provision of an additional one hundred (100) students to an approved educational establishment - no works proposed.  |                                   |                    |
| <b>Owners</b>  | The Trustees of the Roman Catholic Church for the Archdiocese of Sydney  |                                   |                    |
| <b>Applicant</b>   | Robinson Urban Planning  |                                   |                    |
| <b>Planner/Architect</b>   | Robinson Urban Planning  |                                   |                    |
| <b>Date Of Lodgement</b>   | 21/07/2020   |                                   |                    |
| <b>Submissions</b>   | Five (5) submissions received  |                                   |                    |
| <b>Cost of Works</b>   | Nil – no physical works proposed   |                                   |                    |
| <b>Local Planning Panel Criteria</b>   | Council Delegations  |                                   |                    |
| <b>List of all relevant s.4.15 matters (formerly s79C(1)(a))</b>                   | Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation, State Environmental Planning Policy No. 55 Remediation of Land, State Environmental Planning Policy (Child Care and Educational Facilities) 2017, State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy (Vegetation in Non Rural Areas) 2017, Kogarah Local Environmental Plan 2013, Draft Georges River Local Environmental Plan 2020, Draft Environment SEPP, Draft Remediation of Land SEPP, Georges River Interim Policy 2019 |                                   |                    |
| <b>List all documents submitted with this report for the Panel's consideration</b> | Statement of Environmental Effects, Amended Application Response, Additional Traffic Information   |                                   |                    |
| <b>Report prepared by</b>  | Senior Development Assessment Officer  |                                   |                    |

|                       |   |
|-----------------------|---|
| <b>Recommendation</b> | That the application be approved in accordance with the conditions referenced at the end of the report. |
|-----------------------|---|

|  |            |
|--|------------|
| <b>Summary of matters for consideration under Section 4.15</b><br>Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?  | <b>Yes</b> |
| <b>Legislative clauses requiring consent authority satisfaction</b><br>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 | <b>Yes</b> |

|   |   |
|---|---|
| the assessment report?  |   |
| <b>Clause 4.6 Exceptions to development standards</b><br>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? | <b>Not Applicable</b>   |
| <b>Special Infrastructure Contributions</b><br>Does the DA require Special Infrastructure Contributions conditions (under s7.24)?   | <b>Not Applicable</b>   |
| <b>Conditions</b><br>Have draft conditions been provided to the applicant for comment?  | <b>No, standard conditions have been attached. These conditions can be reviewed when the report is published.</b> |

### Site Plan



**Figure 1** – Aerial Photograph of the site and immediate surrounding area (Source: Georges River Council, Intramaps, 2020).

## EXECUTIVE SUMMARY

### Proposal

1. Council is in receipt of a development application request consent for the provision of an additional one hundred (100) students (no works are proposed) to an approved

educational establishment known as Marist Catholic College Penshurst, South Hurstville Campus on land known as 29A – 35 Greenacre Road, South Hurstville.

2. The development application seeks consent to enable an additional one hundred (100) students to occupy the site, no works or additional classrooms are proposed to accommodate the additional students. The school at the time of its construction made provision (classrooms and facilities) for four hundred and eighty (480) students.
3. On 13 March 2018 development consent (DA2017/0216) was granted for the construction and use of a new educational facility at 29A Greenacre Road South Hurstville. At the time the application sought consent for a maximum of 480 students.
4. As part of the assessment of this application, it was identified that in order to accommodate a campus with a capacity of up to 480 students, there was necessity to upgrade of the intersection of King Georges Road and Connells Point Road, South Hurstville. As part of this assessment it was negotiated that three hundred and eighty (380) students could be accommodated without the need to upgrade this intersection. The condition imposed to reflect this cap is referenced below:
  53. *The maximum number of students at any one time is not to exceed 380 to reduce traffic implications on the local network.*
5. Consent was granted for the following works being '*demolition of all existing structures on site and associated site works (except the heritage listed former bowling clubhouse which is to be conserved and adaptively reused) and the construction of a new educational establishment that has become a Junior Campus (Years 7 and 8)*' for Marist Catholic College Penshurst at 65 Victoria Street, Penshurst. For the purposes of this assessment report, a summary the approval included:
  - Provision for up to 380 Year 7 and 8 students (co-ed) and 28 full time equivalent staff.
  - Conservation and adaptive reuse of the former clubhouse building for school administration purposes (Building A).
  - New Buildings B, C and D (ranging in scale from two to three storeys).
  - Twenty five (25) classrooms and one (1) multipurpose hall.
  - Multipurpose courts and other play/recreation areas.
  - Off street car parking for 58 cars, an onsite pick-up/drop-off facility and pedestrian and car entries.
6. On 8 July 2018 MOD2018/0094 granted approval for internal and external changes to the approval referenced above namely DA2017/0216.
7. On 3 October 2019, DA2018/0372 was approved which consented to the enlargement of the site to include 31-35 Greenacre Road, granting consent for the following '*demolition works and change of use from residential to educational establishment including construction of fencing and reallocation of substation*'.
8. This current application (DA2020/0292) was lodged on 7 July 2020, and seeks consent to increase the student numbers by one hundred (100) for a maximum student population of four hundred and eighty (480). In order to accommodate the additional one hundred (100) students and to address the traffic management concerns during the original assessment, the proposal is seeking to transfer Year 7 and 8 students between this site

and the Penshurst campus by bus. The proposal nominates six (6) buses (four (4) private and two (2) TfNSW buses) to facilitate the student transfer.

9. The bus pick up and drop areas to be used are the existing Penshurst-Mortdale Campus bus bays and the car park of the South Hurstville campus. This is detailed in the traffic engineer document provided to Council dated 9 October 2020. There will be no change or impact to the street network or on-street car parking in either campus location.
10. The development application was notified in accordance with the Georges River Council Community Engagement Strategy and the Kogarah Development Control Plan 2013. In response, five (5) submissions were received which raised concerns regarding traffic, pedestrian and vehicular safety. These are considered in detail later in this report.
11. The development application is supported by Transport for New South Wales (TfNSW).
12. The proposal is supported by Council's relevant referral specialists including traffic and health.

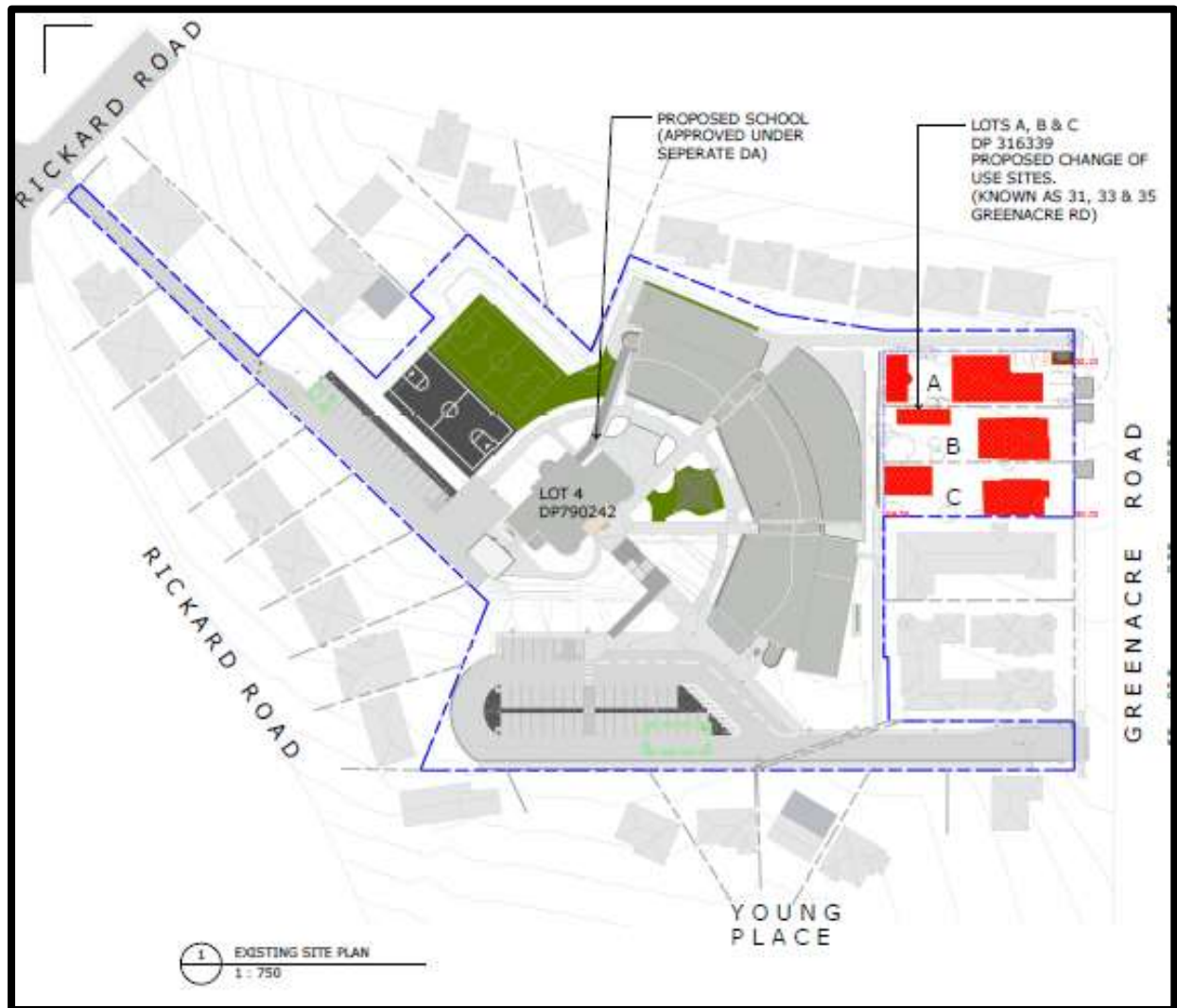
### **Site and Locality**

13. The site is legally described as Lot 40 DP124815 and is known as 29A – 35 Greenacre Road, South Hurstville. The site comprises of 15,260.3sqm, an educational establishment known as Marist Catholic College Penshurst - South Hurstville Campus is currently operating on this site.
14. The immediate surrounding area is R2 Low Density Residential and R3 Medium Density Residential under the Kogarah Local Environmental Plan 2012. Development adjoining the site comprises a mixture of residential development ranging from dwellings to multi dwelling housing of varying architectural styles and designs.





**Figure 2:** Photograph of subject site (29A - 35 Greenacre Road, South Hurstville) in background viewed from Greenacre Road, South Hurstville (Source: GRC, 2020).



**Figure 3:** Extract of previously approved site plan within DA2018/2019 (Source: Munns Sly Moore Architects, 2019).

### Zoning and Permissibility

15. The subject site is zoned part SP2 Educational Establishment and R3 Medium Density Residential. An educational establishment forms a permissible use within the SP2 zone within the Kogarah Local Environmental Plan 2012.
16. A minor eastern portion of the site formerly known as 31-35 Greenacre Road, South Hurstville is zoned R3 Medium Density Residential. This part of the site obtains permissibly through the provisions of Clause 33 of State Environmental Planning Policy (Educational and Childcare Facilities) 2017. This allotment was consolidated with the SP2 land in October 2018.
17. Development consent had been granted for an educational establishment associated with 29A Greenacre Road, South Hurstville via DA2017/0216 and for 31-35 Greenacre Road, South Hurstville via DA2018/2019.



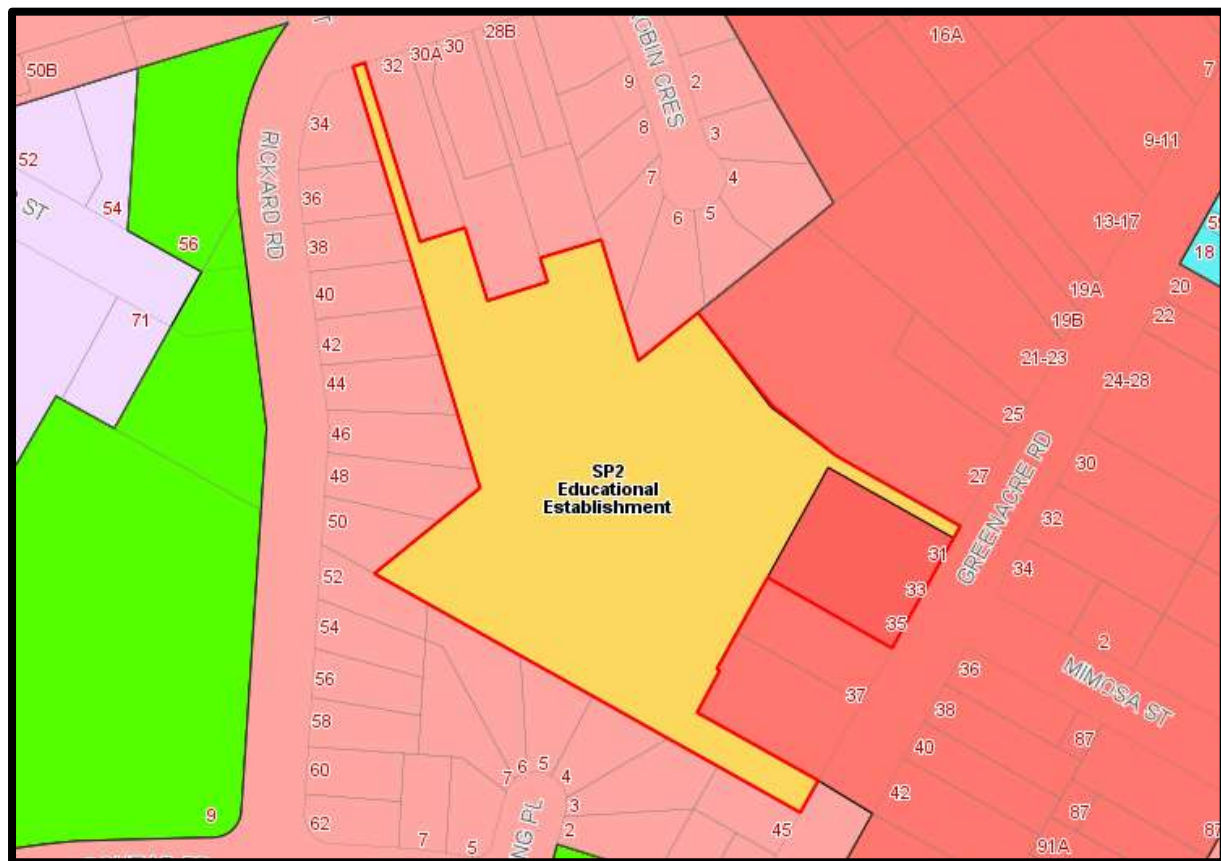


Figure 4: Extract of zoning map with subject site outlined in red (Source: GRC Intramaps, 2020).

LPP060-20

### Submissions

18. The application was notified in accordance with the provisions of the Georges River Community Engagement Plan and the Kogarah Development Control Plan 2013. In response, five (5) submissions were received which raised concerns regarding traffic, pedestrian and vehicular safety.

### Conclusion

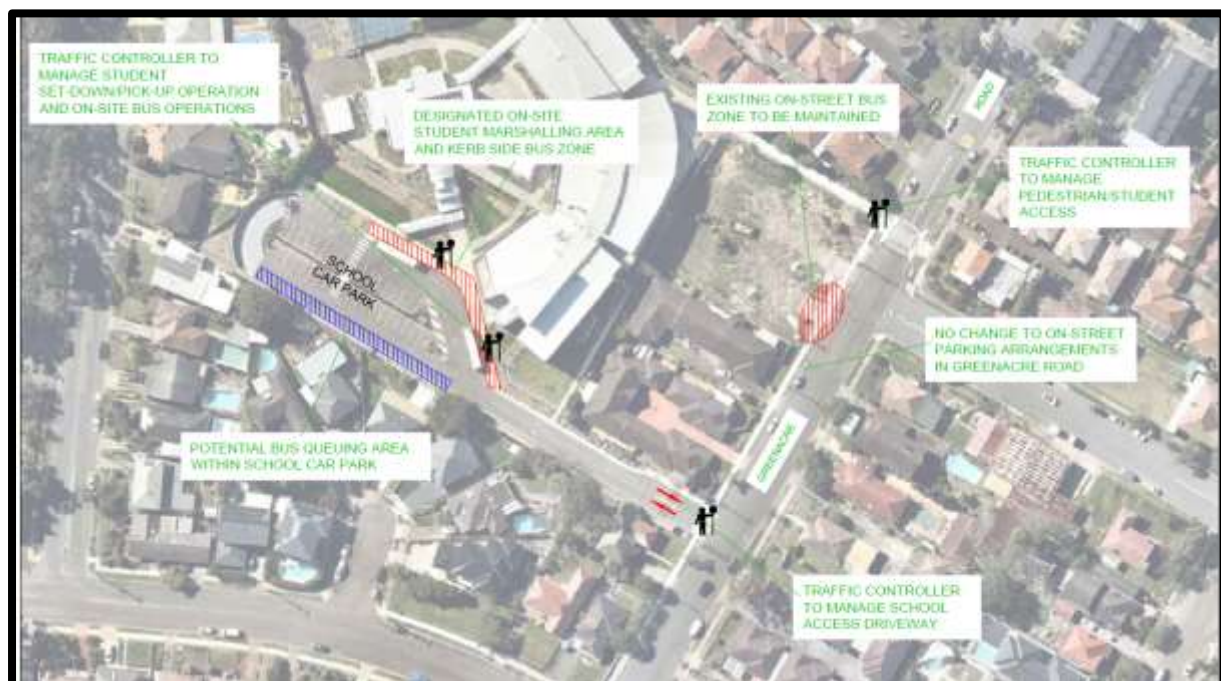
19. Following consideration of the development application, the adequacy of the acoustic measures proposed, there is no change to the approved built form and that the proposal seeks to incorporate a bus service to provide transport between the subject site and the Penshurst campus resulting in there being no changes to the street network or on street car parking, the proposal is suitable on traffic and amenity grounds and accordingly it is recommended that the application be approved subject to conditions of consent referenced at the end of this report.

### REPORT IN FULL

#### Proposal

20. Council is in receipt of a development application request consent for the provision of an additional one hundred (100) students (no works are proposed) to an approved educational establishment known as Marist Catholic College Penshurst, South Hurstville Campus on land known as 29A – 35 Greenacre Road, South Hurstville.
21. The development application seeks consent to enable an additional one hundred (100) students to occupy the site, no works or additional classrooms are proposed to accommodate the additional students. The school at the time of its construction made provision for four hundred and eighty (480) students.

22. On 13 March 2018 Development consent (DA2017/0216) was granted for the construction and use of a new educational facility at 29A Greenacre Road South Hurstville. At the time the application sought consent for a maximum of 480 students.
23. As part of the assessment of this application, it was identified that in order to accommodate a campus with a capacity of up to 480 students, there was necessity to upgrade of the intersection of King Georges Road and Connells Point Road, South Hurstville. As part of this assessment it was negotiated that three hundred and eighty (380) students could be accommodated without the need to upgrade this intersection. The condition imposed to reflect this cap is referenced below:
53. *The maximum number of students at any one time is not to exceed 380 to reduce traffic implications on the local network.*
24. This application was lodged on 7 July 2020, and seeks consent to increase the student numbers by one hundred (100) for a maximum student population of 480. In order to accommodate the additional one hundred (100) students and to address the traffic management concerns during the original assessment, the proposal is seeking to transfer Year 7 and 8 students between this site and the Penshurst campus by bus. The proposal nominates six (6) buses (four (4) private and two (2) TfNSW buses) to facilitate the student transfer.
25. The bus-pick up and drop areas to be used are the existing Penshurst-Mortdale Campus bus bays and the car park of the South Hurstville campus. This is detailed in the additional traffic engineer document provided to Council dated 9 October 2020. There will be no change or impact to the street network or on-street car parking in either campus location.



**Figure 5:** Extract of Management of pick and drop off around the subject site (29A-35 Greenacre Road, South Hurstville) (Source: Colston Budd Rodger and Kafes, 2020).



**Figure 6:** Extract of Management of pick up and drop off around Penshurst Campus at 65 Victoria Street, Penshurst (Source: Colston Budd Rodger and Kafes, 2020).

## Background

26. The following relevant development history relating to the extent of works are detailed as follows;
27. On 13 March 2018 Development consent (DA2017/0216) was granted for the construction and use of a new educational facility at 29A Greenacre Road South Hurstville. At the time the application sought consent for a maximum of four hundred and eighty (480) students.
28. As part of the assessment of this application, it was identified that in order to accommodate a campus with a capacity of up to four hundred and eighty (480) students, there was necessity to upgrade of the intersection of King Georges Road and Connells Point Road, South Hurstville. As a result a negotiated outcome to negate the need to update this intersection, the application was determined with a student cap of three hundred and eighty (380) students. The condition reflect this cap is referenced below:
  53. *The maximum number of students at any one time is not to exceed 380 to reduce traffic implications on the local network.*
29. The consent was granted for the following works being '*demolition of all existing structures on site and associated site works (except the heritage listed former bowling clubhouse which is to be conserved and adaptively reused) and the construction of a new educational establishment that has become a Junior Campus (Years 7 and 8)*' for Marist Catholic College Penshurst at 65 Victoria Street, Penshurst. For the purposes of this assessment report, a summary the approval included:
  - Provision for up to 380 Year 7 and 8 students (co-ed) and 28 full time equivalent staff.
  - Conservation and adaptive reuse of the former clubhouse building for school administration purposes (Building A).



- New Buildings B, C and D (ranging in scale from two to three storeys).
  - Twenty five (25) classrooms and one multipurpose hall.
  - Multipurpose courts and other play/recreation areas.
  - Off street car parking for 58 cars, an onsite pick-up/drop-off facility and pedestrian and car entries.
30. On 8 July 2018 MOD2018/0094 granted approval for internal and external changes to the approval referenced above namely DA2017/0216.
31. This application was lodged on 7 July 2020, and seeks consent to increase the student numbers by one hundred (100) for a maximum student population of four hundred and eighty (480). In order to accommodate the additional one hundred (100) students and to address the traffic management concerns during the original assessment, the proposal is seeking to transfer year 7 and 8 students between this site and the Penshurst campus by bus. The proposal nominates six (6) buses (four (4) private and two (2) TfNSW buses) to facilitate the student transfer.
32. Initially this application sought an extension of a bus bay along Greenacre Road, South Hurstville to facilitate the additional one hundred (100) students. This was not supported
33. The application was notified between 5 August and 19 August 2020 five (5) submissions were received.
34. Council requested additional information regarding traffic management relating to pick-up and drop offs at the South Hurstville and Penshurst Campus's and with respect to whether busses could be accommodated within the South Hurstville site.
35. The applicant provided additional traffic engineering information, which included the following:
- Deletion of the extension of a bus bay along Greenacre Road, South Hurstville. This has resulted in the retention of on street car parking near the school.
  - Provision of all drop off and pick-ups (buses) to be fully contained within the car parking area of the South Hurstville Campus.
  - Private buses are not to be parked in surrounding residential streets but are to be either parked on site or at a bus depot between services.
  - A revised Traffic Management Plan for both the Penshurst and South Hurstville Campus's.

### **Site and Locality**

36. The site is legally described as Lot 40 DP124815 and is known as 29A – 35 Greenacre Road, South Hurstville. The site comprises of 15,260.3sqm, an educational establishment known as Marist Catholic College Penshurst - South Hurstville Campus is currently operating on this site.
37. The immediate surrounding area is R2 Low Density Residential and R3 Medium Density Residential under the Kogarah Local Environmental Plan 2012. Development adjoining the site comprises a mixture of residential development ranging from dwellings to multi dwelling housing of varying architectural styles and designs.

### **Zoning and Permissibility**

38. The majority of the site is zoned SP2 – Educational Establishment pursuant to the Kogarah Local Environmental Plan 2012 (LEP).
39. The remaining part of the subject site is zoned R3 - Medium Density Residential. In accordance with the KLEP 2012, Education Establishments are defined as *“a building or place used for education (including teaching), being:*
  - (a) *a school; or,*
  - (b) *a tertiary institution, including a university or a TAFE establishment, that provides formal education and is constituted by or under an Act.”*
40. The proposed development is a listed prohibited use in the R3 zoning table of the KLEP2012. However, clause 35(1) of the statement Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (Education SEPP2017) states that *“development of the proposed of a school may be carried out by any person with development consent on land in a prescribed zone.”*
41. Clause 33 of the policy defines *“prescribed zone”* which includes R3 zoned land. Therefore, the extension of the school facilities into the R3 zone is permissible via the Education SEPP 2017. The SP2 land and the R3 land were consolidated into one allotment in October 2018.
42. The proposal seeks consent for an additional one hundred (100) students to be accommodated within the approved educational establishment. No physical works are proposed to accommodate these additional students.

### **Submissions**

43. The development application was notified in accordance with the Georges River Council Community Engagement Strategy and the Kogarah Development Control Plan 2013. In response, five (5) submissions were received which raised concerns regarding traffic, pedestrian and vehicular safety. These are considered in detail later in this report.

### **Compliance and Assessment**

44. 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**

45. 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**

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



**STATE ENVIRONMENTAL PLANNING POLICY (CHILDCARE AND EDUCATIONAL FACILITIES) 2017**

47. The proposal has been considered in accordance with the provisions of this SEPP. This application is not seeking any physical works within the South Hurstville Campus as the original consent was designed to accommodate four hundred and eighty (480) students as this was what was initially sought. In order to demonstrate that the accommodation of these additional one hundred (100) students a letter from the applicants Certification Consultant being Anthony Protas Consulting Pty Ltd dated 25 February 2020 detailed the following:

*“In terms of population, there are two (2) BCA governing factors to consider for compliance:*

- 1. BCA Clause D1.6 – Dimensions of exits and paths of travel to exists; and*
- 2. BCA Clause/Table F2.3 – Sanitary facilities in Class 2-9 Buildings*

48. In consideration of these matters the following was advised:

*“the premise contained in access of the minimum required aggregated egress and sanitary facilities to accommodate the proposed 480 student and 60 staff population”.*

49. As a result of there being no necessity for upgrading works and there are no works sought by this application, no assessment is required of the following design Quality Principles of this SEPP, namely:

- Principle 3 – accessible and inclusive;
- Principle 4 – health and safety;
- Principle 5 – amenity;
- Principle 6 – whole of life, flexible and adaptable within Schedule 4 of the SEPP.

50. The proposal was referred to Transport for New South Wales (TfNSW) under Clause 57 of the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017.

51. In response, correspondence was received by Council in correspondence dated 11 August 2020 which states the following:

*“Reference is made to Council’s referral, regarding the abovementioned application which was referred to Transport for NSW (TfNSW) for comment in accordance with Clause 57 of the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017.*

*TfNSW has reviewed the material and advises that the proposed development has a negligible impact to the surrounding classified road network. As such, TfNSW has no further comments and raises no objections to the application”.*

**STATE ENVIRONMENTAL PLANNING POLICY NO 55 – REMEDIATION OF LAND**

52. 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.

53. The educational facility has recently been constructed and all the earth works completed. No contamination was identified. This application is seeking to accommodate an additional one hundred (100) students within the existing buildings and play spaces, no additional physical work is proposed. As such the provisions of this SEPP have been satisfied in this assessment.

## **DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS**

### ***DRAFT GEORGES RIVER LOCAL ENVIRONMENTAL PLAN 2020***

54. Consideration is given to the provisions of Draft Georges River Local Environmental Plan 2020 in the assessment this application.
55. 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.*”
56. It is acknowledged the R3 component of this site is proposed to change to SP2 under the Draft LEP2020.

### ***DRAFT ENVIRONMENTAL SEPP***

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

### ***DRAFT REMEDIATION OF LAND SEPP***

59. 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.*

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

### KOGARAH LOCAL ENVIRONMENTAL PLAN 2012

61. 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 201 (KLEP2012) is outlined in the table below.

#### Part 2 – Permitted or Prohibited Development

62. The proposal seeks development consent to increase student numbers associated with an approved “*educational establishment*” which is a permissible form of development with consent in the SP2 zone. As previously stated, part of the site is a listed prohibited use in the R3 zone table of the KLEP2012. However, clause 35(1) of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (Education SEPP2017) states that “*development of the purposes of a school may be carried out by any person with development consent on land in a prescribed zone, R3 zoned land is referenced as a prescribed zone*”

#### Clause 2.1 – Land Use Zones

63. The subject site is zoned SP2 Educational Establishment within the Kogarah Local Environmental Plan 2012. The proposal is consistent with the objectives of the zone as follows:

- *To provide for infrastructure and related uses*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*

64. Comment: The proposal is considered not to be inconsistent with the objectives of the zone given the nature of the proposal being the increase in student numbers by 100 to an approved educational establishment use.

| Applicable LEP Clause | Standards                         | Proposal  | Complies |
|-----------------------|-----------------------------------|---|----------|
| 1.2 Aims of the Plan  | Aims of the Plan to be satisfied. | Aims reasonably satisfied given the nature of the proposal which seeks an intensification of student numbers by one hundred (100) students to the approved educational establishment. | Yes      |

#### Aims of Plan

65. 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.

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

## DEVELOPMENT CONTROL PLANS

### Kogarah Development Control Plan 2013

67. 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 |
|------------------------------|--|--|----------|
| B4 – Parking and Traffic     | Minimum parking rates – secondary school 2 spaces/classroom, plus 1 space/10 students over 17 years                        | <p>The proposal does not seek any physical works. Fifty-eight (58) car parking spaces were approved as part DA2017/0216 which exceeds the minimum required car parking being fifty (50) spaces to service twenty five (25) classrooms. The accommodation of the additional one hundred (100) students does not necessitate additional classrooms; therefore there is no requirement for additional car parking under this proposal.</p> <p>The educational establishment is to be attended by students of Years 7 and 8 which are under the age of 17 years and therefore unable to drive a vehicle.</p> | Yes      |
| B7– Environmental Management | Ensure waste management plan outlines how reuse and recycling of material are to be maximised and waste disposal minimised | Conditions relating to waste within DA2017/0216 are considered to be sufficient to cater for the additional waste disposal of one hundred (100) students and the facility was originally designed to accommodate four hundred and eighty (480) students.   | Yes      |

**INTERIM POLICY GEORGES RIVER DEVELOPMENT CONTROL PLAN 2019**

68. The proposed development is subject to the provisions of the Interim Policy Georges River DCP 2020. Only the applicable aspects have been assessed with respect to the Interim DCP. All other aspects have been thoroughly assessed under the Kogarah DCP 2013. The aim of an Interim Policy 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.
69. 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.
70. 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 not inconsistent with the interim policy.

**IMPACTS*****Natural Environment***

71. The proposal is unlikely to result in any adverse impacts to the natural environment given that the proposal does not seek any physical works.

***Built Environment***

72. The proposal is unlikely to result in any adverse impacts to the built environment given that the proposal does not seek any physical works. The students can adequately be accommodated in the existing classrooms constructed on site.

***Social Impact***

73. 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 subject to conditions of consent regarding traffic management.

***Economic Impact***

74. The proposal is not considered to result in unreasonable material economic impact given the educational use.

***Suitability of the Site***

75. 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.
76. Educational establishments as a use are not expressly contained within a prescribed subsection (for this use) within the Kogarah Development Control Plan 2013. Despite this, a merit based assessment has been undertaken in relation to the practical and “best fit” planning considerations as per below.

| Consideration | Proposal  | Satisfactory |
|---------------|---|--------------|
| Safety        | The proposal has been considered in relation to | Yes          |



|   |   |     |
|---|---|-----|
|   | vehicular and pedestrian safety designated pick up and drop off areas and also incorporates marshals and traffic controllers.   |     |
| Car parking, manoeuvrability and access | The proposed vehicular access and traffic management has been considered by Council's Traffic Engineers and Transport for NSW and is acceptable.  | Yes |
| Acoustic and visual amenity             | The modification will not result in any unreasonable acoustic impacts. An acoustic report accompanied the development application. This was reviewed and is supported by Council's Environmental Health Officer subject to conditions of consent. | Yes |

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## SUBMISSIONS, REFERRALS AND THE PUBLIC INTEREST

77. The application was notified and renotified to adjoining owners, occupiers for fourteen (14) days. In response, five (5) submissions were received to the proposal. A summary of the key concerns raised within the submissions regarding traffic, pedestrian and vehicular safety. These matters have been considered in further detail below.

Traffic impacts to surrounding area, around the school and additional impact to the intersection of Connells Point Road and King Georges Road.

78. Comment: It is acknowledged that the original assessment of the education facility in 2017 raised concerns with the four hundred and eighty (480) students and the vehicles and busses that would service this campus. At the time of assessment there was a student cap of three hundred and eighty (380) imposed. Following this assessment consideration has been given to how the addition one hundred (100) students could be accommodated within this campus without impacting the traffic network and on street car parking. In this regard, the applicant was advised Council would not entertain any changes to bus bays and any loss of on street car parking to accommodate these additional students, the servicing of the campus would need to be facilitated onsite. The design was altered and the Applicant's Traffic Engineer revised the design to ensure all necessary bus movement could be accommodated wholly within the confines of the South Hurstville Campus. Council's Senior Traffic Engineers and Transport for NSW support the application without the need to upgrade the intersection of Connells Point Road and King Georges Road South Hurstville.

Traffic impact of buses

79. Comment: Concerns were raised regarding traffic impacts on local streets instead of travelling via King Georges Road associated with bus movements. The Applicant's Traffic Engineer has demonstrated that the necessary bus movements can be adequately accommodated within the street network. Council's Traffic Engineers and Transport for NSW are accepting of the proposal.

Pedestrian and safety impacts

80. Comment: The proposal is not considered to result in any unreasonable safety impacts given the proposed additional one hundred (100) students will largely be bussed into and out of the campus where the drop off and pick up bays are internally within the site.

Information contained within traffic report in relation to estimated car usage and traffic generation

81. Comment: Concerns were raised in relation to the calculations regarding the anticipated patronage and traffic generation generated by the additional one hundred (100) students.

The proposals traffic impacts have been considered as part of this assessment. Council's Senior Traffic Engineer has reviewed the submitted information and is satisfied that the proposal does not generate any adverse impacts on the local traffic network subject to conditions in relation to traffic management.

Any future increase in student numbers from school beyond the current application

82. Comment: If the applicant seeks in the future to increase student numbers this would be subject to a separate application and associated assessment.

Suggestions to development application in relation to operation of traffic management

83. Comment: The proposed amendments in relation to traffic management were suggested by numerous objectors of whom reside near the school namely; provide bus depot, further education of carers/parents regarding rules of picking up of students, review of transfer of students by bus outside of peak periods and school buses are to be parked on school grounds when not in use.

84. The amended proposal seeks to use four (4) private buses and two (2) TfNSW buses. The private buses are to be waiting on site when not in use. TfNSW chartered buses are not to wait on residential streets but instead are to wait at the depot until use. Conditions to this effect are imposed as an ongoing use condition of consent.

85. The amended proposal seeks to pick-up and drop-off to be contained within the school grounds with marshals and traffic controllers to minimise disruption to the local traffic network.

Parking of existing buses

86. Comment: Concerns were raised that existing buses used to provide transportation between the campuses would be parked on the street when not in use. A legally registered vehicle may park on a public road however as stated above the amended proposal will result in buses not parked on residential streets.

## **Council Referrals**

### Traffic Engineer

87. The proposal for the additional one hundred (100) students, the resulting traffic management plan and additional information was considered as part of this assessment and is supported by Council's Senior Traffic Engineer subject to conditions of consent.

### Environmental Health Officer

88. The proposal and submitted acoustic report was reviewed by Council's Environmental Health Officer which is considered suitable subject to conditions of consent.

## **External Referrals**

### Transport for New South Wales

89. The application was referred to Transport for New South Wales. In response correspondence was received by Council dated 11 August 2020 which stated the following;

*"Reference is made to Council's referral, regarding the abovementioned application which was referred to Transport for NSW (TfNSW) for comment in accordance with Clause 57 of the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017.*

*TfNSW has reviewed the material and advises that the proposed development has a negligible impact to the surrounding classified road network. As such, TfNSW has no further comments and raises no objections to the application”.*

#### New South Wales Police Force

90. The application was referred to the New South Wales Police Force to comment on the proposal, with a fourteen (14) day time frame in which respond. In response, no comments were received upon finalisation of this assessment report (9 November 2020).

#### **Contributions**

91. Section 7.12 contributions are not applicable to this development application as there is no cost of works.

#### **CONCLUSION**

92. Development consent is sought for an additional one hundred (100) students to be accommodated within the South Hurstville Campus of an approved educational establishment only, on land known as 29A-35 Greenacre Road, South Hurstville. 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 a reasonable planning outcome.
93. 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 is considered to be an appropriate use of the land and is worthy of support subject to appropriate conditions of consent being imposed. The student capacity is capped at four hundred and eighty (480) students as a condition of consent.

#### **DETERMINATION AND STATEMENT OF REASONS**

##### Statement of Reasons

- 94.
- The existing educational establishment forms a permissible use within the SP2 Education Establishment zone within the Kogarah Local Environmental Plan 2012 and the R3 zoned land through the provisions of State Environmental Planning Policy (Educational Establishments and Childcare Facilities) 2017 and adequately satisfies the aims and objectives of these policies.
  - The proposal has demonstrated that additional student numbers can be accommodated within the approved educational establishment.
  - The amended proposal is considered acceptable subject to conditions of consent regarding on going traffic management.

##### Determination

95. 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 DA2020/0292 for an additional one hundred (100) students to an approved educational establishment (total for the site being a maximum of 480 students at any one time) on Lot 40 DP124815 and known as 29A – 33 Greenacre Road, South Hurstville, subject to the following conditions.

#### **Development Details**

1. **Approved Plans** - The development must be implemented in accordance with the

approved plans and supporting documentation listed below which have been endorsed by Council's approved stamp, except where marked up on the plans and/or amended by conditions of this consent:

| Description  | Reference No. | Date             | Revision | Prepared by                           |
|--|---------------|------------------|----------|---------------------------------------|
| Acoustic Report  | 170314        | 06/04/2020       | A        | JHA Services                          |
| Building Code of Australia Report                              | P180193       | 25 February 2020 |          | Anthony Protas Consulting Pty Ltd     |
| Additional Traffic Information (containing Plan of Management) | SK/11429/jj   | 9 October 2020   |          | Colston Budd Rogers and Kafes Pty Ltd |

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### Operational Conditions (Ongoing)

2. **Student capacity** - The student capacity of the educational facility located on 29A-35 Greenacre Road, South Hurstville, is permitted to have a maximum capacity of four hundred and eighty (480) students at any one time. This development consent prevails over student numbers referenced in DA2017/2016 and DA2018/0372 which relate to consents establishing the educational facility on land known as 29A-35 Greenacre Road, South Hurstville.
3. **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).
4. **School's Noise Management Plan** - The School's Noise Management Plan is to be strictly followed at all times and a copy is to be available on site for review as required should Council receive reports of excessive noise.
5. **Traffic Plan of Management** – The proposal must strictly adhere to the requirements contained within the additional traffic information letter (containing the Plan of Management) reference SJ/11429/jj dated 9 October 2020 prepared by Colston Budd Rodgers and Kafes in regards the following:

#### Traffic Management Plan Penshurst-Mortdale Campus and South Hurstville Campus

- (i) The existing bus bay near the school entrance at Greenacre Road, South Hurstville is unchanged.
- (ii) The pick-up and drop off locations, management, staggering of pick up times, marshalling and traffic controllers and bus travel route for the Penshurst-Mortdale Marist Campus and South Hurstville Campus.
- (iii) No buses are to waiting on any surrounding residential streets. Buses are to either be parked on site or at the bus depot when not in use.

### ATTACHMENTS

- Attachment [1](#) Amended Application Response - 29A - 35 Greenacre Road, South Hurstville
- Attachment [2](#) Additional Traffic Information - 29A - 35 Greenacre Road, South Hurstville



9 October 2020

General Manager  
Georges River Council  
PO Box 205  
HURSTVILLE BC NSW 1481

Attention: Mr Mark Raymundo, Senior Development Assessment Planner

Dear Mark

**Re: Response to Request for Additional Information – DA2020/0292: 29A - 35 Greenacre Road, South Hurstville (Marist Catholic College Penshurst - South Hurstville Campus)**

This letter is written on behalf of Sydney Catholic Schools (SCS) (acting on behalf of the Trustees of the Roman Catholic Church for the Archdiocese of Sydney) (the landowner) in relation to Development Application (DA) 2020/0292 which proposes to increase the student population of the Marist Catholic College Penshurst - South Hurstville Campus (the site) from 380 to 480 students for the 2021 school year.

It sets out the applicant's response to issues raised by Georges River Council (Council) in its email dated 11 September 2020. The letter should be read in connection with the following supporting information (submitted under separate cover):

- Traffic Statement by Colston Budd Rogers & Kafes Pty Ltd (CBRK) dated 7 October 2020.

**A. PROPOSED AMENDMENTS AND TRAFFIC OUTCOMES**

Following Council's comments, the DA no longer proposes to extend the bus bay located on the western side of Greenacre Road in front of the site with the existing bus bay length to be retained.

Given that there is no change proposed to the existing on-street bus zone, the proposal will not result in a loss of on-street parking.

To support the proposed increase in students numbers however, an alternative traffic management solution is proposed which will see the majority of Marist Catholic College Penshurst - South Hurstville Campus students dropped off and picked up from the Marist Catholic College Penshurst - Mortdale Campus. Students would then be transferred by private bus to the South Hurstville Campus.

At present, the South Hurstville Campus provides a private bus service for students transferring between the two campuses. This revised proposal will see the following increase in bus services:

**Morning bus services:**

- Existing: 2 (private buses)
- Proposed: 6 (2 TfNSW buses\* and 4 private buses)

**Afternoon bus services:**

- Existing: 2 (private buses)
- Proposed: 6 (2 TfNSW buses\* and 4 private buses)



Response to Request for Additional Information

DA2020/0292 - 29A - 35 Greenacre Road, South Hurstville

9 October 2020

*\* From 2021 TfNSW will be operating additional school bus services (two in the morning and two in the afternoon).*

As noted in the CBRK report, all bus services are able to be accommodated within the South Hurstville Campus and the traffic effects at the Mortdale Campus will be minimal and acceptable.

In support of the proposed traffic and transport management arrangements, CBRK concluded that:

*The surveyed intersections with additional traffic in place will continue to operate with average delays, for the movement with the highest average delay, of less than 15 seconds per vehicle in the morning and afternoon peak periods. This represents level of service A/B, a good level of intersection operation.*

*With regards to the operation of the intersection of King Georges Road and Connells Point Road at South Hurstville, the traffic management plan for the South Hurstville school will limit the number of students being dropped off and pick-up at the school (students that live in the Connells Point area only). As a result, the number of vehicles generated by the school which would travel through the intersection of King Georges Road and Connells Point Road during the morning and afternoon peak periods would reduce compared to the approved development. Therefore, the intersection of King Georges Road and Connells Point Road would operate at an improved level of service during peak periods.*

CBRK has also prepared a Green Travel Plan to reduce reliance on private vehicles along with an Operational Traffic Management Plan to be adopted for both campuses.

Additional information is also outlined below in relation to the critical need for additional student places in the area and the best practice guidelines for consent authorities when considering a school's expansion.

**B. STUDENT POPULATION IN GEORGES RIVER LOCAL GOVERNMENT AREA (LGA)**

In the 16 years to 2036, the number of school aged children in Georges River LGA is forecast to rise by over 4,300. This is a 30% increase in comparison to the 2016 population (as stated within the Georges River Local Strategic Planning Statement (LSPS)). If an average school class contains 24 students, then Georges River LGA will need to find space and resources for approximately 179 additional school classrooms within the coming years, with the non-government sector accounting for one-third of all school places (which equates to 60 classrooms).

The newly established Marist Catholic College Penshurst- South Hurstville Campus was a direct result of this growing population with Marist Catholic College Penshurst - Mortdale Campus reaching its capacity in 2016 necessitating a new junior campus to service the growing number of families in the immediate area.

This proposal seeks a modest 100 additional high school places for Years 7 and 8, which equates to four classes on the newly created campus (accommodated within existing/approved buildings on the site). The proposed increase in student numbers will make a modest contribution to the projected need of additional school places within an existing/approved school, promoting efficient use of infrastructure.

**C. SETTING CAPS ON DEVELOPMENT CONSENTS - BEST PRACTICE FOR CONSENT AUTHORITIES**

Planning Circular PS 17-004 provides advice to consent authorities on the appropriate application of caps on the expansion of schools including the imposition of student and staff caps in conditions of consent. The following best practice guidelines are provided to consent authorities when considering a school's expansion and are relevant to this proposal:

Response to Request for Additional Information

DA2020/0292 - 29A - 35 Greenacre Road, South Hurstville

9 October 2020

- 1) Apply outcome based consent conditions
- 2) Caps should be evidence-based
- 3) Mitigate impacts directly
- 4) Flexibility required for school developments.

In response to Planning Circular PS 17-004, the Traffic Statement by CBRK has demonstrated through its analysis that additional bus services operating between the two campuses will ensure that an acceptable level of service is retained on the surrounding road network.

As such Marist Catholic College Penshurst - South Hurstville Campus is seeking consent for a considered increase in students having demonstrated to Council that it can resolve any potential amenity issues by managing the traffic impacts of the additional students (including additional bus services, adoption of an Operational Traffic Management Plan and a Green Travel Plan).

The proposed increase in student numbers should therefore be supported through suitable conditions of consent.

We trust that Council will consider this additional information in its assessment of the DA.

Yours faithfully



Kyeema Doyle  
Senior Planner

## Colston Budd Rogers & Kafes Pty Ltd

as Trustee for C & B Unit Trust  
ABN 27 623 918 759

Our Ref: SK/11429/jj

9 October, 2020

CEO (SCS)  
c/- Aver  
Level 1, 171 William Street  
DARLINGHURST NSW 2010

Transport Planning  
Traffic Studies  
Parking Studies

Attention: **Geoffrey Quach**  
[GQuach@aver.com.au](mailto:GQuach@aver.com.au)

Dear Sir,

**RE: MARIST CATHOLIC COLLEGE PENSHURST - SOUTH HURSTVILLE**  
**CAMPUS DEVELOPMENT APPLICATION**  
**RESPONSE TO MATTERS RAISED BY COUNCIL**

1. As requested, we are writing regarding matters raised by Georges River Council and received in submissions, in relation to the development application to increase in student numbers at Marist Catholic College – South Hurstville Campus. We previously prepared a report<sup>(1)</sup> which was submitted with the development application.
2. It is proposed to increase the number of students from 380 to 480 students in 2021. In order to mitigate traffic conditions in the vicinity of South Hurstville campus, a traffic management plan is proposed to drop-off and pick-up students at Marist Catholic College Penshurst – Mortdale Campus. Students would then be transferred by bus to the South Hurstville Campus.
3. A limited number of students would be permitted to be dropped off and picked up at the South Hurstville Campus. These students would require prior approval from the school, with all students being dropped off or picked up from the designated on-site student marshalling area adjacent to the school car park. Preference would be given to students that live in the Connells Point area. Parents/carers will be strongly encouraged to have their daughters/sons use the

<sup>(1)</sup> "Traffic Report for Proposed Increased Student Numbers at Marist College, South Hurstville", July 2020, Colston Budd Rogers & Kafes Pty Ltd.

Suite 1801/Tower A, Zenith Centre, 821 Pacific Highway, Chatswood NSW 2067  
P.O. Box 5186 West Chatswood NSW 1515 Tel: (02) 9411 2411 Fax: (02) 9411 2422  
Directors - Geoff Budd - Lindsay Hunt - Stan Kafes - Tim Rogers - Joshua Hollis ACN 002 334 296  
EMAIL: [cbrok@cbrok.com.au](mailto:cbrok@cbrok.com.au)

### Colston Budd Rogers & Kafes Pty Ltd

bus services available and to not drop-off or picked-up their daughters/sons from the surrounding streets of the campus.

4. Council's email dated 11 September 2020 and submissions received by Council included the following traffic and parking matters:
  - i) concern raised with regards to the proposed extension of the on-street bus zone in Greenacre Road. Sight line affected to adjacent residential dwellings;
  - ii) concern raised with regards to the impact on the loss of on-street parking as a result of the proposed extended bus zone;
  - iii) buses currently park for extended periods on surrounding residential streets in the vicinity of the school;
  - iv) proposed bus route between Mortdale campus and South Hurstville campus and the potential increase in buses through the intersection of King Georges Road and Connells Point Road;
  - v) traffic management plan for student set-down/pick-up operation at South Hurstville Campus and Mortdale Campus;
  - vi) traffic effects of the proposed additional traffic at Mortdale campus; and
  - vii) potential measures to reduce traffic generation.
5. Our responses to matters raised by Council are set out below.

#### On-Street Bus Zone

6. In response to points i) and ii), the DA has been modified to remove the proposed extension to the on-street bus zone. The existing on-street bus zone located on the western side of Greenacre Road will be retained in its current form. This bus zone will continue to cater for TfNSW local bus services through the area. TfNSW also operates a school bus service during the morning and afternoon between Lugarno and Hurstville. This service stops at Mortdale campus and South Hurstville campus, via Mortdale railway station. TfNSW will be operating two morning and two afternoon services from the beginning of 2021.
7. With no change to the on-street bus zone in Greenacre Road, there will be no loss of on-street parking.
8. The school currently provides a private bus service for students transferring between the two campuses. Two services operate in the morning and two services operate in the afternoon. In association with the proposed increase in student numbers at the school, the number of bus services will be increased to

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six services (two TfNSW buses and four private buses) in the morning and afternoon.

9. During the afternoon, private buses will pick up students from the designated on-site student marshalling area within the school car park and transfer them to the Mortdale Campus. Buses will access the South Hurstville Campus car park to and from Greenacre Road and circulate around the car park to access the kerbside marshalling area, located on the northern side of the car park. Some six buses can be accommodated within the car park (three buses adjacent to the student marshalling area and three buses within the southern car park circulation aisle).
10. In response to point iii), the school has spoken to the private bus operator with regards to buses parking for extended periods in the vicinity of the school. The bus operator has instructed his/her drivers not to park in the surrounding residential streets and to layover in the school car park or at the bus depot between services.

#### Bus Route

11. In response to point iv), the proposed bus route between the two campuses is shown in Figure 1. This bus route is currently utilised by the school for its existing services during the morning and afternoon periods. The designated bus route utilises existing allocated bus roads between the two campuses.
12. Buses will pick-up and set-down students at the Mortdale Campus at the existing bus zones located either side of Victoria Avenue, adjacent to the school and at other designated bus stops on the route. The picking up and setting down of students at other designated bus stops on the route is to mitigate pressure on the number of students having to access the Mortdale Campus to use the service.
13. With regards to the potential increase in buses services through the intersection of King Georges Road and Connells Point Road, the designated bus route does not pass through this intersection.

#### Traffic Management Plan for South Hurstville School

14. With regards to point v), the traffic management plan for the South Hurstville Campus, as shown on Figure 2, will include the following:



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- ❑ provision of six bus services (two TfNSW buses and four private buses) in the morning and afternoon. The private buses will transfer students between the two campuses. These buses will operate along the existing bus route between the two campuses, as shown on Figure 1. This allows students to be transferred between the two campuses and dropped off at designated bus stops on the route;
- ❑ buses setting down students in the morning will utilise the existing bus zone in Greenacre Road. The arrival of buses will be staggered to ensure only one bus is present at any given time. Buses will not be permitted to park for extended periods within the bus zone;
- ❑ buses picking up students in the afternoon will do so from the designated on-site student marshalling area within the school car park. No buses, other than the TfNSW local route service, will be permitted to pick-up students from the Greenacre Road bus zone;
- ❑ the school will limit the number of students being dropped off or picked up by car at the South Hurstville Campus. Students will be required to obtain prior approval from the school in order to be dropped off or picked up at the campus;
- ❑ parents/carers will be strongly encouraged to not drop-off or pick-up their daughters/sons from the surrounding streets on the campus;
- ❑ continue to manage the set-down and pick-up of students at the South Hurstville campus;
- ❑ student arrivals will be supervised between 8.20am and 8.45am. Student departures (by private vehicle) will be supervised between 3.20pm and 3.40pm;
- ❑ the school will continue to manage the movement of students onto and off school buses;
- ❑ the afternoon student pick-up operation will be coordinated with the proposed bus movements. On school days (except Thursdays) student transfers by bus will commence at 3.00pm and student pick-up by private vehicle will commence at 3.20pm. On Thursdays, student transfers by bus will commence at 2.20pm and student pick-up by private vehicle will commence at 2.40pm. The following pick-up schedule is proposed:

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| Group | Buses   | Time<br>(All School Days Except Thursdays) |
|-------|---------|--|
| 1     | 2 buses | 3.00-3.10pm                                |
| 2     | 2 buses | 3.10-3.20pm                                |

| Group | Buses   | Time<br>(Thursdays) |
|-------|---------|---------------------|
| 1     | 2 buses | 2.20-2.30pm         |
| 2     | 2 buses | 2.30-2.40pm         |

- ❑ buses transferring students will be staggered over a 20 minute period (two buses every 10 minutes).
15. The school will inform parents/carers of the student set-down and pick-up arrangements. The plan will be reviewed quarterly, with the school providing updates and changes to procedures through the school fortnightly newsletters and emails to parents.

#### Traffic Management Plan for Mortdale Campus

16. The traffic management plan for the Mortdale Campus, as shown on Figure 3, will include the following:
- ❑ parents/carers will be strongly encouraged to have their daughters/sons use the bus services available to and from the campus;
  - ❑ continue to manage the set-down and pick-up of students at Mortdale Campus from the kerbside kiss & ride area on the southern side of Victoria Avenue, adjacent to the school;
  - ❑ the school currently staggers the finishing time of students to reduce the number of vehicles present at the school at any given time, and to better manage the student pick-up operation;
  - ❑ student drop-offs at the Mortdale Campus will be supervised between 8.20am and 8.45am;
  - ❑ Mortdale Campus student pick-ups will be supervised between 2.50pm and 3.20pm. South Hurstville Campus pick-ups from the Mortdale Campus will be supervised from 3.20pm. Students with siblings at both campuses will be picked up after 3.20pm;

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- ❑ bus transfers between the two campuses will be managed from the existing bus zones either side of Victoria Avenue (on the southern side adjacent to the school and on the northern side on approach to Ocean Street);
  - ❑ the afternoon student pick-up operation will be coordinated with the proposed bus movements;
  - ❑ student transfers by bus from South Hurstville Campus will commence to arrive after 3.20pm with two bus arrivals every 10 minutes;
  - ❑ no changes are required to kerbside traffic and parking arrangements in Victoria Avenue adjacent to Mortdale Campus.
17. The school will inform parents/carers of the student set-down and pick-up arrangements at the Mortdale Campus. The plan will be reviewed quarterly, with the school providing updates and changes to procedures through the school fortnightly newsletters and emails to parents.

#### Traffic Effects

18. With regards to point vi), the traffic effects on the operation of the following intersections at the Mortdale Campus have been assessed:
- ❑ Victoria Avenue/Penshurst Street;
  - ❑ Victoria Avenue/Ocean Street;
  - ❑ Victoria Avenue/Ocean Lane;
  - ❑ Victoria Avenue Cross Street; and
  - ❑ Victoria Avenue/Morts Road.
19. Existing morning and afternoon peak hour traffic flows are shown on Figures 4 and 5, and summarised in Table 1.
20. Table 1 indicates the following:
- ❑ Penshurst Street and Morts Road traffic flows are some 615 to 720 vehicles per hour two-way during the morning and afternoon peak hours;
  - ❑ Victoria Avenue and Ocean Street traffic flows are some 260 to 570 vehicles per hour two-way during the morning and afternoon peak hours;

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| <b>Table 1: Existing Two-Way (Sum of Both Directions) Peak Hour Traffic Flows</b> |                        |                          |
|---|------------------------|--------------------------|
| <b>Road/Location</b>  | <b>Weekday Morning</b> | <b>Weekday Afternoon</b> |
| Victoria Avenue   |                        |                          |
| - west of Penshurst Street  | 380                    | 330                      |
| - west of Ocean Street  | 570                    | 350                      |
| - west of Cross Street  | 570                    | 420                      |
| - east of Morts Road  | 285                    | 260                      |
| Penshurst Street  |                        |                          |
| - north of Victoria Avenue  | 690                    | 680                      |
| - south of Victoria Avenue  | 670                    | 680                      |
| Ocean Street  |                        |                          |
| - north of Victoria Avenue  | 425                    | 260                      |
| Ocean Lane  |                        |                          |
| - north of Victoria Avenue  | 95                     | 55                       |
| Cross Street  |                        |                          |
| - north of Victoria Avenue  | 160                    | 100                      |
| Morts Road  |                        |                          |
| - north of Victoria Avenue  | 665                    | 685                      |
| - south of Victoria Avenue  | 720                    | 615                      |

- ❑ Cross Street traffic flows are some 100 to 160 vehicles per hour two-way during the morning and afternoon peak hours; and
  - ❑ Ocean Lane traffic flows are some 55 to 95 vehicles per hour two-way during the morning and afternoon peak hours.
21. The surveyed intersection have been analysed using the SIDRA program for the traffic flows shown in Figures 4 and 5.
22. SIDRA simulates the operations of intersections to provide a number of performance measures. The most useful measure provided is average delay per vehicle expressed in seconds per vehicle. Based on average delay per vehicle, SIDRA estimates the following levels of service (LOS):
- ❑ For give way and stop signs, the average delay per vehicle in seconds is selected from the movement with the highest average delay per vehicle, equivalent to following LOS:
    - 0 to 14 = "A" Good
    - 15 to 28 = "B" Acceptable delays and spare capacity
    - 29 to 42 = "C" Satisfactory but accident study required
    - 43 to 56 = "D" Near capacity and accident study required
    - 57 to 70 = "E" At capacity and requires other control mode

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>70 = "F" Unsatisfactory and requires other control mode

23. It should be noted that for roundabouts, give way and stop signs, in some circumstances, simply examining the highest individual average delay can be misleading. The size of the movement with the highest average delay per vehicle should also be taken into account. Thus, for example, an intersection where all movements are operating at a level of service A, except one which is at level of service E, may not necessarily define the intersection level of service as E if that movement is very small. That is, longer delays to a small number of vehicles may not justify upgrading an intersection unless a safety issue was also involved.
24. The analysis found that all of the above intersections, are currently operating with average delays, for the movement with the highest average delay, of less than 15 seconds per vehicle in the morning and afternoon peak periods. This represents level of service A/B, a good level of intersection operation.
25. Some 42% of students travel to school by car in the morning and some 27% of students travel by car in the afternoon. Some 34% of students in Years 7 and 8 (for the year 2021) have siblings at Mortdale Campus and some 8% to 10% of students live in the Connells Point area.
26. With the proposed 480 students, the traffic management plan will be implemented, which will require students to be dropped off/picked up at Mortdale Campus and then transferred by bus to the South Hurstville Campus. The school will limit the number of students being dropped off or picked up at the South Hurstville Campus. Consequently, the additional traffic generation of parents/carers dropping off and picking up students at the Mortdale Campus would be some 240 vehicles per hour two-way during the morning and some 150 vehicles per hour two-way during the afternoon.
27. The additional traffic has been assigned to the road network as shown on Figures 2 and 3, with the results summarised in Table 2.
28. Table 2 indicates the following:
  - traffic flows on Victoria Avenue would increase by some 70 to 120 vehicles per hour two-way during the morning and some 50 to 80 vehicles per hour two-way during the afternoon peak periods;

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| <b>Table 2: Existing Plus Additional Two-Way (Sum of Both Directions) Peak Hour Traffic Flows</b> |  |                         |  |                         |
|---|--|-------------------------|--|-------------------------|
| <b>Road/Location</b>  | <b>Weekday Morning (Vehicles/Hour)</b> |                         | <b>Weekday Afternoon (Vehicles/Hour)</b> |                         |
|   | <b>Existing</b>                        | <b>Plus Development</b> | <b>Existing</b>                          | <b>Plus Development</b> |
| Victoria Avenue   |  |                         |  |                         |
| - west of Penshurst Street  | 380                                    | +70                     | 330                                      | +50                     |
| - west of Ocean Street  | 570                                    | +120                    | 350                                      | +80                     |
| - west of Cross Street  | 570                                    | +100                    | 420                                      | +70                     |
| - east of Morts Road  | 285                                    | +100                    | 260                                      | +70                     |
| Penshurst Street  |  |                         |  |                         |
| - north of Victoria Avenue  | 690                                    | +30                     | 680                                      | +25                     |
| - south of Victoria Avenue  | 670                                    | +40                     | 680                                      | +25                     |
| Ocean Street  |  |                         |  |                         |
| - north of Victoria Avenue  | 425                                    | +50                     | 260                                      | +30                     |
| Ocean Lane  |  |                         |  |                         |
| - north of Victoria Avenue  | 95                                     | -                       | 55                                       | -                       |
| Cross Street  |  |                         |  |                         |
| - north of Victoria Avenue  | 160                                    | +20                     | 100                                      | +10                     |
| Morts Road  |  |                         |  |                         |
| - north of Victoria Avenue  | 665                                    | +50                     | 685                                      | +35                     |
| - south of Victoria Avenue  | 720                                    | +50                     | 615                                      | +35                     |

- ❑ traffic flows on Penshurst Street, Ocean Street and Morts Road would increase by some 30 to 50 vehicles per hour two-way during the morning and some 25 to 35 vehicles per hour two-way during the afternoon peak periods;
  - ❑ traffic flows on Cross Street would increase by some 10 to 20 vehicles per hour two-way during the morning and afternoon peak periods.
29. The surveyed intersections were reanalysed using SIDRA with additional traffic in place. The analysis found that all of the intersections will continue to operate with average delays, for the movement with the highest average delay, of less than 15 seconds per vehicle in the morning and afternoon peak periods. This represents level of service A/B, a good level of intersection operation.
30. With regards to the operation of the intersection of King Georges Road and Connells Point Road at South Hurstville, the traffic management plan for the South Hurstville Campus will limit the number of students being dropped off and pick-up at the school, to some 50 vehicles during the morning and afternoon peak periods. As a result, the number of vehicles generated by the school which would travel through the intersection of King Georges Road and Connells Point Road during the morning and afternoon peak periods would reduce compared to

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the approved development. Therefore, the intersection of King Georges Road and Connells Point Road would operate at an improved level of service during peak periods.

### Green Travel Plan

31. With regards to point vii), the schools will develop a Green Travel Plan (GTP) to encourage students and staff to use travel modes other than private vehicle. The primary purpose of the GTP for the schools is to provide site-specific measures and strategies for managing travel demand regarding sustainable transport, minimising negative transport impacts, maintaining and improving viability of existing public transport services, encouraging active transport and ensuring that students and staff feel safe, secure and well informed about travel to and from the two campuses.

### **Benefits of Green Travel Plan**

32. The provision of a GTP creates a number of social, economic, environmental and health benefits for students and staff at the schools. These include:
  - ❑ promoting the use of sustainable transport modes by increasing awareness of public transport routes and facilities;
  - ❑ reducing the growth in greenhouse gas emissions resulting in significant benefits for the environment as a result of reducing car based travel. The reduction in greenhouse gases will also result in improved health benefits;
  - ❑ encouraging healthier travel options for students and staff, such as walking and cycling;
  - ❑ promoting the use of sustainable transport modes that can provide more affordable means of transport and provide travel cost savings;
  - ❑ promoting the use of sustainable transport modes which will provide alternative travel options for staff and student families that have less access to private vehicles;
  - ❑ convenient transport access and high quality education facilities creating an attractive workplace for staff and a convenient study environment for students;



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- ❑ education facilities with appropriate environmental study programs have the opportunity to teach students about the benefits of sustainable travel modes and the health benefits of non car based travel; and
- ❑ the implementation of a successful GTP can reduce traffic impacts on the surrounding road network by reducing the number of vehicles travelling to and from the school, resulting in improved intersection operations.

#### Objectives of Green Travel Plan

33. The GTP will comprise a package of measures designed to address the specific travel needs of the site. The main objectives of the GTP include:
- ❑ encourage the use of more sustainable travel modes;
  - ❑ reduce the number of car trips to and from the school;
  - ❑ provide facilities for student and staff to commute by sustainable transport modes;
  - ❑ advise all new students and staff of the available public transport options at the school;
  - ❑ reduce the environmental footprint of the school; and
  - ❑ promote the health benefits of active transport and create a more active social culture.

#### Mode Split Targets

34. For educational facilities a mode shift target from private car of up to 5% to other travel modes for students and staff is considered appropriate. This rate has been adopted at other educational facilities. The mode shift target should be specific, measurable and achievable.
35. The school will adopt a mode shift target from private car to other travel modes (for students and staff) of 5%. This mode shift target will be monitored and reviewed. If successful, the mode shift target will be updated to reflect changing circumstances of student and staff travel behaviours.

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36. The mode shift away from private vehicle trips by staff and students would generate lower peak hour traffic flows in the future, resulting in an overall improvement in operation of the surrounding road network and intersections.

#### **Green Travel Plan (GTP)**

37. The GTP to be developed by the school in consultation with council, TfNSW, public transport operators and other stakeholders, will include the following measures and strategies:

- ❑ encourage the use of public transport;
- ❑ work with public transport providers to improve services, including a bus service from South Hurstville Campus to Hurstville railway station;
- ❑ introduce a staff car pool register. This will inform staff of the travel characteristics of other staff members with similar travel destinations. New staff will be advised of the register and encouraged to car pool with other staff;
- ❑ develop an online student and parent platform to encourage students to travel in groups with other students that live in the same area;
- ❑ encourage parents/carers to allow students to travel by public transport to and from the schools;
- ❑ encourage students and parents to use the school online platform or alternative mobile app, such as Skoolbag, to provide easily accessible information about the school activities, including the operation of the student set-down/pick-up area;
- ❑ develop a school transport access guide for staff and visitors; and
- ❑ provide appropriate bicycle parking and end of trip facilities for those students and staff who choose to cycle to the school.

38. In addition to the above measures, Mortdale Campus also staggers the finish times of students, to reduce the number of cars present at the school at any given time during the afternoon pick-up period. Also, the traffic management plan for two campuses will ensure that the afternoon student pick-up operation at Mortdale Campus will be coordinated with the proposed bus movements. Student transfers by bus will commence to arrive at Mortdale Campus after

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3.20pm. This measure provides for the efficient use of the on-street bus zone and the kiss & ride area.

39. The GTP will assist in delivering sustainable transport objectives by considering the means available for reducing dependence solely on cars for travel purposes, encouraging the use of public transport and supporting the efficient and viable operation of public transport services. The initiatives of the GTP and more importantly the success of the GTP should be advertised on noticeboards within the school, newsletters, social media and on the school's transport access guide.

### **Monitoring and Reviewing the GTP**

40. The GTP will be monitored to ensure that the plan is meeting its objectives and having the intended impact on car use and transport choices for students and staff. The GTP will be reviewed annually through student and staff travel mode surveys, and via student, staff and parent consultation. The plan will be updated to reflect changing circumstances and to identify which initiatives are having an impact or need to be modified to ensure appropriate student and staff travel behaviour.
41. The schools will appoint a travel plan coordinator (TPC) to oversee the measures and resultant impacts of the GTP at the schools. New students and staff will be advised of the transport options available and the requirements of the GTP.
42. We trust the above provides the information you require. Finally, if you should have any queries, please do not hesitate to contact us.

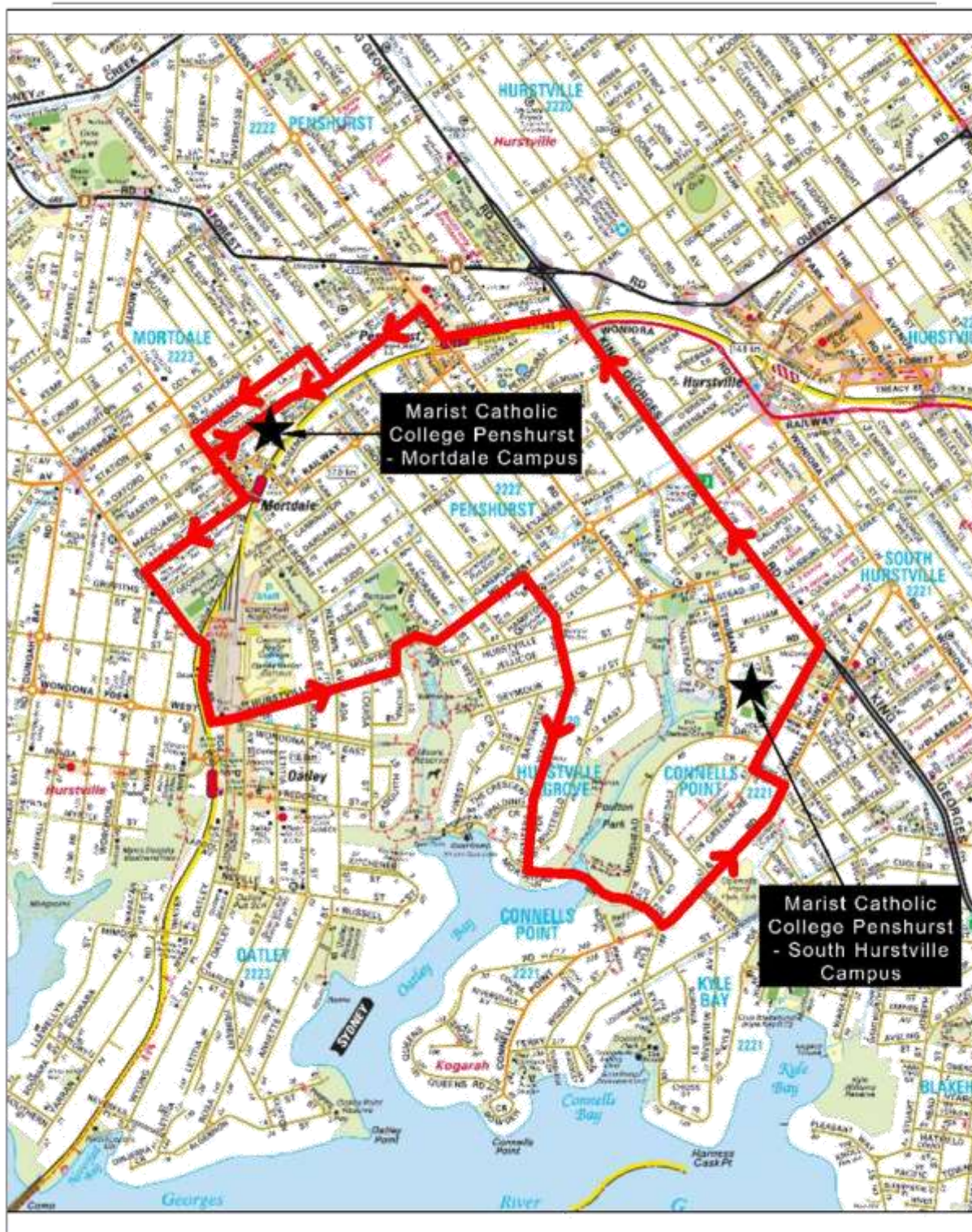
Yours faithfully,

COLSTON BUDD ROGERS & KAFES PTY LTD



S Kafes  
Director

11429 - South Hurstville School



Proposed bus route

Colston Budd Rogers & Kafes Pty Ltd

Drawn By: CBRK Pty Ltd\_mf Ref: 11429 1 October 2020

Figure 1



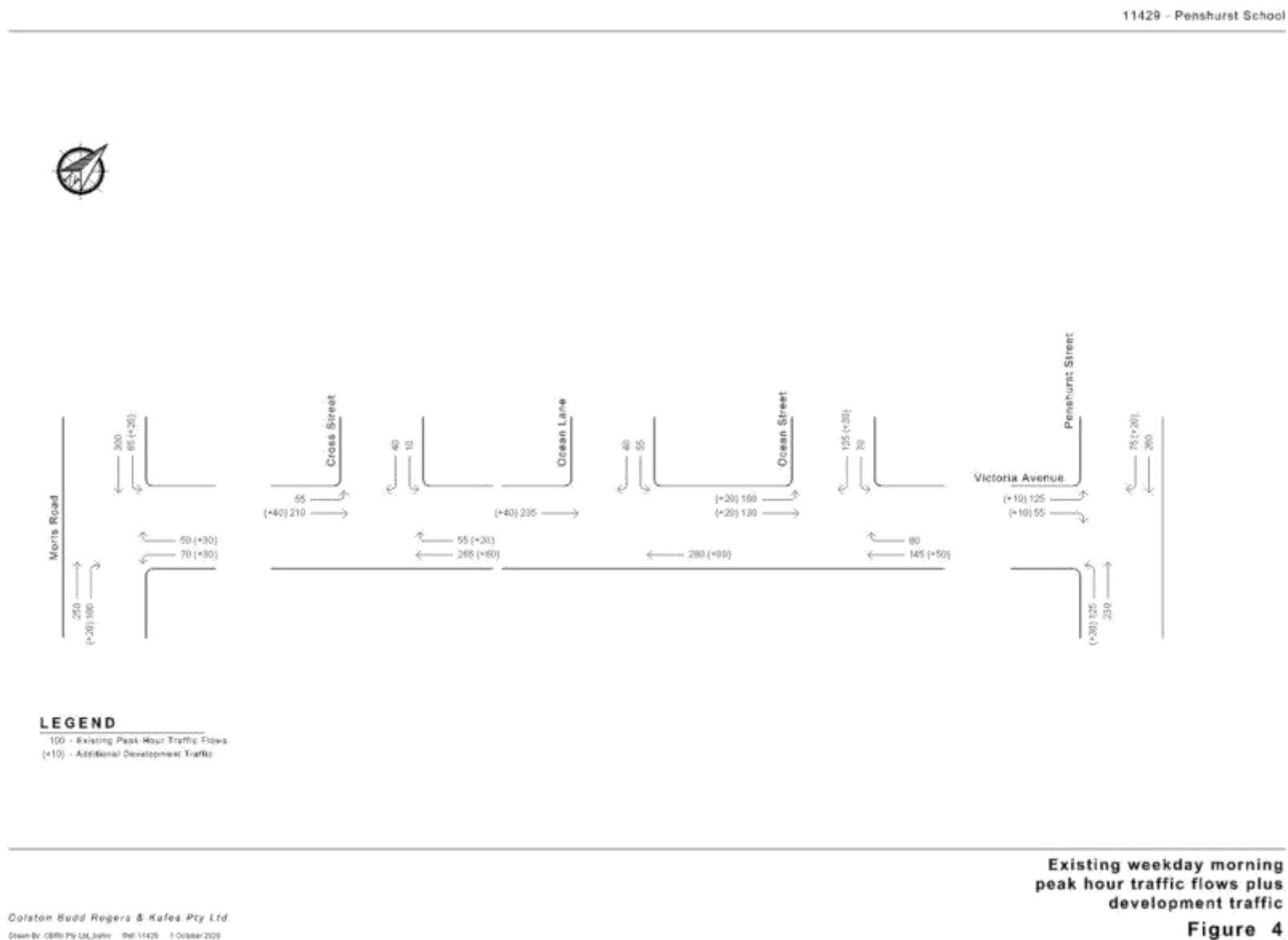


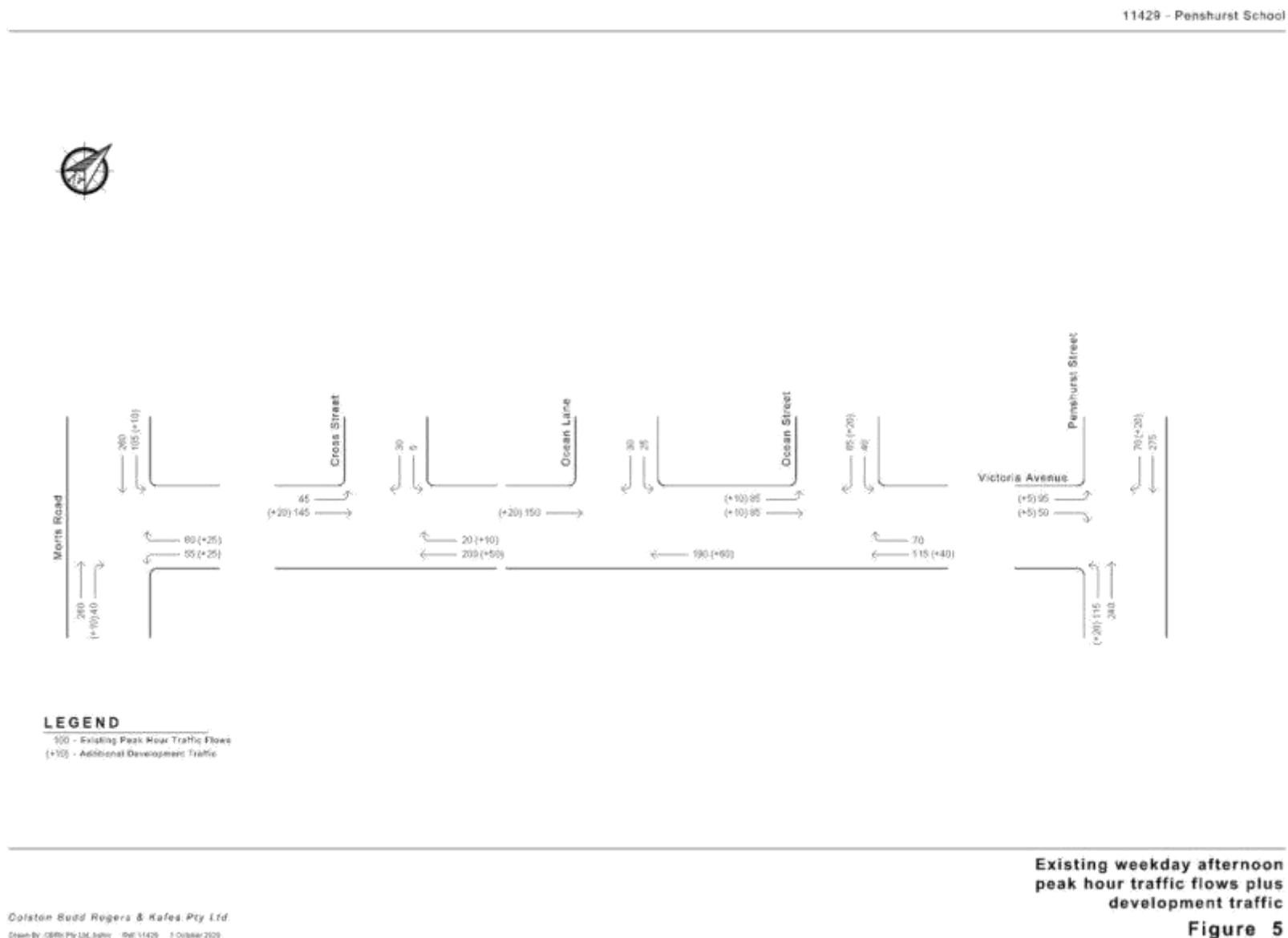
# SOUTH HURSTVILLE CAMPUS TRAFFIC MANAGEMENT PLAN











**REPORT TO GEORGES RIVER COUNCIL  
LPP MEETING OF THURSDAY, 19 NOVEMBER 2020**

LPP061-20

|  |   |                                   |                    |
|--|---|-----------------------------------|--------------------|
| <b>LPP Report No</b>   | <b>LPP061-20</b>  | <b>Development Application No</b> | <b>DA2020/0165</b> |
| <b>Site Address &amp; Ward Locality</b>  | 32 The Avenue Hurstville<br>Hurstville Ward   |                                   |                    |
| <b>Proposed Development</b>  | Demolition works and construction of a shop top housing development over basement parking   |                                   |                    |
| <b>Owners</b>  | 32 The Avenue Hurstville Pty Ltd  |                                   |                    |
| <b>Applicant</b>   | D R Design (NSW) Pty Ltd  |                                   |                    |
| <b>Planner/Architect</b>   | Planner and Architect: Dickson Rothschild   |                                   |                    |
| <b>Date Of Lodgement</b>   | 4/05/2020   |                                   |                    |
| <b>Submissions</b>   | No submissions received   |                                   |                    |
| <b>Cost of Works</b>   | \$4,276,899   |                                   |                    |
| <b>Local Planning Panel Criteria</b>   | Shoptop housing containing a residential flat building component and over 10% variation to a Development Standard.  |                                   |                    |
| <b>List of all relevant s.4.15 matters (formerly s79C(1)(a))</b>                   | Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, State Environmental Planning Policy No. 55 – Remediation of Land, Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development, State Environmental Planning Policy (Building and Sustainability Index) BASIX 2004, State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, Draft Georges River Local Environmental Plan 2020, Draft Environment SEPP, Draft Remediation of Land SEPP, Hurstville Local Environmental Plan 2012, Hurstville Development Control Plan No.2 and Georges River Interim Policy 2019 |                                   |                    |
| <b>List all documents submitted with this report for the Panel's consideration</b> | Revised Architectural Plans, Statement of Environmental Effects with Clause 4.6 Exception to Development Standard to Clause 4.3 Height of Building  |                                   |                    |
| <b>Report prepared by</b>  | Senior Development Assessment Officer   |                                   |                    |

|                       |   |
|-----------------------|---|
| <b>Recommendation</b> | That the application be refused in accordance with the reasons included in this report. |
|-----------------------|---|

|  |            |
|--|------------|
| <b>Summary of matters for consideration under Section 4.15</b><br>Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?  | <b>Yes</b> |
| <b>Legislative clauses requiring consent authority satisfaction</b><br>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 | <b>Yes</b> |

|   |   |
|---|---|
| the assessment report?  |   |
| <b>Clause 4.6 Exceptions to development standards</b><br>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? | <b>Yes, variation to Clause 4.3 Height of Buildings of the Hurstville Local Environmental Plan 2012</b>                   |
| <b>Special Infrastructure Contributions</b><br>Does the DA require Special Infrastructure Contributions conditions (under s7.24)?   | <b>Not Applicable</b>   |
| <b>Conditions</b><br>Have draft conditions been provided to the applicant for comment?  | <b>No, as the application is recommended for refusal, the refusal reasons can be viewed when the report is published.</b> |

### Site Plan



**Figure 1** – Aerial photograph of the subject site (32 The Avenue, Hurstville) outlined in blue.

## EXECUTIVE SUMMARY

### Proposal

1. Council is in receipt of a development application seeking development consent for demolition works and construction of a shop top housing development containing a commercial tenancy fronting The Avenue and a three (3) storey residential flat building over and a four storey (4) residential flat building to the rear of the development on the land known as 32 The Avenue, Hurstville.
2. The original proposal sought one (1) commercial tenancy and sixteen (16) apartments, rooftop communal space and two (2) levels of basement parking.

3. Council sent a request for additional information letter on 20 July 2020 which raised concerns regarding inadequacies relating to insufficient allotment width and floor plate size, inadequacies in the design, insufficient information regarding traffic, engineering and waste.
4. Council received amended plans and accompanying documentation of which are the basis of this assessment.
5. The amended proposal comprises one (1) ground floor commercial tenancy being 116sqm in area. Seventeen (17) apartments consisting of:
  - Studios = three (3);
  - One (1) bedroom = six (6);
  - Two (2) bedroom = six (6); and
  - Three (3) bedroom = two (2)
6. Rooftop communal open space and three (3) levels of basement parking.
7. The allotment walls under the provisions of Hurstville City Centre Development Control Plan No. 2 (HCC DCP No. 2), these controls are promoting the amalgamation of allotments to create wider fronted allotment and large floor plates as referenced in Section 5.3 Controls for Residential, Commercial and Mixed Use Development Clause 5.3(a) Built form Controls which references the following clause:
 

*“In the remaining of the City Centre - a general building floor plate of 900 - 1,000sqm; and - a minimum 30 metre street frontage”.*
8. The site has a frontage of 15.24m and proposes a floor plate 619sqm, which results in a variation of 49.2% and 31.3% respectively.
9. The site has a frontage to The Avenue, Hurstville, with vehicular access to the site from a signalised T intersection, being The Avenue and Cross Street, Hurstville. The Avenue is a one way street from north-west to south-east. The reduced allotment width and floor plate impacts the design relating to layout, spatial separation, functionality, amenity which generates adverse impacts on adjoining properties and results in an undesirable precedent with respect to the urban design outcomes sought by the amalgamation provisions.
10. The proposal is not considered to result in satisfying the Objects of the Act as follows;
  - (b) *to facilitate ecologically sustainable development by integrating relevant economic, environmental, and social considerations in decision-making about environmental planning and assessment;*
  - (c) *to promote the orderly and economic use and development of land;*
  - (g) *to promote good design and amenity of the built environment,*
11. This is primarily due to the insufficient allotment width which has compromised the design and active street frontage. Furthermore this results in an undesirable precedent for future redevelopment along The Avenue.

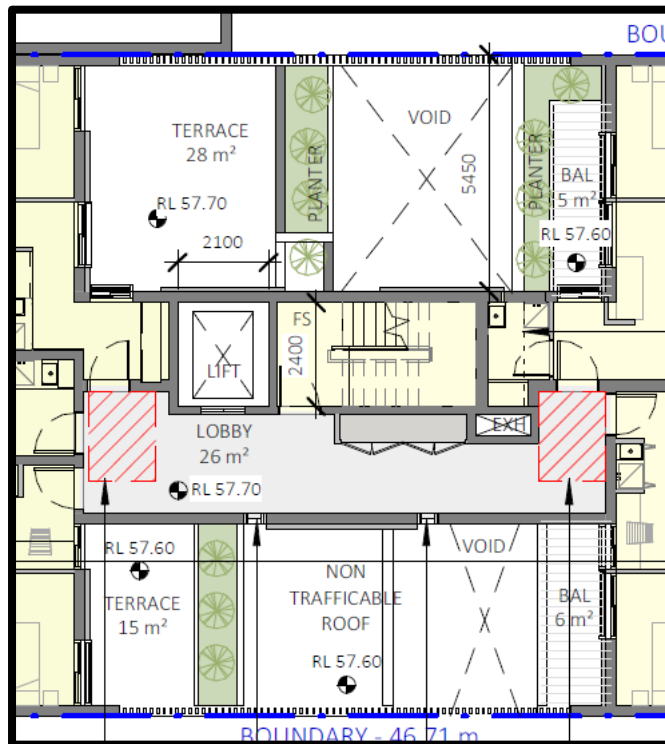


**Figure 2** – Extract of photomontage of proposal on the subject site (32 The Avenue, Hurstville) and immediate surrounding area (Source: D R Designs (NSW) Pty Ltd, 2020).

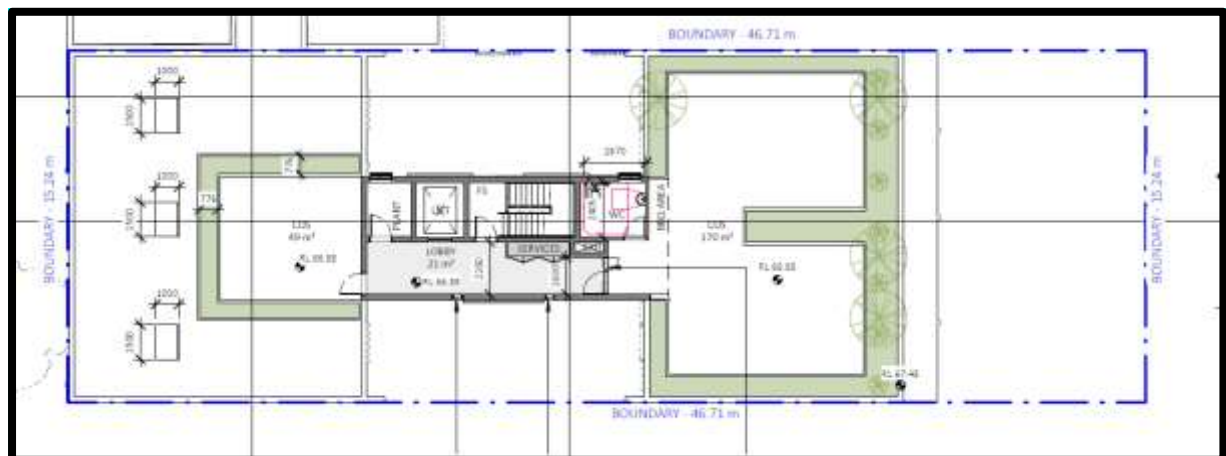
12. The proposal seeks variations to the following design criterion as referenced in State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development, the assessment is referenced in the SEPP 65 table below:

- 3F Visual Privacy
- 3G Pedestrian Access
- 3H Vehicular Access
- 4C Floor to Ceiling Heights
- 4D Unit Size
- 4D Unit rooms, Location and Sizes
- 4E Private Open Space
- 4M Facades
- 4N Roof Design
- 4U Energy Efficiency
- 4V Water Management and Conservation





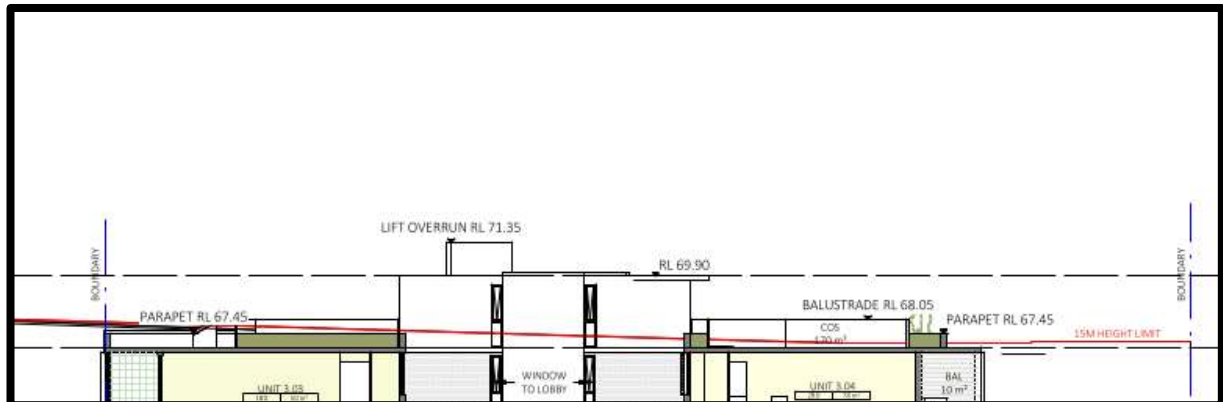
**Figure 3:** The proposal seeks inadequate spatial separation between the proposed first floor internal balconies and terraces which results in privacy impacts between units within the development (Source: D R Designs (NSW) Pty Ltd, 2020).



**Figure 4:** The proposal provides communal open space with poor functional layout, amenity and accessibility due to insufficient door widths (Source: D R Designs (NSW) Pty Ltd, 2020).

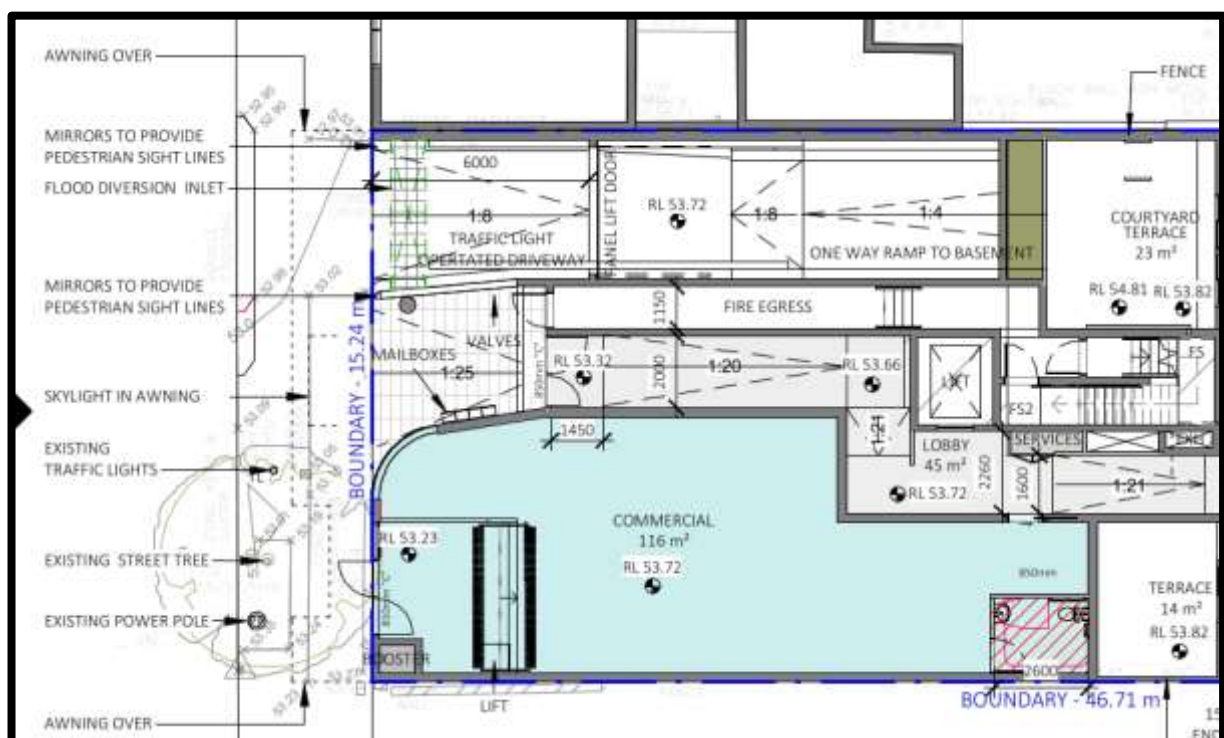
13. The applicant provided amended plans which sought internal changes and added an additional unit. An amended BASIX Certificate did not accompany the amended design. In this regard, the proposal has not satisfied the requirements of the State Environmental Planning Policy: BASIX 2004.
14. The proposal does not comply with Hurstville Local Environmental Plan 2012 and is deficient in relation to height of building, active street frontages and essential services.
15. The proposal seeks a variation to Clause 4.3 Height of Building which prescribes a 15m height limit for this site under Hurstville Local Environmental Plan 2012. The extent of the variation relates to the lift overrun, roofed communal open space and balustrades proposing a maximum height of 18.49m for the lift overrun being a variation of 3.49m equating to 23.26%. A Clause 4.6 Exception to Development Standard statement accompanies the development application however this does not accurately reflect the

extent of the variation sought. The amended proposal has resulted in additional breaches associated with the balustrades for the front portion of the communal open space area however this has not resulted in a greater maximum breach than that originally proposed. An amended Clause 4.6 Exception to Development Standard was not provided in support of the amended proposal. An assessment has been undertaken based on the submitted Clause 4.6 Exception to Development Standard. Notwithstanding, the extent of the breach above 15m for the lift overrun and communal space is considered to be excessive, unnecessary and insufficiently justified and therefore is not supported.



**Figure 5** – Extract of amended cross section illustrating the proposed lift overrun and communal area over 15m Height of Building with a maximum height of 18.49m (+3.49m) (Source: D R Designs (NSW) Pty Ltd, 2020).

16. The proposal fails to satisfy Clause 6.6 Active Street Frontages of the Hurstville Local Environmental Plan 2012 where the objective of this clause is *“to promote uses that attract pedestrian traffic along certain ground floor street frontages in Zone B2 Local Centre, Zone B3 Commercial Core and Zone B4 Mixed Use”*. Due to the narrow allotment width and floor plate proposed, the design results in a poor quality active street frontage.



**Figure 6** – Extract of ground floor and street interface to The Avenue, Hurstville (Source: D R Designs (NSW) Pty Ltd, 2020).

17. The proposal has not satisfied Clause 6.7 Essential Services of the Hurstville Local Environmental Plan 2012 as inadequate vehicular access has been provided whereby a single access driveway into a T intersection to service the proposal is not considered satisfactory in relation to pedestrian and vehicular safety.
18. The proposal does not comply with the Hurstville City Centre Development Control Plan No 2 in relation to:
- Allotment amalgamation;
  - Insufficient allotment width;
  - Floor plate area;
  - Amenity;
  - Design with no provision of loading bay; and
  - The poor vehicular access and egress with potential to queue and reviser into a T intersection, given the intensified use of the site from one (1) commercial use into shop top housing and a residential flat building which comprises of one commercial tenancy and seventeen (17) residential units
19. Collectively, the deficiencies of the proposal result in an inadequate built form for the subject site and immediate context. Therefore it is not considered that proposal in its current form positively contributes to the desired planning outcome for the Hurstville City Centre. It is noted that this northern side of The Avenue forms a transition between the commercial centre and residentially zoned area. The site is located opposite Westfield which contains different planning controls.

### Site and Locality

20. The subject site is legally described as Lot 185 DP1595 and is known as 32 The Avenue, Hurstville. The site forms a rectangular shaped allotment.
21. The site area and dimensions of the subject site are as follows:

|                                     |         |
|-------------------------------------|---------|
| Site Area                           | 712sqm  |
| South West (frontage to The Avenue) | 15.24m  |
| South East (side)                   | 46.735m |
| North East (rear)                   | 15.24m  |
| North West (side)                   | 46.71m  |

### Zoning and Permissibility

22. The subject site is zoned B4 Mixed Use under the provisions of the Hurstville Local Environmental Plan 2012 (HLEP2012). Shop top housing and residential flat buildings are permissible uses within the zone.

### Submissions

23. The application was notified accordance with the provisions contained within the Hurstville City Centre Development Control Plan No. 2. In response, no submissions were received. The amended plans have been considered as part of this assessment report however these plans were not renotified as the proposal did not result in any greater material environmental impact.

### Conclusion

24. The proposal has been assessed and is considered to be unsatisfactory in terms of the non-compliances sought to the provisions of various State Environmental Planning Policies, Hurstville Local Environmental Plan 2012 and Hurstville City Centre Development Control Plan No. 2 which results in adverse amenity impacts for future occupants, adjoining properties and results in an undesirable precedent within the locality and in particular within The Avenue, Hurstville due to the urban design outcome.

## REPORT IN FULL

### Proposal

25. Council is in receipt of a development application seeking development consent for demolition works and construction of a shop top housing development containing a commercial tenancy fronting The Avenue and a three (3) storey residential flat building over and a four (4) residential flat building to the rear of the development on the land known as 32 The Avenue, Hurstville.
26. The original proposal sought one (1) commercial tenancy and sixteen (16) apartments, rooftop communal space and two (2) levels of basement parking.
27. Council sent a request for additional information letter on 20 July 2020 which raised concerns regarding inadequacies relating to; insufficient allotment width and floor plate size, inadequacies of the design, insufficient information regarding traffic, engineering and waste.
28. Council received amended plans and accompanying documentation which forms the basis of this assessment.
29. The proposal comprises of one (1) ground floor commercial tenancy with an area of 116sqm. Seventeen (17) apartments consisting of:
- Studios = three (3);
  - One (1) bedroom = six (6);
  - Two (2) bedroom = six (6); and
  - Three (3) bedroom = two (2)
30. Rooftop communal open space and three (3) levels of basement parking.
31. In detail, the proposal as assessed is described as follows;

Basement 3 Plan: Seven (7) residential spaces (2 in tandem), two (2) bicycle storage spaces, one (1) motor cycle space, pump room, stair case and lift core.

Basement 2 Plan: Eleven (11) residential spaces, passing bay, four (4) bicycle storage spaces, one (1) motor cycle space, storage, traffic signal, stair case and lift core.

Basement 1 Plan: Four (4) residential spaces which include two (2) accessible spaces and shared zone, two (2) commercial car parking spaces, one (1) car wash bay (of which can be utilised as a visitor space), two (2) motor cycle spaces, four (4) bicycle storage spaces, commercial waste storage room, residential waste storage room, traffic signal, passing bay, stair case and lift core.

Ground Floor Plan: One (1) commercial tenancy being 116sqm in area accessed via a platform lift for access from The Avenue, bathroom. Front awning, basement ramp, traffic

signal, central lobby, lift core, stairs, services, booster, 2 x three (3) bedroom units with courtyard terraces, rear terrace areas and open space at the rear.

First Floor Plan: Two (2) x one (1) bedroom apartment and a studio apartment with winter gardens fronting The Avenue and the one (1) bedroom apartments having central terraces. Two (2) x two (2) bedroom apartments with both rear and internal facing balconies.

Second Floor Plan: Two (2) x two (2) bedroom apartments fronting The Avenue with winter gardens, service areas, egress stairs and one (1) lift core. Two (2) x one (1) bedroom apartments and one (1) studio with rear balconies.

Third Floor Plan: Two (2) x one (1) bedroom apartments with winter gardens fronting The Avenue and internal facing balconies. One (1) accessible studio is proposed with a winter garden fronting the Avenue. Two (2) x two (2) bedroom apartments with both rear and central balconies.

Rooftop Floor Plan: Lobby, plant room, two (2) communal open spaces of which are located at both the front and rear, WC, BBQ area, access stairs and one (1) lift core.

32. Single access driveway crossing into the signalised Intersection of The Avenue and Cross Street located to the south western corner of the allotment.
33. Retention of one (1) street tree *Lohphostemon confertus* within the road reserve fronting The Avenue, Hurstville. Protection of seven (7) trees within adjoining neighbouring properties.
34. A deep soil area is proposed between the building and north east rear boundary.
35. In summary the proposal comprises of the following:

Unit breakdown

| Unit No. | Unit type | Area   | Private Open Space  | Notes |
|----------|-----------|--------|---|-------|
| 0.01     | 3 bedroom | 95sqm  | 22sqm terrace plus 44sqm rear courtyard.                    |       |
| 0.02     | 3 bedroom | 100sqm | 22sqm terrace plus 44sqm rear POS being the deep soil zone. |       |
| 1.01     | 1 bedroom | 53sqm  | 9sqm and 28sqm internal terrace                             |       |
| 1.02     | Studio    | 50sqm  | 5sqm  |       |
| U1.03    | 1 bedroom | 50sqm  | 10sqm and 15sqm internal terrace                            |       |
| U1.04    | 2 bedroom | 78sqm  | 10sqm and 6sqm internal balcony                             |       |
| U1.05    | 2 bedroom | 95sqm  | 10sqm and internal 5sqm balcony                             |       |
| U2.01    | 2 bedroom | 83sqm  | 10sqm   |       |

|       |           |       |       |  |
|-------|-----------|-------|-------|--|
| U2.02 | 2 bedroom | 79sqm | 10sqm |  |
| U2.03 | 1 bedroom | 49sqm | 10sqm | This unit has been assessed a studio as this internal floor area comprises of 49sqm which meets the does not meet the internal floor area requirements for a 1 bedroom unit. |
| U2.04 | Studio    | 49sqm | 6sqm  |  |
| U2.05 | 1 bedroom | 53sqm | 10sqm |  |
| U3.01 | 1 bedroom | 53sqm | 9sqm  |  |
| U3.02 | Studio    | 50sqm | 5sqm  |  |
| U3.03 | 1 bedroom | 50sqm | 10sqm |  |
| U3.04 | 2 bedroom | 78sqm | 10sqm |  |
| U3.05 | 2 bedroom | 83sqm | 10sqm |  |

Residential unit composition

| Unit            | No. of Units |
|-----------------|--------------|
| Studio          | 3            |
| 1 bedroom units | 6            |
| 2 bedroom units | 6            |
| 3 bedroom units | 2            |
| Total           | 17           |

Car parking and vehicular composition

| Car parking                        | No. of spaces   |
|------------------------------------|---|
| Residential Car Parking            | 22  |
| Visitor Car Parking                | Note: Residential visitor car spaces have not been specifically been nominated within the plans however can be extracted from the total number of residential car spaces. It is noted that a car wash bay has been proposed which can be utilised as a visitor space. |
| Car wash Bay / Visitor Car Parking |   |
| Commercial Parking                 | 2   |
| Bicycle Parking                    | 10  |
| Motorbike                          | 4   |
| Loading Bay                        | 0   |

36. For the purposes of assessment, the applicant has sought to use the car parking rate prescribed within the Roads and Maritime Services (RMS) Guide to Traffic Generating Development requirements under State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development. This is prescriptively lower than the Hurstville City Centre Development Control Plan (HCC DCP No.2).

|                     |                     |             |          |
|---------------------|---------------------|-------------|----------|
| Minimum Car Parking | Minimum Car Parking | Car Parking | Complies |
|---------------------|---------------------|-------------|----------|



| <b>Requirement (HCC DCP No.2)</b>   | <b>(RMS) as the site is located within 800m from Hurstville Train Station (Metropolitan Regional CBD Centre rate)</b>   | <b>Proposed</b>   |  |
|---|---|---|--|
| <p>Residential<br/>(It is noted that studios are not prescribed within Council's car parking controls, however this have been assessed as a 1 bedroom unit in relation to car parking demand).</p> <p>15 x 1-2 bedrooms (1 space per dwelling) = 15</p> <p>2 x 3 bed (2 spaces per dwelling) = 4</p> <p>Visitor space (1 space per 4 dwellings)<br/>17 apartments = 5 visitor spaces</p> <p>Plus 1 wash bay (can be a visitors space)</p> <p>Total = 23 spaces nominated – no visitors nominated.</p> | <p>(It is noted that studios are not prescribed within the RMS GTTD, however this have been assessed as a 1 bedroom unit in relation to car parking demand).</p> <p>9 x 1 bed = 0.4 spaces = 3.6 (4)</p> <p>6 x 2 bed = 0.7 spaces = 4.2 (5)</p> <p>2 x 3 bed = 1.2 spaces 2.4 (3)</p> <p>Visitor space: 1 per 7 apartments = (3)</p> <p>Total = 15</p> | <p>23 total spaces – not allocated to any particular unit or referenced as visitor.</p> <p>1 located on B1.</p> | <p>Yes</p> <p>Yes</p> <p>No, these have not been nominated on the plans.</p> |
| <p>Commercial (1 space per 100sqm (B4 Mixed Use)</p> <p>= 2 spaces</p>  | N/A   | <p>2 spaces provided located on B1.</p>   | Yes  |
| <p>Minimum car parking spaces required = 25</p>   | <p>Spaces = 17</p>  | <p>25 spaces in total. 23 nominated as residential but not allocated to any</p>                                 | Yes  |

|                 |  |   |    |
|-----------------|--|---|----|
|                 |  | particular unit or nominated as visitor. One has been nominated as a visitor space. |    |
| Loading Bay = 1 |  | No loading bay has been proposed.   | No |

37. As per the above assessment table the proposal can provide compliant levels of residential car parking under the RMS GTTD and Council's commercial car parking criterion however the proposal does not provide a loading bay in accordance with Council's controls. It is noted that whilst residential visitor car spaces have not been nominated on the plans, these can be accommodated within the total number of residential spaces as this exceed the minimum car parking requirement from the RMS GTTD.

## BACKGROUND

38.

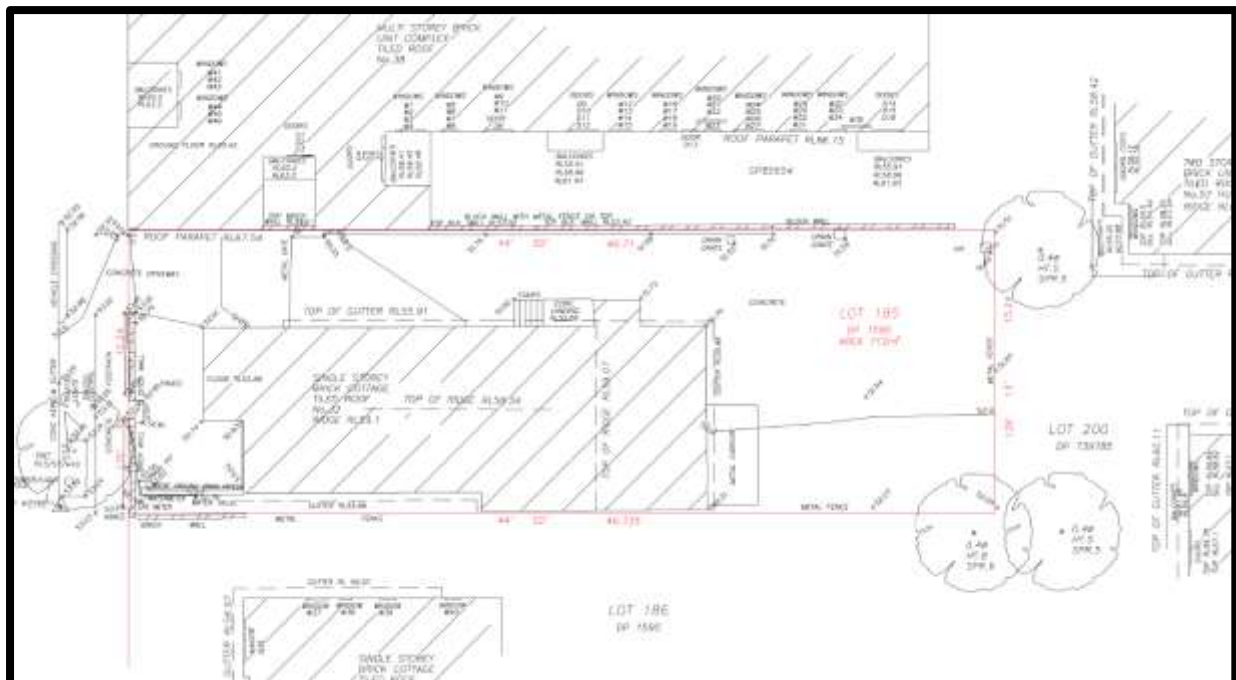
| Date               | Event   |
|--------------------|---|
| 12 November 2019   | Pre-lodgement meeting where two options were presented comprising of a 5 storey mixed use building:<br>1) Option 1: Retail tenancy 98sqm, 20 units and 22 car spaces.<br>2) Option 2: 315sqm ground floor tenancy.<br><br>Council advised the applicant that the application was unlikely to be supported based on insufficient frontage width. |
| 4 May 2020         | Development application (DA2020/165) lodged for demolition works and construction of a shop top housing containing a commercial tenancy and a residential flat building.  |
| 18 May 1 June 2020 | Notification period.  |
| 9 June 2020        | Site inspection of subject site and surrounding area.   |
| 20 July 2020       | Request for additional information.   |
| 3 August 2020      | Additional information provided which included revised architectural plans and accompanying documentation.  |
| 20 August 2020     | Revised additional information provided included revised architectural plans and accompanying documentation   |

## SITE AND LOCALITY

39. The subject site is legally described as Lot 185 DP1595 and is known as 32 The Avenue, Hurstville. The site is a rectangular shaped allotment.
40. The site area and dimensions of the subject site are as follows:

|   |        |
|---|--------|
| Site Area                                       | 712sqm |
| South West (frontage to The Avenue, Hurstville) | 15.24m |
| South East (side)                               | 46.73m |

|                   |        |
|-------------------|--------|
| North East (rear) | 15.24m |
| North West (side) | 46.71m |



**Figure 7** – Extract of survey of subject site 32 The Avenue, Hurstville (Source: Maps and Surveys, 2018)



**Figure 8** - Photograph of subject site 32 The Avenue, Hurstville (centre) taken from The Avenue, Hurstville (Source: Author GRC, 2020).

41. Council records indicate that the site is affected by overland flow.

42. A single storey masonry building with a pitched tiled roof is located towards the front of the site. A driveway runs parallel with the north west side boundary providing access to a hardstand car parking area at the rear. The site is currently being used for a commercial purpose.

### Surrounding Area

43. The immediate surrounding area along The Avenue, Hurstville comprises a mixture of commercial uses which include shop top housing, commercial buildings, places of public worship and a child care centre. Westfield Shopping Centre is located to the south on the opposite side of The Avenue, Hurstville. The site adjoins a four (4) storey shop housing development to the north west, residential flat buildings to the north east (rear) and a single storey commercial building to the north east (side). The driveway access and site frontage is within the T intersection of The Avenue, Hurstville (which forms a one way road from north west to south east intersecting with Forest Road) and Cross Street, Hurstville. Both streets form local roads.
44. One street (1) tree *Lophostemon Confertus* is located within the road reserve fronting The Avenue, Hurstville.
45. For the purposes of this assessment report, the following analysis has been undertaken in relation to the following fourteen (14) properties on the northern side of The Avenue, Hurstville being the same side of the street as the subject site. These properties are also zoned B4 Mixed Use. The Avenue, Hurstville forms an interface zone between the Commercial Centre and residentially zoned areas to the north east. The rear adjoining property has street access to Hudson Street, Hurstville.



**Figure 9** – Aerial photograph of subject site (outlined in blue) and adjoining properties on the same side of the Road on The Avenue, Hurstville between Cross Street and Forest Road, Hurstville (Source: Author GRC, 2020).

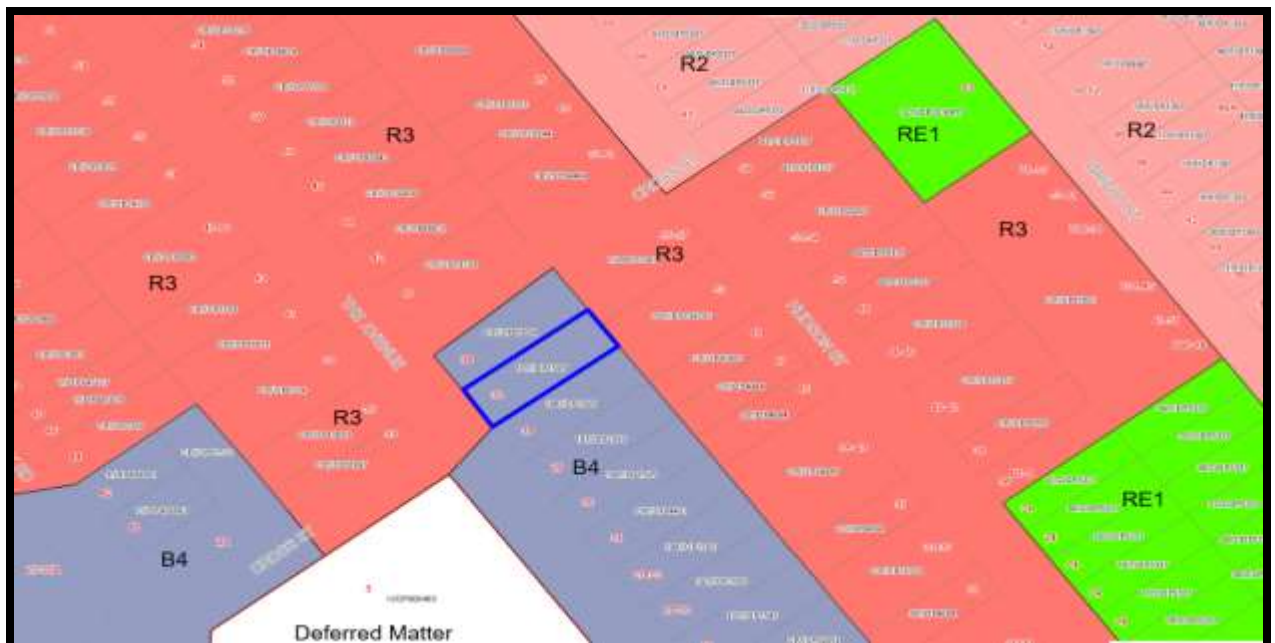
| Property address         | Approximate allotment width | Built form            |
|--------------------------|-----------------------------|-----------------------|
| 38 The Avenue Hurstville | 15.24m                      | Four storey mixed use |



|   |        |  |
|---|--------|--|
|   |        | development (97/DA-185)  |
| 32 The Avenue, Hurstville<br>(subject site) | 15.24m | Single storey commercial building  |
| 30 The Avenue, Hurstville                   | 15.24m | Single storey commercial building  |
| 28 The Avenue, Hurstville                   | 15.24m | Two storey commercial building   |
| 26 The Avenue, Hurstville                   | 15.24m | Two storey child care centre   |
| 20 The Avenue, Hurstville                   | 15.24m | Four storey mixed use<br>development (09/DA-155)                                   |
| 20-22 The Avenue, Hurstville                | 15.24m | Place of Public Worship (Uniting<br>Church)  |
| 18 The Avenue, Hurstville                   | 15.24m | Single storey commercial building  |
| 14-16 The Avenue, Hurstville                | 30sqm  | Four storey mixed use<br>development   |
| 12 The Avenue, Hurstville                   | 15.24m | Single storey commercial building  |
| 8-10 The Avenue, Hurstville                 | 30m    | Four storey mixed use<br>development   |
| 4-6 The Avenue, Hurstville                  | 27m    | Four storey mixed use<br>development   |
| 2 The Avenue Hurstville                     | 107m   | Single storey Place of Public<br>Worship (St George Hurstville<br>Anglican Church) |

### Zoning and Permissibility

46. The subject site is zoned B4 Mixed Use under the provisions of the Hurstville Local Environmental Plan 2012 (HLEP2012). Shop top housing and residential flat buildings are both permissible uses within the zone.



**Figure 10** – Zoning map – the site being 32 The Avenue, Hurstville is outlined in blue (Source: Hurstville Local Environmental Plan 2012).

### Environmental Planning and Assessment Regulations 2000 (EP&A) Regulation 2000

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

### Objects of the EP&A Act

48. The consent authority is required to consider the objects in Section 1.3 of the EP&A Act when making decisions under the Act. Council has considered the object of the EP&A Act in the Table below and is satisfied that the proposal complies with all objects.

| <b>Objects of the EP&amp;A Act</b>   | <b>Proposal</b>   | <b>Complies</b> |
|--|---|-----------------|
| (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.      | The proposal is not considered to be inconsistent with this objective.  | Yes             |
| (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental, and social considerations in decision-making about environmental planning and assessment | The applicant provided amended plans to Council which sought internal changes and added an additional unit. An amended BASIX Certificate did not accompany the amended design. Therefore the proposal does not satisfy the requirements under State Environmental Planning Policy (BASIX) 2004 and the Regulations. | No              |
| (c) to promote the orderly and economic use and development of land  | The proposal is not considered to provide an orderly and economic development of the land. The proposal has provided an inadequate frontage and floor plate which results in a poor built form outcome and detracts from the amenity for future occupants and adjoining properties.                                 | No              |
| (d) to promote the delivery and maintenance of affordable housing  | The proposal seeks development consent for seventeen (17) units. The proposal does not seek to provide an affordable housing component as part of this development application. No affordable housing is being lost as part of this application.  | N/A             |
| (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats                               | The proposal seeks the removal of trees on the site at the rear. This is supported by Council's Consultant Arborist subject to conditions of consent.   | Yes             |
| (f) to promote the sustainable management of built and cultural heritage   | The proposal is not listed as a heritage item, adjoin or within the immediate vicinity to a heritage item or conservation area within a Local or Stage Heritage register.   | Yes             |
| (g) to promote good design   | The proposal does not result in good  | No              |

|  |  |     |
|--|--|-----|
| and amenity of the built environment   | design and amenity due to the insufficient allotment width. This has resulted in poor occupant amenity and adversely impacts the opportunities to create a meaningful active streetscape in accordance with Clause 6.6 <i>Active Street Frontages</i> of the Hurstville Local Environmental Plan 2012. |     |
| (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants          | The proposal is considered to satisfy the intent of this control to ensure appropriate construction and maintenance of which is supported by Council's Senior Building Surveyor.   | Yes |
| (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State | The proposal was referred to the relevant applicable State Government authorities for consideration as part of this application.   | Yes |
| (j) to provide increased opportunity for community participation in environmental planning and assessment  | The proposal was notified in accordance with the Hurstville City Centre Development Control Plan No. 2. In response, no submissions were received. The amended proposal was not re-notified as did not generate any greater environmental impact.  | Yes |

### Ecologically Sustainable Development (ESD)

49. The Act adopts the definition of ESD found in the Protection of the Environment Administration Act 1991. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision making processes and that ESD can be achieved through the implementation of:

- (a) *the precautionary principle;*
- (b) *inter-generational equity;*
- (c) *conservation of biological diversity and ecological integrity; and*
- (d) *improved valuation, pricing and incentive mechanisms.*

50. Council has assessed the proposed development in relation to the ESD principles and has made the following conclusions;

- (a) Precautionary Principle – the site has been appropriately planned for the development and will not result in any serious or irreversible environmental damage.
- (b) Inter-Generational Equity – the proposal will not have any adverse impacts on the environment for future generations.
- (c) Biodiversity Principle – the site is within a highly urbanised area and contains no significant flora or fauna.
- (d) Valuation Principle – the proposal includes a number of energy, water, and waste reducing measures to reduce the ongoing cost, resource usage, and energy requirements of the development.



51. The proposal not considered to be inconsistent with this criterion.

### **Environmental Planning Instruments**

#### **State Environmental Planning Policies**

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

#### **Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment**

53. The site is within the area affected by the Greater Metropolitan Regional Environmental Plan No 2 — Georges River Catchment. The proposal, including the disposal of stormwater, is considered to be consistent with Council's requirements for the disposal of stormwater within the catchment.
54. All stormwater from the proposed development will be managed and treated in accordance with Council's Water Management Policy and will therefore satisfy the relevant provisions of the Deemed State Environmental Planning Policy – Georges River Catchment. The proposal is supported by Council's Development Engineer.

#### **State Environmental Planning Policy No 55 - Remediation of Land**

55. 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.
56. 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.
57. Council historical records indicate that the site has been used for commercial 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.
58. SEPP 55 is considered to be satisfied. If the application was to be supported than a condition would be imposed that construction cease if contamination is encountered.

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

59. The applicant provided and amended plans to Council which sought internal changes and added an additional unit. An amended BASIX Certificate did not accompany the amended design. The proposal has not satisfied the requirements of the SEPP.

#### **State Environmental Planning Policy Vegetation 2017**

60. The Vegetation SEPP regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.
61. 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).*

62. 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.
63. The proposal seeks the retention of one (1) street tree within the road reserve fronting The Avenue, Hurstville and protection of seven (7) trees within adjoining properties. This aspect of the proposal is supported by Council's Consulting Arborist.

### **State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development**

64. Clause 28(2) of SEPP 65 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 Unit Design Guide.*
65. The extent to which the proposed development complies with the controls and principles in the State Environmental Planning Policy 65 – Design Quality of Residential Unit Development (SEPP 65) is detailed and discussed in the tables below.

#### Application of SEPP 65

#### **Compliance with SEPP 65**

| <b>Clause</b>          | <b>Standard</b>  | <b>Proposal</b>  | <b>Complies</b> |
|------------------------|--|--|-----------------|
| Clause 3 - Definitions | SEPP 65 applies to residential unit development  | The proposal seeks development consent for a residential flat building, SEPP 65 applies.   | Yes             |
|                        | <p>The permitted uses within the zone B4 Mixed Use are detailed as follows;</p> <p>Boarding houses;<br/>Centre-based child care facilities; Commercial premises; Community facilities; Dual occupancies;<br/>Educational establishments;<br/>Entertainment facilities;<br/>Function centres;<br/>Hostels; Hotel or motel accommodation;<br/>Information and education facilities;<br/>Medical centres; Multi dwelling housing;<br/>Oyster aquaculture;</p> | Shop top housing and residential flat buildings are permissible uses within the zone. The proposal satisfies the definition of shop top housing. | Yes             |

|   |   |  |     |
|---|---|--|-----|
|   | Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Residential flat buildings; Respite day care centres; Restricted premises; Roads; Seniors housing; <b>Shop top housing</b> ; Tank-based aquaculture; Any other development not specified in item 2 or 4 |  |     |
| Clause 4 - Application of Policy          | Development involves the erection of shop top housing with an RFB component.  | The proposal seeks development consent for a “ <i>residential apartment development</i> ” which meets the prescribed criteria within the SEPP. | Yes |
| Clause 50 (1a) – Development Applications | Design verification statement provided by qualified designer  | Design Verification Statement provided by Registered and practicing Architect: Nigel Dickson<br>Registration Number: 5364                      | Yes |

66. The DA was reviewed by Council's Strategic Planner/Urban Designer having regard to each of the eight (8) Design Quality Principles being;(Context and Neighbouring Character, Built form and Scale, density, sustainability, landscape, amenity, safety) of whom in summary raised the following key issues with the proposal;

- *Insufficient allotment width and floor plate size,*
- *Inadequate active street frontage and likely undesirable precedent regarding street frontages to The Avenue, Hurstville.*
- *Minimal commercial floor space being proposed as a whole in relation to the proposal and B4 Mixed Use Zone Objectives,*
- *Extent of encroachments above the 15m height of building,*

67. Comment: The proposal has been considered in accordance with the eight (8) Design Quality Principles. As a result of the above issues raised, the proposal is not considered to adequately satisfy the principles in its current form. This is primarily due to the inadequate allotment width of 15.24m which compromises the amenity for future occupants and amalgamation opportunities which would likely achieve a better built form.

#### **Strategic Planner/Urban Designer Recommendation**

68. In summary, the application has not satisfied the design quality principles contained within SEPP 65. The amended proposal was not re-referred as the application is not supported and fundamental issues in relation to the allotment width and floor plate have not been resolved.

**The design quality of the development when evaluated in accordance with the design quality principles**

69. Clause 28 of SEPP65 requires the consent authority to take into consideration the provisions of the ADG. A compliance table assessment has been provided below to detail how the proposed development, performs against the relevant provisions of the ADG.
70. As demonstrated within the following ADG compliance table, the proposal is unsatisfactory in part when considered against the relevant objectives, design criteria and design guidance for residential flat buildings.

#### Clause 30 – Consideration of Unit Design Guide

71. The proposal has been considered in accordance with the applicable controls as per below.

| Clause                             | Standard  | Proposal   | Complies |
|------------------------------------|---|--|----------|
| 2G – Street setbacks               | Align street setbacks with building use. For example in mixed use buildings a zero street setback is appropriate  | The proposal seeks a nil front setback with the streetscape alignment however the proposal results in a poor active street frontage. | Yes      |
| 3D- Communal and Public Open Space | 1. Communal open space has a minimum area equal to 25% (0.25x712sqm = 178sqm of the site.   | 219sqm has been provided including landscaped planter boxes (30.75%), of this 146sqm is usable.                                      | Yes      |
|                                    | -Where it cannot be provided on ground level it should be provided on a podium or roof<br>-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:<br>• provide communal spaces elsewhere such as a landscaped roof top terrace or a common room<br>• provide larger balconies or increased private open space for units<br>• demonstrate good proximity to public open space and facilities and/or provide contributions to public open space | Communal open space has been provided on the roof top.   | Yes      |
|                                    | 2. Developments   | The rooftop communal open  | Yes      |

|                    |  |  |   |
|--------------------|--|--|---|
|                    | 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)  | space due to its orientation and the built form surrounding the development site the roof top communal open space achieves greater than 50% solar access for 2hrs a day.   |   |
| 3E-Deep Soil zones | <p>1. Deep soil zones are to meet the following minimum requirements:</p> <ul style="list-style-type: none"> <li>- 7% minimum area</li> <li>- 3m minimum dimension</li> </ul>  | <p>The proposed development provides 80sqm (11.23% excluding the stairs) of deep soil zone within the rear of the site. It is noted that this excludes the two external stair cases of Unit 1.01 and 1.02 which link the rear terraces to the private open space at rear.</p> <p>3m min dimension at rear of the site.</p> | <p>Yes</p> <p>Yes</p>                     |
| 3F-Visual Privacy  | <p>Separation between windows and balconies is provided to ensure visual privacy is achieved.</p> <p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <p>Habitable rooms and balconies:</p> <p><i>Up to four storeys (approximately 12m):</i></p> <ul style="list-style-type: none"> <li>• 6m between habitable rooms/balconies (setback to the boundary)</li> </ul> | <p>Ground, Level 1, 2 and 3.</p> <p>S-W (front): Nil<br/> N-W (side): Nil – 5.45m<br/> S-E (side): Nil - 4.43m from common circulation operable windows<br/> N-E (rear): 6m elevated terrace (ground floor), 9m solid wall</p>   | <p>Yes</p> <p>No</p> <p>No</p> <p>Yes</p> |

|  |   |  |   |
|--|---|--|---|
|  | <p>9m – 11.2m levels 1 and 3<br/>9m – 10m level 2</p> <p>8.14m Internally between first floor of Unit 1.03 internal terrace and Unit 1.04 internal balcony.</p> <p>Level 3 forms a fifth storey due to the elevated basement below and it is greater than 12m in height.</p> <p>• 9m between habitable and non-habitable rooms (setback to the boundary)</p> <p>Non habitable rooms:</p> <p>Up to four storeys (approximately 12m):</p> <p>• 3m between non-habitable rooms (setback to the boundary).</p> <p>Five to eight storeys (approximately 25m):</p> <p>• 4.5m between non-habitable rooms (setback to the boundary).</p> | <p>S-W (front): Nil<br/>N-W (side): Nil – 5.45m to the service area<br/>S-E (side): Nil – 4.43m to the service area<br/>N-E (rear): 9m</p> <p>Non-habitable rooms are located within the centre of the units.</p> <p>S-W (front): Nil<br/>N-W (side): Nil<br/>S-E (side): Nil<br/>N-E (rear): None in this elevation</p> <p>S-W (front): Nil<br/>N-W (side): Nil<br/>S-E (side): Nil<br/>N-E (rear): None in this elevation.</p> | <p>Yes<br/>Yes</p> <p>Yes<br/>No<br/>No<br/>Yes</p> <p>No<br/>No<br/>No<br/>N/A</p> <p>No<br/>No<br/>No<br/>N/A</p> |
| 3G-<br>Pedestrian<br>access and<br>entries | Building entries and pedestrian access connects to and addresses the public domain  | <p>The proposal seeks one (1) centrally located entry point within the façade fronting The Avenue, Hurstville serving the residential component of the development. Adjoining the entry is an egress stair. Due to the narrowness of the frontage the entrance is constrained to accommodate the driveway and commercial tenancy.</p> <p>The commercial tenancy as direct access from The</p>                                    | Yes   |

|                             |  |  |                       |
|-----------------------------|--|--|-----------------------|
|                             | Multiple entries (including communal building entries and individual ground floor entries) should be provided to activate the street edge.   | <p>Avenue by a platform lift. It is not that the doors swing in part across the public domain, if the application was to be supported a condition removing this encroachment would be imposed.</p> <p>Front central entry for the units and a separate entry to commercial tenancy. The entry to the commercial tenancy is recessed some 4.5m, with a lobby and platform lift between the street interface and the tenancy entrance.</p>   | 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.  | <p>Vehicular access is via a single width driveway located parallel with the south west boundary.</p> <p>The driveway entry is not suitably designed. The applicant has not provided sufficient information in relation to vehicular and pedestrian safety.</p>  | No                    |
| 3J- Bicycle and car parking | <p>For development in the following locations:</p> <ul style="list-style-type: none"> <li>- On sites that are within 800m of a railway station or light rail stop in the Sydney Metropolitan Area;</li> <li>- 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</li> </ul> | <p>The subject site is located 400.4m north east of the Hurstville Railway Station.</p> <p>The site is located within 800m of the Hurstville Station of which Hurstville is identified as 'Metropolitan Regional Centre (CBD) within 'A Plan for Growing Sydney'. As a result the proposal assessed against and complies with the minimum car parking rates under the RMS Guide to Traffic Generating Development.</p> <p>The above car parking rates override Council's minimum</p> | <p>Yes</p> <p>Yes</p> |



|                        |  |   |                                |
|------------------------|--|---|--------------------------------|
|                        |  | HCC DCP No.2 residential car parking requirements.  |                                |
| 4A- Solar Access       | Living rooms and private open spaces of at least 70% of units 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 | 11 of the 17 achieve this criterion equating to 64.7%.  | No                             |
|                        | A maximum of 15% of units in a building receive no direct sunlight between 9 am and 3 pm at mid-winter   | 2 of the 17 receive no direct solar access equating to 17.64%.  | No                             |
|                        | Daylight access is maximised where sunlight is limited.  | Skylights have been incorporated above Units 3.01, 3.02 and 3.03. Window placement located to maximise natural light. | Yes                            |
| 4B-Natural Ventilation | At least 60% of units are naturally cross ventilated in the first nine storeys of the building.  | 14 of the 17 units are cross ventilated equating to 82.35%.   | Yes                            |
|                        | Overall depth of a cross-over or cross-through unit does not exceed 18m, measured glass line to glass line.  | All less than 18m.  | Yes                            |
|                        | The building should include dual aspect units, cross through units and corner units and limit unit depths  | Dual aspect units incorporated within the design.   | Yes                            |
| 4C-Ceiling Heights     | Measured from finished floor level to finished ceiling level, minimum ceiling heights are:   |   |                                |
|                        | Habitable rooms = 2.7m<br>Non-habitable rooms = 2.4m.  | 2.7m  | Yes                            |
|                        | Residential floor to floor height of 3.1m  | 3,050mm floor to floor provided.  | No, however this is acceptable |

|                                    |   |  | to provide services between levels.                     |
|------------------------------------|---|--|---|
| 4D-Unit size and layout            | <p>Units are required to have the following minimum internal areas:</p> <p>Studio = 35sqm</p> <p>1 bedroom = 50sqm<br/>2 bedroom = 70sqm<br/>3 bedroom = 90sqm</p> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each</p> <p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms</p> | <p>Range: 49-50sqm<br/>Range: 49-53sqm<br/>Range: 78-83sqm<br/>Range: 95-100sqm</p> <p>All units with additional bathrooms provide an additional 5sqm internal floor area.</p> <p>Each habitable room contains a window which is not less than 10% of the floor area of the room. Daylight is not borrowed from other rooms.</p> | <p>Yes<br/>No<br/>Yes<br/>Yes</p> <p>Yes</p> <p>Yes</p> |
| 4D- Unit rooms, location and sizes | <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>Habitable room depths are provided in accordance with this clause.</p> <p>Open plan layouts contain a maximum depth of 8m from a window complying with this clause.</p>   | <p>Yes</p> <p>Yes</p>                                   |
| 4D- Unit rooms, location and sizes | <p>Master bedrooms have a minimum area of 10sqm and other bedrooms 9sqm (excluding wardrobe space)</p>  | <p>The master bedrooms are greater than 10sqm excluding wardrobes.</p> <p>Other bedrooms are greater than 9sqm excluding wardrobes.</p>  | <p>Yes</p>  |

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|                                     | <p>Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</p> <p>Living rooms or combined living/dining rooms have a minimum width of:</p> <p>- 3.6m for studio and 1 bedroom</p> <p>- 4m for 2 and 3 bedroom units</p> <p>The width of cross-over or cross-through units are at least 4m internally to avoid deep narrow unit layouts</p>  | <p>Each bedroom has a minimum dimension of 3m excluding the wardrobe.</p> <p>Living rooms wider than 3.6m for Studio and 1 bedroom units.</p> <p>Living rooms wider than 4m for 2 + bedroom units.</p> <p>More than 4m.</p>   | <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>                      |
| 4E-Private Open space and balconies | <p>All units are required to have primary balconies as follows:</p> <p>Studio = 4sqm/1m depth</p> <p>1 bedroom = 8sqm/2m depth</p> <p>2 bedroom = 10sqm/2m depth</p> <p>3 bedroom = 12sqm/2m depth</p> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p> <p>For units 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>5sqm with minimum depth of 1m.</p> <p>Range: 5-10sqm with minimum depth of 2m.</p> <p>Range: 10sqm with minimum depth of 2m.</p> <p>22sqm with minimum depth of 2.4m.</p> <p>Minimum balcony areas greater than 1m included.</p> <p>Rear private open space greater than 15sqm for rear ground floor Units 0.01 and 0.02 provide in the area nominated as deep soil.</p> | <p>Yes</p> <p>No</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> |

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| 4F- Circulation spaces | The maximum number of units off a circulation core on a single level is 8, however where this is unable to be achieved due to design criterion for increased internal amenity, no more than 12 units is permitted off a circulation core on a single level. | One (1) lift provided to service each level:<br>Level G: 2 units<br>Level 1: 5 units<br>Level 2: 5 units<br>Level 3: 5 units   | Yes                                  |
| 4G- Storage            | 1. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:<br><br>Studio = 4m <sup>3</sup><br><br>1 bedroom = 6m <sup>3</sup><br><br>2 bedroom = 8m <sup>3</sup><br><br>3 bedroom = 10m <sup>3</sup>                 | More than 6m <sup>3</sup> provided for studio unit.<br><br>More than 6m <sup>3</sup> provided for 1 bedroom units.<br><br>More than 8m <sup>3</sup> provided for 2 bedroom units.<br><br>More than 10m <sup>3</sup> for 3 bedroom units. | Yes<br><br>Yes<br><br>Yes<br><br>Yes |
| 4K- Unit mix           | A variety of unit types is provided   | The proposal seeks seventeen (17) units composition comprising of:<br><br>The proposal comprises of the following:<br>3 x 2 studio = 17.64%<br>6 x 1 bedroom = 35.29%<br>6 x 2 bedroom = 35.29%<br>2 x 3 bedroom = 11.76%                | Yes                                  |
| 4M-Facades             | Facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale.  | The façade is not considered to positively contribute to the streetscape along The Avenue. The reduced allotment width limits opportunities to create wider the active frontages with shopfronts.  | No                                   |
| 4N-Roof design         | Roof treatments are integrated into the building design and positively respond to the street. Opportunities to use roof space for   | Roof treatments are excessive and are not considered to be well integrated into the building. No satisfactory justification provided regarding the extent  | No                                   |

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|                                      | residential accommodation and open space are maximised. Incorporates sustainability features.   | of the non-compliance for the lift overrun, communal open space and balustrades.  |     |
| 4O- Landscape design                 | Landscape design is viable and sustainable, contributes to the streetscape and amenity  | The proposal seeks to provide landscaped embellishment on the roof and within the rear setback.   | Yes |
| 4P- Planting on structures           | Planting on structures – appropriate soil profiles are provided, plant growth is optimised with appropriate selection and maintenance, contributes to the quality and amenity of communal and public open spaces  | The proposal seeks to provide planting on the roof top and landscaping within the rear setback.   | Yes |
| 4Q-Universal design                  | Universal design – design of units allow for flexible housing, adaptable designs, accommodate a range of lifestyle needs  | The proposal provides for a variety of floor layouts and configurations.  | Yes |
| 4T- Awnings                          | Awnings and signage – awnings are well located and compliment and integrate with the building design, signage responds to the context and desired streetscape character.  | The proposal incorporates an awning and canopy elements within the design. The plans appear to show some extension of the building facade into the public domain, this would be condition not happen if the application was to be approved. | 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 has not provided an amended BASIX Certificate in support of the amended design.  | No  |
| 4V Water management and conservation | Potable water use is minimised<br>Urban stormwater is treated on site before being discharged to receiving waters<br>Flood management systems are integrated  | The proposal has not provided an amended BASIX Certificate.   | No  |

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|                               | into site design.  |   |     |
| 4W<br>Waste<br>management     | Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents<br>Domestic waste is minimised by providing safe and convenient source separation and recycling. | The proposal incorporates waste storage facilities contained within basement level 2 for both commercial and residential waste.                                       | Yes |
| 4X<br>Building<br>maintenance | Building design detail provides protection from weathering<br>Systems and access enable ease of maintenance<br>Material selection reduces ongoing maintenance costs  | The proposal seeks to utilise a mixture of cladding and concrete which are materials that are consistent within the locality satisfying the objective of this clause. | Yes |

72. As stated within the above table, the proposal is deficient in certain aspects with the ADG requirements and therefore is considered to be unacceptable given that the extent of the non-compliances relate to insufficient allotment width and site area which detract from the amenity of the site.

### **Draft Environmental Planning Instruments**

#### **Draft Georges River Local Environmental Plan 2020**

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

*“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.”*

74. Comment: The proposal has been considered having regard to the above, whereby the height of building is unchanged at 15m for this site.

#### **Draft Environment SEPP**

75. 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.
76. 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.

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

#### **Draft Remediation SEPP**

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

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

79. Given the above, a contamination report was submitted which was reviewed and by Council's Coordinator Environmental Health, the proposal was considered acceptable subject to conditions. In this regard, due consideration has been applied to the draft SEPP.

#### **Hurstville Local Environmental Plan 2012**

80. The extent to which the proposal complies with the relevant standards of Hurstville Local Environmental Plan 2012 (HLEP2012) is outlined in the table below.

| Clause               | Standard                          | Proposed  | Complies |
|----------------------|-----------------------------------|---|----------|
| 1.2 Aims of the Plan | Aims of the Plan to be satisfied; | <p>The proposal is considered to be inconsistent with the aims of the Plan. The proposal does not satisfy objective (2)(a) which states;</p> <p><i>“(a) to encourage and co-ordinate the orderly and economic use and development of land that is compatible with local amenity”.</i></p> <p>The shortfall of the allotment width and floor place limits opportunities for meaningful commercial uses within the Hurstville City Centre. The insufficient allotment width creates an undesirable planning outcome and prevent whereby the active street</p> | No       |

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|  |   | frontage along The Avenue would be 'broken up' by repetitious additional driveways, services and entries rather than an active street frontage which is characterised by shopfronts.  |  |
| Part 2 – Permitted or Prohibited Development | B4 Mixed Use  | The proposal being “shop top housing” and “residential flat building” are permissible uses within the zone.   | Yes  |
|  | Objectives of the Zone<br><br>• To provide a mixture of compatible land uses.<br><br>• 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.<br><br>• To allow for residential development in the Hurstville City Centre while maintaining active retail, business or other non-residential uses at street level. | The proposal is not considered to be consistent with the zone objectives.<br><br>The proposal results in a built form which detracts from the active street frontage desired within the Hurstville City Centre.<br><br>The proposal seeks to provide one (1) commercial tenancy with an area of 116sqm of the total floor space of the development being 1,405sqm equating to (8.25%).<br><br>Due to the insufficient allotment width the proposal results in limited opportunities for the creation of shopfronts to The Avenue. | No   |
| 4.3 – Height of Buildings                    | 15m as identified on Height of Buildings Map  | Maximum 18.49m for lift overrun (RL71.35).  | No   |
| 4.4 – Floor Space Ratio                      | 2.5:1 as identified on Floor Space Ratio Map<br><br>Site area 712sqm per survey plan.<br><br>Maximum permitted FSR = 1,780sqm   | Ground floor = 385.51sqm<br>Level 1 = 418.54sqm<br>Level 2 = 391.10sqm<br>Level 3 = 400.02sqm<br>Rooftop = 35.129sqm<br><br>1,630.29sqm<br>Proposed FSR = 2.28:1<br><br>Note: this calculation includes   | Yes<br><br><br><br><br><br><br><br><br><br>Yes |

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|  |  | winter gardens fronting The Avenue, Hurstville.   |  |
| 4.5 – Calculation of floor space ratio and site area | FSR and site area calculated in accordance with Cl.4.5   | FSR and site area have been calculated in accordance with this Clause.  | Yes  |
| 4.6 Exception to Development Standard                | Consideration of Clause 4.6 Exception to Development Standards to apply.   | A Clause 4.6 Exception to Development Standard accompanied the original proposal for the lift overrun, communal roof top and balustrades to the rear which breached the 15m height of building. The amended proposal has sought a further breach generated by balustrades at the front of the communal open space. No revised Clause 4.6 Exception to Development Standard has been provided. Notwithstanding for the purposes of assessment the originally submitted Clause 4.6 Exception to Development Standard has been assessed. | No - variation to height of building has been considered but this is not supported. Refer to the assessment below. |
| 5.10 – Heritage Conservation                         | The objectives of this Heritage Conservation Clause must be satisfied.   | The site is not identified as a State Heritage Item, Local Heritage Item or part of a heritage conservation area. The site does not directly adjoin an item which meets this criterion.   | Yes  |
| 6.6 Active Street Frontages                          | Active Street Frontages Objectives must be satisfied.  | The proposal has not provided an adequate active street frontage.   | No - refer to discussion below   |
| 6.7 Essential Services                               | Essential services relating to water, electricity, sewerage, storm water or on site conservation and suitable road and vehicular access to be provided | The proposal has not provided adequate suitable vehicular access which results in a conflict between vehicular access and egress and pedestrian safety. No information has been provided in relation to phasing of traffic lights to ensure that the driveway may work in an appropriate manner internally within the site and how vehicles enter and exit the development through the centre of a signalised   | No   |

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|                         |  | intersection.   |     |
| 6.9 Airspace Operations | The consent authority must not grant consent 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 the regulations made for the purposes of that Division. | The proposal comprises a four (4) storey mixed use development which seeks a maximum height of RL71.35. This is below the affected airspace operations. | Yes |

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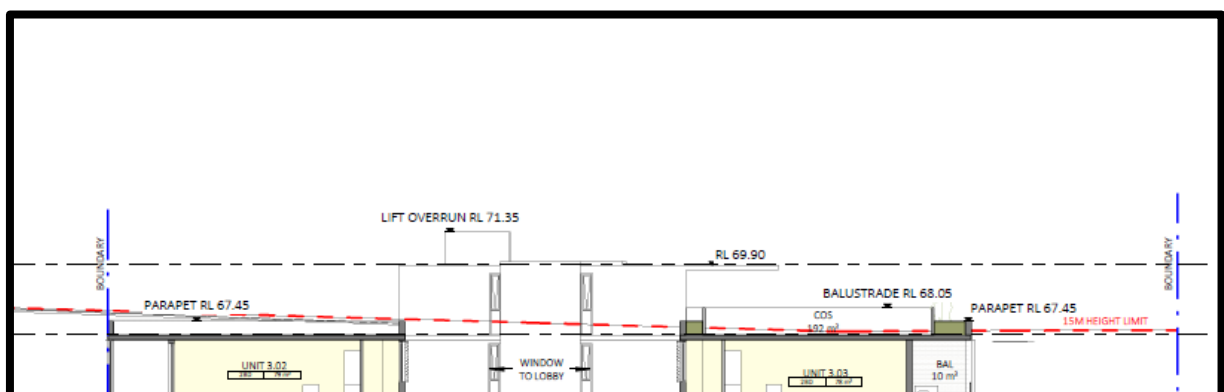
### Clause 4.6 – Exceptions to Development Standards

#### Detailed assessment of variation to Clause 4.3 Height of Buildings

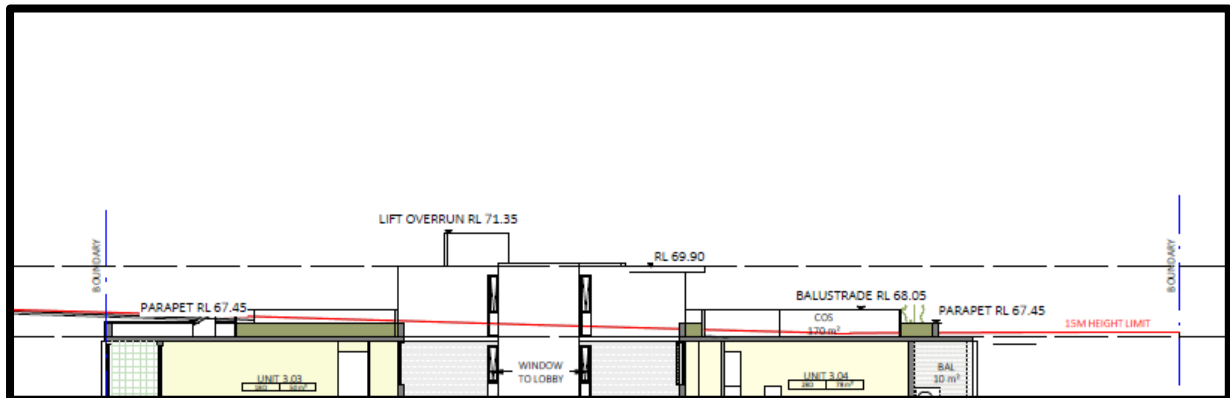
81. The Hurstville LEP 2012 prescribes a maximum building height of 15m for this site.
82. The proposal does not comply with the 15m height control of the Hurstville LEP 2012. The applicant has submitted the following table indicating the extent of non-compliance.

| Table 7 - Building Height Non-Compliances   |       |       |                 |              |                  |
|---|-------|-------|-----------------|--------------|------------------|
|   | NGL   | RL    | Building Height | Over 15m BHC | % Non-Compliance |
| Front Parapet   | 53.14 | 67.54 | 14.4m           | -0.6         |                  |
| Rear Parapet  | 51.94 | 67.45 | 15.51m          | 0.51m        | 3%               |
| Roof Level 4 Foyer (rear)   | 51.73 | 69.9  | 18.17m          | 3.17m        | 21%              |
| Roof Level 4 Foyer (front)  | 52.86 | 69.9  | 17.04m          | 2.04m        | 14%              |
| Lift Over   | 52.86 | 70.65 | 17.79m          | 2.79m        | 19%              |
| <b>Data Source</b><br>Land Survey prepared by Maps and Survey Land and Engineers Surveyors dated 13/12/2018 and Architectural Plans prepared by Dickson Rothschild Architects |       |       |                 |              |                  |

**Figure 10:** Applicant's table of height of building non-compliances above 15m extracted from Statement of Environmental Effects (Source: D.R Designs (NSW) P/L, 2020)



**Figure 11:** Extract of original cross section demonstrating extent of non-compliance above 15m whereby the upper element of the communal open space and lift overrun (RL71.35) exceed the height of building (Source: D R Designs (NSW) Pty Ltd, 2020).



**Figure 12:** Extract of amended cross section demonstrating extent of non-compliance above 15m whereby the upper element of the communal open space, balustrades and lift overrun (RL 71.35) exceed the height of building (Source: D R Designs (NSW) Pty Ltd, 2020)

83. Council's assessment indicates the extent of the non-compliance is an additional 700mm, at the highest point being the top of the lift over-run at RL71.35 being 18.49m (+3.49m or 23.26%) above the 15m height limit, with which the applicants Clause 4.6 Exception to Development Standard statement does not align.
84. In support of the non-compliance, the applicant has provided a request for a variation to Clause 4.3 in accordance with Clause 4.6 of Hurstville Local Environmental Plan 2012 (LEP) for the variation sought, of which points have been extracted justify the reasons in supporting the variation. This Clause 4.6 request for variation is assessed as follows.

***Is the planning control in question a development standard?***

85. The Height of Buildings control under Clause 4.3 of the HLEP 2012 is a development standard.

***What are the underlying objectives of the development standard?***

86. The objectives of Height of Buildings standard under Clause 4.3 of HLEP 2012 are:

*“(1) The objectives of this clause are as follows:*

- (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”*

87. The applicant has provided the following justification regarding the development's consistency with the above objectives which include;
88. *"The proposed building presents 4-storeys to The Avenue and to the street generally complies with the 15m building height control. The building complements the as-built street wall to the west (38 The Avenue) and provides for continuation of this street wall in accordance with the land use objectives of the B4 Mixed Use zone. The site is in a commercial centre where transformation of the built form is sought for mixed use development.*
89. *The buildings height is compatible with the 15m building height control (noting the street wall to The Avenue is compliant) and consistent with the height of recent mixed use buildings in this zone. The proposal satisfies objective (a).*
90. *In respect to objective (b), there are no significant views and the visual impact of the building is as expected for a new 4-storey mixed use building in this location. The building's solar impacts are also as expected and there are no nearby parks or public spaces that would be impacted by the non-compliant parts of the building. The proposal satisfies objective (b).*
91. *The non-compliant parts of the building have minimal adverse environmental effects on the use or enjoyment of adjoining properties and the public domain, noting the objectives of the B4 zone is to transform The Avenue into 4-storey street wall style built form.*
92. *The non-compliances with the building height control do not conflict with the objectives of the building height control and the building (including its non-compliant parts) satisfy the objectives of the building height control.*
93. Applicant's Comments: The proposed development does not achieve the objectives of the standard notwithstanding non-compliance with the height of buildings control because:
94. *"The parts of the over the 15m building height control are to provide an architecturally well resolved building (the parapets) and a desirable amenity to the residents of this building (roof top communal open space). The building could be made to comply with the 15m building height control and achieve the same density of development; however, that building would be a mean and lower quality building. The non-compliances proposed to building height control are have minor and acceptable environmental impacts and are the preferable planning outcome on design grounds to a more utilitarian and compliant building form".*
95. Officer Comment: The applicant's justification is not supported. As shown in the cross section (Figure 12), the extent of the height variation relates to balustrades, communal roof top area and lift overrun. The proposed variation does comprise of floor space which has been included within this assessment.
96. The height of the building results in additional impacts on overshadowing and visual bulk, when compared to that of a numerically compliant building. The applicant has not sought design measures to demonstrate why the extent of this variation of this height is required. No lift manufactures specifications have been provided in support of the height of the lift overrun. Further that no shadow diagrams have been provided in comparing the impacts of that of a compliant height and a non-compliant height.



97. Given the above, the proposed extent of the variation does not satisfy the objectives of Clause 4.3.

***What are the underlying objectives of the zone?***

98. The objectives of the B4 Mixed Use zone are as follows:
- *To provide a mixture of compatible land uses.*
  - *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
  - *To allow for residential development in the Hurstville City Centre while maintaining active retail, business or other non-residential uses at street level.*
99. Officer Comment: The applicant's justification has not appropriately demonstrated how the extent of the non-compliance satisfies the underlying zone objectives and the height objectives of the Development Standard. The proposed extent of non-compliance is not considered to positively contribute to the transition zone.
100. The objectives for Clause 4.3 Height of Buildings development standard state the following:
- “(1) The objectives of this clause are as follows:*
- (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”.*
101. The applicant has provided a Clause 4.6 Exception to Development Standard as attached to this report.
102. Officer Comment: The variation in height is to a maximum of 18.49m equating to 23.26% breach of the control. The applicant's justification is considered to be inadequate and the extent of the variation is excessive when compared with other lift overrun heights and communal open spaces approved within the locality. The extent of the variation from an amenity perspective is not minor and is of a moderate impact. Further consideration has been applied to the variation having regard to the principles established under the 'Five Part Test' established by the NSW Land and Environment Court. Councils may choose to not only use the principles of Clause 4.6 but also this five part test.

103. Court cases dealing with applications to vary development standards resulted in the Land and Environment Court setting out a five part test for consent authorities to consider when assessing an application to vary a standard to determine whether the objection to the development standards is well founded, consideration to these principles and extent of variation have been considered as per below.

|   |   |
|---|---|
| 1. The objectives of the standard are achieved notwithstanding noncompliance with the standard;   | <u>Applicant's comment:</u> <i>"The proposal meets the relevant objectives of the height standard, as detailed above."</i>  |
|   | <u>Officer comment:</u> The applicant's justification has not provided an accurate description of the extent of the non-compliance in terms of numerical variation and extent of elements above the 15m HOB. Notwithstanding the applicant has not reasonably demonstrated that the objectives have been satisfied.   |
| 2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;  | <u>Applicant's comment:</u> <i>"We would argue that this part of the test contradicts the first point in the test. We have outlined that the relevant objectives are still met despite the non-compliance with the standard, indeed it is reasonable to not to comply with the height control to achieve a rationale development on this site. It is not necessary to comply with the height control to meet the relevant planning objectives for the site".</i>  |
|   | <u>Officer comment:</u> Given the above, the proposal is considered to be unsatisfactory as it results in a built form which is inconsistent with the maximum height within the zone.   |
| 3. The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;  | <u>Applicant's comment:</u> <i>"If strict numerical compliance was required with the height, then there would be repercussions for the feasibility of the site to ensure residential amenity".</i>  |
|   | <u>Officer comment:</u> It is considered that strict numerical compliance would result in improved benefit and reduction of material impacts relating to overshadowing and bulk and scale. Site feasibility is not a matter for consideration when assessing an application.  |
| 4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; | <u>Applicant's comment:</u> <i>"A review of the surrounding area shows buildings with significant building heights. The Westfield Shopping Centre across the road from the site has a parapet height of 28m in a zone with a 19m building height control. The Shopping Centre presents a blank façade to The Avenue and the only activity coming from this façade is a busy entry to a car park at ground level. The bulk, scale and poor articulation of the Westfield Shopping Centre façade radiates significant negative externalities on street life and</i> |

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|   | <p><i>pedestrian environment in this locality. The proposal offers the complete opposite to Westfield Shopping Centre façade, with a street wall height that matches adjoining building forms, has an abundance of windows and an active ground level frontage. The proposed building will enliven and improve its urban environment.</i></p> <p><i>Since 2017 Council has kept and published a register of how it administers clause 4.6. Since 2017, in B3 and B4 zones in the Hurstville commercial centre Council has varied the building height control 8 times with the variations ranging from 2% to 60% over the building height control, and 3 of those variations cite the variation is for “lift overrun and stairs to communal open space”.<sup>2</sup></i></p> <p><i>The proposal provides for a building height variation of 3% to 19% exclusively for building parapets, a lift overrun and stairs to communal open space. The variation sought introduces no significant impacts to its context and the building height variation is consistent with how Council administers this control in B3 and B4 zones.</i></p> <p><i>The non-compliance is minor numerically and contextually and the proposal offers a significant improvement to the streetscape and overall walkability of the area”.</i></p> |
|   | <p><u>Officer comment:</u> Council has previously supported variations to the height of building for lift overruns and communal open space structures. However the extent of the variation is considered to be excessive for this site.</p> <p>It is noted that the site opposite occupied by Westfield has different planning controls than the subject site and therefore is not a relevant comparison.</p>   |
| <p>5. The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.</p> | <p><u>Applicant’s comment:</u> <i>“The zoning of the parcels B4 mixed use. The proposal successfully achieves the objectives of this zone in a difficult context with the neighbouring property to the north having poor street activation and The Avenue at this location suffering the negative externalities.</i></p> <p><i>The proposal successfully deals with the sites challenges with the only non-compliance being minor. The site could have a roof terrace with the removal of one of the levels, but that would interrupt the street scape rhythm and would not match the adjoining property. By not compiling to the standard it allows for continuity between the building with retaining the roof terrace”</i></p>   |
|   | <p><u>Officer comment:</u> The applicant’s justification is not considered to be reasonable and has not adequately demonstrated the need for the extent of</p>  |

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|  | this variation therefore not satisfy the objectives of the development standard. |
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***Is the variation to the development standard consistent with Clause 4.6 of the Hurstville LEP 2012?***

104. Clause 4.6(1):

*The objectives of this clause are as follows:*

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

105. Comment: Flexibility in applying the standard in this instance is not considered appropriate and the requisite levels of satisfaction permitted by the controls have not been achieved in this case regarding sufficient environmental planning grounds for this particular site, given the extent of variation relates to the lift overrun and communal open space and balustrades. Whilst the variation (at the highest point of the building being the lift over-run) is proposed to ensure appropriate access is available to the communal rooftop area but has not demonstrated this adequately and why the extent of the breach cannot be reduced.

106. Clause 4.6(2):

*“Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause”*

107. Comment: Clause 4.3 Height of Buildings is not excluded from the operation of Clause 4.6.

108. Clause 4.6(3):

*“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, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard”*

109. Comment: The applicant has provided a written variation request prepared by Dickson Rothschild. A copy of this Clause 4.6 request for variation is provided for the Panel's consideration.

110. 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), and"*

111. Comment: The written request adequately addresses the matters in subclause (3). Strict compliance with the standard is not unreasonable and unnecessary because the development is inconsistent with the objectives of the B4 Mixed Use zone and height of building standard as described above. It is considered that the applicant has not provided sufficient environmental planning grounds to justify contravening the standard given that the non-compliance provides for an improved amenity outcome while resulting in no adverse environmental impacts. It is noted that it common that residential flat buildings within the surrounding locality contain communal open space on the roof top with lift access however encroachments above the height of building are usually minor and the quantity at a minimum.

- (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, and*

112. Comment: For the reasons detailed above, the development is considered to be inconsistent with the objectives of Clause 4.3 Height of Buildings and B4 Mixed Use zone.

- (b) *the concurrence of the Director-General has been obtained.*

113. Comment: As the application seeks a variation to a Development Standard of over 10%. The proposal seeks a variation of 23.26% (+3.49m) to the top of the lift overrun. The proposed residential flat building must be determined by the Local Planning Panel.

### **Conclusion – Assessment of Clause 4.6 Request for Variation**

114. The variation is considered significant being 3.49m or 23.26% above the 15m height of building control.
115. In a recent Court decision *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ further clarified the correct approach in the consideration of clause 4.6 requests. This advice further confirms that Clause 4.6 does not require that a development that contravenes a development standard must have a neutral or better environmental planning outcome than one that does not. This is considered to be the case in this instance given the additional height sought and minimal impact generated.
116. As held in *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7 at [39], Preston CJ confirmed (at[25]) that the test in 4.6 (4)(a)(i) *does not* require the consent authority to *directly* form the opinion of satisfaction regarding the matters specified. Rather, it needs to do so only *indirectly* in forming its opinion of satisfaction that the applicant's written request has adequately addressed the matters required to be demonstrated.
117. By contrast, the test in cl4.6(4)(a)(ii) requires that the consent authority must be directly satisfied about the matter in that clause (at[26]); namely that the development will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out.

118. The Clause 4.6 request has been considered and it concluded that overall, the extent of the non-compliance in this instance is not acceptable and the applicant's request is not well founded.
119. In this regard, the Clause 4.6 Exception to development standard cannot be supported.

### **Active Street Frontage**

120. The underlying objective of Clause 6.6 Active Street Frontages is to *"promote uses that attract pedestrian traffic along certain ground floor street frontages in Zone B2 Local Centre, Zone B3 Commercial Core and Zone B4 Mixed Use"*. Further that *"(3) Development consent must not be granted to the erection of a building, or a change of use to use of a building, on land to which this clause applies unless the consent authority is satisfied that the building will have an active street frontage after its erection or change of use"*, the proposal has been considered in accordance with this clause and is unsatisfactory.



**Figure 13** - Inset of photo montage of proposed interface to The Avenue, Hurstville (Source: D R Designs Pty Ltd, 2020).

121. For the purposes of this assessment report, the following analysis has been undertaken in relation to the following properties fourteen (14) on the same side northern side of The Avenue, Hurstville. These properties are also zoned B4 Mixed Use. The Avenue, Hurstville forms an interface zone between the Commercial Centre and residential areas to the north east. The rear adjoining property has street access to Hudson Street, Hurstville.





**Figure 14** – Aerial photograph of subject site (outlined in blue) and adjoining properties on the same side of the Road on The Avenue, Hurstville between Cross Street and Forest Road, Hurstville (Source: Author GRC, 2020).

| Property address                         | Approximate allotment width | Built form   |
|--|-----------------------------|--|
| 38 The Avenue Hurstville                 | 15.24m                      | Four storey mixed use development (97/DA-185)                                |
| 32 The Avenue, Hurstville (subject site) | 15.24m                      | Single storey commercial building  |
| 30 The Avenue, Hurstville                | 15.24m                      | Single storey commercial building  |
| 28 The Avenue, Hurstville                | 15.24m                      | Two storey commercial building   |
| 26 The Avenue, Hurstville                | 15.24m                      | Two storey child care centre   |
| 20 The Avenue, Hurstville                | 15.24m                      | Four storey mixed use development (09/DA-155)                                |
| 20-22 The Avenue, Hurstville             | 15.24m                      | Place of Public Worship (Uniting Church)                                     |
| 18 The Avenue, Hurstville                | 15.24m                      | Single storey commercial building  |
| 14-16 The Avenue, Hurstville             | 30sqm                       | Four storey mixed use development  |
| 12 The Avenue, Hurstville                | 15.24m                      | Single storey commercial building  |
| 8-10 The Avenue, Hurstville              | 30m                         | Four storey mixed use development  |
| 4-6 The Avenue, Hurstville               | 27m                         | Four storey mixed use development  |
| 2 The Avenue Hurstville                  | 107m                        | Single storey Place of Public Worship (St George Hurstville Anglican Church) |

122. The proposal is not considered to adequately satisfy this clause as the proposal results in a poor interface to The Avenue, Hurstville.
123. The proposal results in a broken street frontage which comprises of a single access driveway, access stairs, residential lobby and commercial shop front. This is due to the

insufficient allotment width of 15.24m whereby a 30m allotment width would result in greater opportunities for an active street frontage and result less duplication of services such as driveways and entries to service each building.

124. The proposal has indicated an area of approximately 900mm by 900mm for services within the front facade which is considered to be inadequate. As such, the requirement for a booster assembly and potentially a substation will further detract from the streetscape, functionality and direct interface to the street.
125. The proposal is considered to result in an undesirable precedent along The Avenue, Hurstville given that numerous properties in this street are yet to be developed and share a similar allotment width and size to that of the subject site.
126. For the above reasons, this element of the proposal is not supported as Council Officers are not satisfied that objectives have been met.

#### **Any other matters prescribed by the Regulations**

127. The Regulations prescribe no other matters for consideration for the proposed development.

#### **Development Control Plans**

##### **Hurstville City Council Development Control Plan No. 2 (HCC DCP No. 2)**

128. The proposed development is subject to the provisions contained within the HCC DCP No. 2. The proposal has been considered in accordance with the applicable controls within the following subsections as per below.

#### **Section 4 Hurstville City Centre Precincts**

##### **129. City Centre North**

| <b>Clause</b>                 | <b>Standard</b>  | <b>Proposed</b>   | <b>Complies</b> |
|-------------------------------|--|---|-----------------|
| 1. Promoting a Civic Presence | Built form is to adopt a strong civic presence created by well-defined streets and civic spaces. The Precinct is to support a significant civic meeting space to facilitate community interaction and gatherings with emphasis placed on creating community meeting points of interest. The basement levels will support service access and public car parking | The proposed is not seeking to construct a building for a civic purpose.                | N/A             |
| 2. Activation of the Street   | Active uses are to be promoted at the ground and lower   | As previously discussed, the reduced allotment width of 15.24m (in lieu of the required | No              |

|                                |  |  |    |
|--------------------------------|--|--|----|
|                                | levels of development to promote vibrancy and passive and active surveillance of the public domain.  | 30m) detracts from the creation of a meaningful active street frontage to The Avenue, Hurstville. The façade presents as cluttered and the functionality and serviceability of the development is compromised given the narrow width of the allotment and the necessary design requirements for this type of development.  |    |
| 3. Transition with residential | Where land adjoins established residential areas on the boundary of the City Centre, the Precinct performs a transitional role, with new development to be suitably designed to maintain the amenity of adjoining residential land uses. | <p>The proposal is considered to result in a poor residential transition to the adjoining residential properties to the north east. The site is considered a zone for the following reasons.</p> <p>The proposal incorporates elevated terraces for units U0.01 and U0.02 which result in adverse overlooking impacts to the adjoining.</p> <p>The development has not been given due regard to the impact resulting from the proposed built form.</p> | No |

### Section 5.3 Controls for Residential, Commercial and Mixed Use Development

| Clause                  | Standard  | Proposed   | Complies |
|-------------------------|---|--|----------|
| 5.3 Built Form Controls | <p>(a) Site amalgamation must achieve:</p> <p>In the remaining of the City Centre - a general building floor plate of 900 - 1,000sqm; and - a minimum 30 metre street frontage;</p> | <p>The subject site has a frontage of 15.24m and floor plate of 619sqm.</p> <p>It is noted that the applicant had provided evidence of offers to acquire the adjoining property at 30 The Avenue, Hurstville which would achieve a combined frontage of more than 30m. Offers to obtain this property have not been accepted. The site is not considered to be an isolated site but rather a constrained site.</p> | No       |
|                         | (b) Site amalgamation is  | The site is not affected by  | N/A      |

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|  | to consider Figure 5.3.1 Pedestrian Access Map to create opportunities for new connections, through the City Centre's urban grid, with new arcades and public spaces to link with major transport nodes, activity generators and key community focal points within each precinct.  | the criterion of this clause.  |     |
|  | (c) Any site amalgamation, in areas with a strong 'fine grain' character, such as the Commercial Core, is to ensure that the final design reflects the fine grain character of adjoining development and heritage items.   | The site is not located within the commercial core.  | N/A |
|  | <p>(d) Where lot consolidation is proposed, applicants must demonstrate that: Adjoining sites are not isolated and retain access;</p> <p>The objectives and principles of this section can be achieved;</p> <p>Adequate onsite parking, where permitted, can be achieved to meet the parking demands of the development;</p> <p>The design and function of the development above podium level will achieve a high level of amenity to both its future occupants and to adjoining properties.</p> <p>Isolated sites are sites that cannot comply with the frontage requirements for redevelopment</p> | <p>The subject site is not considered to be isolated. As discussed, the site is considered to be a constrained site.</p> | No  |

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|  | because the adjoining sites have been developed at or near the maximum potential allowed in the zone.   |  |                      |
|  | <p>(e) Where a development may result in the creation of an isolated site or sites, the applicant is required to demonstrate any negotiations between the owners of the properties commenced prior to the lodgement of the Development Application (DA). Where no satisfactory result is achieved, the DA must include evidence of negotiations with the owners of the properties.</p> <p>These details must include evidence of offers to such owners. Such offers are to be reasonable and are to be based on at least one recent independent valuation and include other reasonable expenses likely to be incurred in the sale of the process.</p> | The proposal does not result in the creation of an isolated site as 30 The Avenue has the potential to be amalgamated with the subject site into the future or adjoining properties to the south east.   | No                   |
|  | <p>(f) Where a development may result in the creation of an isolated site on an adjoining site, applicants must demonstrate that orderly and economic use and development of the isolated site can be achieved in a manner consistent with the planning controls.</p> <p>The applicant must provide: A building envelope for that site, indicating height, setbacks, resultant site coverage and/or built</p>   | <p>As stated above, the proposal does not result in the creation of an isolated site as 30 The Avenue has the potential to be amalgamated with the subject site or adjoining properties to the south east.</p> <p>The applicant has provided a schematic diagram on how 30 The Avenue, Hurstville could be redeveloped as a standalone building. The</p> | <p>No</p> <p>Yes</p> |

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|   | <p>area (building and basement), sufficient to understand the relationship between the development and that site, and</p> <p>An assessment of the likely impacts the developments will have on each other, such as solar access, visual and acoustic privacy, impacts for residential development and ability to provide site servicing such as parking.</p>   | <p>schematic replicates the same building design and footprint to that proposed for the subject site.</p> <p>No detailed assessment has been provided in relation to the assessment of impacts between the properties.</p>              | No  |
| 5.4.1 Housing Choice, Affordability and Mix | <p>(a) Developments comprising residential uses must provide a variety of residential units mix, sizes, and layouts within each development. The following criteria must be satisfied:</p> <p>Bed-sitter apartments and one bedroom apartments must not be greater than 25% and not less than 10% of the total mix of apartments within each development.</p> <p>Two bedroom apartments are not to be more than 75% of the total mix of apartments within each development.</p> <p>Three bedroom apartments are not to be less than 10% of the total mix of apartments within each development.</p> <p>For smaller developments (less than six dwellings) achieve a mix appropriate to the locality.</p> | <p>The proposal seeks to provide the following unit composition.</p> <p>Studio/one bedroom = 9 of 17</p> <p>Two bedroom units = 6 of 17</p> <p>Three bedroom units = 2 of 16</p> <p>The proposal comprises of seventeen (17) units.</p> | <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> |
|   | (b) Units must be  | The development is a  | N/A   |



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|  | designed especially those in the perimeter buildings open to the podium to be to support a change in their use in the future   | single building, this clause is not relevant.   |     |
|  | (c) Appropriate unit sizes may be considered from the NSW Residential Flat Design Code (2002).   | As previously discussed within this report, in an undersized 1 bedroom unit under the AGD which has replaced the NSW Residential Flat Design Code (2002).   | No  |
|  | (d) Development comprising residential uses to encourage enclosed roof top 'communal space/ room' for communal interaction.  | The proposal provides a communal roof top space, however it remains open.   | No  |
|  | (e) For development containing more than five dwellings, adaptable dwellings at a rate of 1 per 10 dwellings or part thereof must be provided  | The proposal comprises of seventeen (17) units in total. The proposal requires two (2) adaptable dwellings to be provided. Three (3) adaptable units are provided being; Unit 1.02, Unit 2.04 and Unit 3.02 all nominated as studios. | Yes |
|  | (f) Dwellings located above the ground level of a building may only be provided as adaptable dwellings where lift access is available within the building. The lift access must provide access from the basement to allow access for people with disabilities. | Units 1.02, Unit 2.04 and Unit 3.02 are located on the upper levels which are accessed from a lift centrally located on site. The lift extends into the basement car park also.   | Yes |
|  | (g) The development application must be accompanied by certification from an accredited Access Consultant confirming that the adaptable dwellings are capable of being modified, when required by the occupant, to comply with the Australian Adaptable        | This could be a condition of consent if the application was to be supported.  | Yes |

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|                         | Housing Standard (AS 4299-1995 AS 1428 Parts 1, 2 and 4)   |  |     |
|                         | (h) Car parking and garages allocated to adaptable dwellings must comply with the requirements of the relevant Australian Standard for disabled parking spaces.  | Car parking and garage spaces can comply with Australian Standards. This would be a condition of consent to be certified at the Construction Certificate stage if the application was to be supported. | Yes |
| 5.3.2 Floor Space Ratio | (a) The maximum FSR of all buildings must comply with the Hurstville LEP 2012 FSR Map.   | The proposal seeks a maximum FSR of 2.28:1, the maximum permitted is 2.5:1.  | Yes |
|                         | (b) Where appropriate site amalgamation in accordance with Section 5.3.1 of this DCP is achieved, buildings must not exceed the maximum FSR as shown on the Hurstville LEP 2012 Floor Space Ratio Map.   | An amalgamation plan does not apply to the subject site or immediate adjoining properties along The Avenue, Hurstville.  | N/A |
|                         | (c) Maximum FSR can only be achieved where it can be demonstrated that the building envelope enables solar access to private open space and the public domain in keeping with solar access controls (refer section 6.1.3) and other amenity issues have been adequately addressed. | The proposal seeks a floor space ratio of 2.28:1; the maximum permitted is 2.5:1.  | Yes |
| 5.3.3 Building Height   | (a) The maximum height of all buildings must be in accordance with the Hurstville LEP 2012 Height of Buildings Map.  | The proposal seeks a variation to the height of building for the lift overrun and communal roof top areas and balustrading as previously discussed within this report.                                 | No  |
|                         | (b) Maximum building heights can only be achieved where it can be demonstrated that the building envelope: Enables solar access to private open space and the public domain in   | The proposal has demonstrated adequate solar access to the existing adjoining properties. However it is noted that the breach in height above 15m may detract from the amenity of                      | Yes |

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|                          | keeping with solar access controls (refer Section 6.1.3); Adequately addresses other amenity issues; Optimises lot amalgamation; Provides for satisfactory traffic, parking and servicing outcomes.   | the any future redevelopment at 30 The Avenue, Hurstville. No analysis has been provided between the impacts of a compliant development and that of the development proposed development with the height breach.  |   |
|                          | (d) Where there is no street wall /podium nominated as required in the Height of Buildings Map of Hurstville LEP 2012, the buildings on those sites shall incorporate design elements on the building façade to express the street wall/podium design.  | The proposal incorporates winter gardens fronting The Avenue, Hurstville.   | Yes   |
| Floor to Ceiling Heights | (e) Indicative floor to ceiling heights, portrayed in Figure 5.3.3, enable flexibility and adaptability in future building use. The following floor to ceiling heights as well as structural service and air-conditioning zones (services zone) are required for development:<br>Non-residential uses:<br>Ground floor retail requires 3.6m with 0.9m services zone (4.5m floor to floor height) and first floor retail or commercial use will require either 4.5m or 3.6m floor to floor height based upon being either retail or commercial;<br>Level 3 and Level 4 (and any non-residential use above) minimum 3.3m with 0.3m services zone (3.6m floor to floor height); and<br><br>All residential uses: All | Under the provisions of SEPP 65 – Design Quality of Residential Apartment Development - 6A Development control plans cannot be inconsistent with the Apartment Design Guide;<br>(1)(e) ceiling heights<br><br>3.65m - 4.05m for ground floor commercial tenancy.<br><br>2.7m for each floor and | Previously addressed within SEPP 65 - ADG assessment.<br><br>Yes<br><br>Yes |

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|                       | <p>levels minimum 2.7 metres with 0.3 services zone (3.0 metre floor to floor height).</p> <p>(f) The services zone for structural services and air-conditioning must be sufficient to incorporate all servicing into the ceiling space between floors, as detailed in</p> <p>(i) above. Air-conditioning units and services must be screened or integrated into the building design to ensure they are not visible from the adjoining public domain; occupants of adjoining commercial or retail buildings, private dwellings or private open space.</p> <p>Height in Metres vs Number of Storeys</p> <p>15m</p> <p>B4 mixed use zone, 15m<br/>No of storeys: 1 ret + 1 commercial + 2 residential or 1 ret + 4 residential.</p> | <p>0.3m for services.</p> <p>Services can be provided.</p> <p>Air conditioning units can be screened from the public domain.</p> <p>The proposal seeks a built form of 4 storeys comprising of one storey of commercial and three stories of residential above facing the street. The rear is a four storey residential flat building.</p> | <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> |
| 5.3.4 Street Setbacks | <p>Build to boundary 30-70% max (active lobbies)</p> <p>(c) Between 30-70% of a building frontage on certain streets as identified in Figure 5.3.4 Activation, Accessibility and Alignment Map must be built to boundary.</p> <p>(e) All lower levels of buildings (first four storeys) must maintain a</p>   | <p>The proposal seeks a nil boundary alignment of 5.24m for the ground floor of an allotment that is 15.24m in width equating to 34.38%.</p> <p>The proposal contains a nil boundary setback partially on the ground</p>   | <p>Yes</p> <p>Yes</p>                       |

|                           |   |  |                       |
|---------------------------|---|--|-----------------------|
|                           | <p>consistent building alignment and must be built to side boundaries, so that a continuous frontage to the street is maintained.</p> <p>Any new building is to be designed to maintain solar access requirements as detailed in Section 6.1.3.</p> <p>(h) Buildings located on sites which adjoin residential land (identified as the Interface in Figure 5.3.4 Activation, Accessibility and Alignment Map) must be set back from the common boundary to provide suitable building separation to maintain amenity to adjoining residential properties (in terms of solar access and privacy).</p> | <p>floor and a nil boundary setback on levels 1 to 3.</p> <p>The proposal retains appropriate levels of solar access to adjoining properties.</p> <p>The site adjoins residential to the north east of which a setback of 9m has been proposed to rear boundary.</p> | <p>Yes</p> <p>Yes</p> |
| 5.3.5 Building Separation | <p>Any residential or the residential components of mixed use development must provide adequate separation between habitable rooms, balconies and non-habitable rooms, consistent with State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development (SEPP 65) and the recommendations of any accompanying design guide.</p> <p>Council may consider a variation to the building separation distances, but only where the applicant can demonstrate that the variation has been made in response to site and context constraints and</p>                              | <p>The proposal provides insufficient spatial separation between the internal facing terraces and internal balconies on level 1.</p>   | No                    |

|                    |   |   |   |
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|                    | that the variation is not made at the expense of amenity  |   |   |
| 5.3.6 Solar Access | (a) Shadow diagrams shall be submitted in respect of all development proposals indicating the over shadowing impacts on both the public and private domains.  | Shadow diagrams have been considered as part of this assessment.      | Yes   |
|                    | (b) Demonstrate access to sunlight is to be substantially maintained so that existing private and public open spaces, first and second order street footpaths and the existing windows of all habitable rooms in adjoining buildings receive at least 3 hours of sunlight between 9am and 3pm on 21 June (winter solstice). | Sunlight is maintained to the existing private and public spaces.     | Yes   |
|                    | (c) Living spaces of at least 70% of apartments in new developments must receive a minimum of 3 hours of sunlight between 9am and 3pm on 21 June (winter solstice).   | 64.70% of apartments meet this requirement.                           | No, however complies with SEPP 65 - ADG requirement of 2hrs minimum which prevails. |
|                    | (d) Living spaces and open spaces must be located to maximise access to sunlight.   | Living spaces are reasonably orientated to maximise northern aspects. | Yes   |
|                    | (e) Adjustable shading devices for shading and glare control shall be provided where required.  | Shading devices over balconies satisfy this provision.                | Yes   |
|                    | (f) Windows are to be of adequate size and proportion.  | Windows are generally considered adequate.                            | Yes   |



|                           |  |   |     |
|---------------------------|--|---|-----|
|                           | (g) Reflected light from light coloured walls and ceilings should be used.   | Lighter tones can be used.  | Yes |
| 5.3.7 Natural Ventilation | (a) Ensure each dwelling can be naturally ventilated: By siting and the layout of rooms.   | Each room is ventilated with windows to habitable rooms.  | Yes |
|                           | Through the arrangement and selection of windows, doorways and other openings to allow free internal air movements and the capacity of residents to control and manipulate the movement of air through a unit. | The proposal allows for reasonable levels of cross ventilation given window placement and layout.   | Yes |
|                           | By avoiding double loaded corridor apartment layouts.  | The proposal does not seek a double loaded corridor apartment layout.   | Yes |
|                           | (b) All new development should promote natural ventilation of habitable rooms.   | The proposal contains windows to key habitable rooms.   | Yes |
|                           | (c) A minimum of 60% of residential units must achieve natural cross-flow ventilation.   | 14 of the 17 equating to 82.23% of units provide cross-flow ventilation.  | Yes |
|                           | (d) In noisy locations, acoustic design must ensure that such ventilation can be achieved as well as ensuring that noise levels are reduced to acceptable levels in habitable rooms.                           | The proposal incorporates winter gardens for the units facing The Avenue, Hurstville on levels 1 to 3.  | Yes |
|                           | (e) In locations where wide footpaths already exist, or are proposed, ensure ground floor shops can satisfy ventilation requirements for operating a restaurant.   | The proposed ground floor contains double front entry doors to assist with ventilation. One door swings onto the public domain, If the application was to be approved this would need to be amended and swing | Yes |

|  |   |  |     |
|--|---|--|-----|
|  | (f) Design of commercial developments must incorporate mixed modes of ventilation.  | inwardly.<br><br>Ventilation and services can be provided.   | Yes |
| 5.3.8 Visual, Acoustic and Vibration Amenity | Visual Amenity<br><br>(a) Adequate separation between habitable windows, private open space and public open space in the proposed residential or mixed use development must be designed in accordance with the building separation guidelines in SEPP 65 and the Residential Flat Design Code 2002 as shown in the table on Building Separation requirements above. | Under the provisions of SEPP 65 – Design Quality of Residential Apartment Development - 6A Development control plans cannot be inconsistent with the Apartment Design Guide;<br>(1)(a) visual privacy. This has been previously addressed within SEPP 65 - ADG assessment. | Yes |
|  | (b) Balcony amenity must be managed by providing operable screens / louvers.  | The proposal contains adequate screening with full height blade walls.   | Yes |
|  | (c) Adequate screening must be provided between balconies to protect the privacy of residents.  | As stated above, the proposal provides screening in the form of blade walls.   | Yes |
|  | (d) Overlooking must be minimised by offsetting the windows from one building to another building and orientating the main living spaces within apartments to the street and/or communal open space.  | The proposal seeks to orientate the main living room windows to either The Avenue, Hurstville or to the rear.  | Yes |
|  | Acoustic and Vibration Amenity<br><br>(a) The internal layouts of apartments and the location of courtyards, terraces, balconies, and   | The proposal incorporates openings to the front, rear and central courtyards.  | Yes |

|                                      |  |  |                                  |
|--------------------------------------|--|--|----------------------------------|
|                                      | <p>openings should be designed so as to minimise noise transmission.</p> <p>(b) In mixed use developments, the design should seek to minimise the transfer of noise between residential and non-residential uses and service areas by separation, noise attenuation measures and through building design to minimise the potential for conflict between uses.</p> <p>(c) Where residential development is proposed in proximity to railway lines or major noise generating activity, appropriate materials with acoustic properties must be incorporated in the design of the dwellings.</p> <p>(e) Noise reduction must be achieved whilst still allowing windows to be open sufficiently for good ventilation.</p> | <p>The proposal seeks to incorporate one commercial tenancy having an area of 116sqm which fronts The Avenue, Hurstville.</p> <p>Appropriate materials and design which includes winter gardens for the front facing balconies.</p> <p>Appropriate materials and design including winter gardens for the front facing balconies.</p> | <p>Yes</p> <p>Yes</p> <p>Yes</p> |
| 5.3.9 Building Entrances and Lobbies | <p>The preferred lobby design principles are summarised in Figures 5.3.8 and 5.3.9 and reinforced in the following controls.</p> <p>(a) All entrances must be clearly visible and identifiable from the street and public areas through the use of colour, materials and articulation in the building design to assist in entrance visibility.</p> <p>(b) All letter boxes, lifts and signage must be</p>  | <p>The proposal is narrow and irregular shaped which is undesirable from a functionality and surveillance perspective.</p> <p>The entrances are clearly visible from The Avenue, Hurstville.</p> <p>Letterboxes are in the entranceway with the lifts</p>  | <p>No</p> <p>Yes</p> <p>Yes</p>  |

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|  | <p>located and accessed from within the lobby area.</p> <p>(c) The lobby area must have a generous street frontage, with the lift located to maximise visual casual surveillance.</p> <p>(d) All entrances and lobbies must provide suitable and appropriate lighting.</p> <p>(e) This section of the DCP must comply with the CPTED principles (Section 5.3.12).</p> <p>(f) Lobbies to residential units to be designed to provide opportunities for residents to interact.</p> | <p>and signage accessed from the lobby area.</p> <p>The lobby area is centrally located within the building facade.</p> <p>Lighting can be provided and would be conditioned if the application was to be supported.</p> <p>The proposal is generally unsatisfactory with CPTED principles given that the proposal incorporates poor sight lines and blind spots.</p> <p>The lobby is centrally located within the frontage, the letter boxes are on the outside of the lobby entrance doors providing opportunities for residents to interact. Internally the lobby is poorly design dur to the constrain nature of the allotment width.</p> | <p>Yes</p> <p>Yes</p> <p>No</p> <p>No</p> |
| 5.3.10 Building Facades and Articulation | <p>a) A balance of horizontal and vertical facade elements that relate to the scale of the building and adjacent facades in terms of cornices, balconies, balustrades, roofs, eaves lines, door/window heads to reinforce the street rhythm must be provided.</p> <p>(c) Building frontages with long facades must be articulated using shop front separations, attached columns steps in the façade, vertical windows, lighting, changes of texture and</p>                     | <p>The proposal generally contains a mixture of vertical and horizontal elements with winter garden balconies located on the first floor to the third floor fronting The Avenue.</p> <p>The proposal provides a curved edge around the commercial shopfront which provides articulation and the letterboxes to be provided.</p>   | <p>Yes</p> <p>Yes</p>                     |

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|                              | <p>colour, and the like.</p> <p>(d) Large expanses of glass curtain walling and blank walls must be avoided.</p> <p>(e) Building facades must be designed to clearly define its address to either the street, public open space or corner.</p> <p>(f) Vertical and horizontal lines must be used to align shopfronts and signage</p> <p>Roller Shutters</p> <p>(g) Any security device must have minimal impact upon the architectural features and appearance of a building or the character of the street.</p> <p>(h) Any security grill or shutter must be located behind the glazing of the shopfront.</p> <p>(i) Any security grill or shutter must be 50% transparent.</p> | <p>No large curtain walling or blank walls proposed along the street frontage.</p> <p>The building façade addresses The Avenue.</p> <p>Vertical and horizontal elements align with commercial tenancy.</p> <p>A roller door is proposed for to the basement entry which is recessed from the front boundary. No roller doors proposed to the commercial façade.</p> <p>Not proposed.</p> <p>None proposed. The roller door is acceptable.</p> | <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> |
| 5.3.11 Awnings and Balconies | <p>(a) Balconies and terraces must be integrated with the design and form of the building and enhance its appearance and contribution to the streetscape.</p> <p>(b) Balconies and terraces must provide usable private open space for commercial and residential uses.</p> <p>(c) Balcony enclosures must be consistent with</p>  | <p>Balconies and terraces are integrated into the front façade of the building on levels 1 and 3. Wintergardens are proposed.</p> <p>Several balconies provide insufficient space for several residential units.</p> <p>Balcony enclosures are consistent with this Policy.</p>   | <p>Yes</p> <p>Yes</p> <p>Yes</p>                                  |

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|  | Georges River Council's Policy on "Balcony Enclosures in RFBs"   |  |     |
|  | (d) Terraces or roof gardens must be considered on podiums and upper floor building setbacks to provide additional private open space.   | The proposal seeks to provide communal open space on the roof top.   | Yes |
|  | (e) Balconies and terraces must allow outlook to public spaces or the street to increase casual surveillance.  | The street facing balconies and roof top terraces face The Avenue. The communal open space is however recessed.  | Yes |
|  | (f) Each dwelling must have at least one primary balcony that is located adjacent to a main living area such as living room, dining room or kitchen.   | Each dwelling contains a balcony directly adjoining a room specified in this criterion.  | Yes |
|  | (g) Primary balconies must have a minimum depth of 2.5m and have a minimum area of 10sqm.  | The provisions of SEPP 65 prevail over Council's DCP in relation this criterion.   | Yes |
|  | (h) The design of balconies should avoid excessive use of clear glass balustrades.   | Balconies are a mixture of masonry walls and frosted balustrades.  | Yes |
|  | (f) Awnings must cover as much of the footpath as possible. For footpaths of more than 4.5m in width, the awning must be setback 1.5m from the kerb to provide suitable space to accommodate street furniture, street trees and other public amenities. For smaller footpaths widths, awnings must be setback 600mm from the kerb to accommodate street furniture, low level landscaping and other | The proposal seeks to incorporate a ground floor awning which extends over Council's footpath and includes a cut out to retain the tree canopy of the existing tree in the road reserve. | Yes |



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|                                | <p>public amenities. In cases where traffic signal poles are located, further setbacks may be required to the satisfaction of the Roads and Maritime Services (RMS).</p> <p>(g) All awnings must provide under awning lighting to enhance public safety and to facilitate night use of the City Centre.</p> <p>(h) Awning fascias should match those of the adjoining awnings and contain, where appropriate, motifs, patterns or detailed joints to enrich the streetscape.</p>   | <p>Lighting can be provided and would be conditioned if the application was to be supported.</p> <p>The awning extends across the full frontage of The Avenue, Hurstville with the exception of cut out element to accommodate the Street Tree.</p> | <p>Yes</p> <p>Yes</p> |
| 5.3.12 Active Street Frontages | <p>(a) In the City Centre, active street frontages must be in accordance with the Hurstville LEP 2012 Active Street Frontages Map and the street hierarchy, (as described in this section), including:</p> <p>First and Second Order Streets: All frontages on these streets must be active at ground floor of the building.</p> <p>Third Order Streets: All frontages adjoining and immediately surrounding important pedestrian connections, such as entrances to and intersections with arcades and second order streets must be highly active at ground floor of the building.</p> <p>(b) Active ground floor uses must occur at the</p> | <p>The proposal is considered to result in a poor active street frontage whereby a 30m allotment frontage is envisaged to provide continuation of shop frontages as the key characteristic of the streetscape at the pedestrian level.</p>          | <p>Yes</p>            |

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|  | <p>footpath level and immediately related levels and be accessible directly from the street.</p> <p>(c) The ground floor of development must provide a glazed ground floor frontage, contributing to street activity, light and colour in the street and passive surveillance.</p> <p>(d) Restaurants, cafes and the like must consider providing shop fronts which are able to be opened.</p> <p>(e) For active frontages above ground floor the following should be considered:</p> <p>Encourage uses and building design, which provide transparency, and visual contact with the street.</p> <p>Orient primary openings in living areas toward the street and/or rear gardens to integrate indoor and outdoor active spaces.</p> <p>Integrate landscaping above ground floor levels to provide interest in design and amenity for uses of these spaces.</p> <p>(f) Buildings must be located on the street edges at street corners and promote active uses.</p> <p>(g) Blank walls at ground floor of a building fronting the street must be prohibited.</p> |  |  |
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| 5.3.14 Crime Prevention Through Environmental Design | Objectives of Crime Prevention Through Environmental Design to be satisfied.   | The proposal does not satisfy the objectives of Crime Prevention Through Environmental Design given that the lobby contains poor sightlines and blind spots.   | No |
| 5.3.15 Landscaping                                   | <p>(a) All development applications must include a landscape plan prepared by a qualified person. The landscape plan shall focus on common open space areas and/or areas which can be viewed from the street.</p> <p>(b) A survey plan is to accompany a development application indicating the precise location of existing trees, their condition, species and crown size, and which trees are proposed to be removed.</p> <p>(c) Landscaping is to generally incorporate indigenous and water efficient species to the area, and those which will not cause damage to adjacent buildings and driveways. Plants that have a short life, drop branches, gum or fruit, or which interfere with underground pipes, must be avoided.</p> <p>(d) Landscaped areas must be irrigated with recycled water.</p> <p>(c) Landscaping is to generally incorporate indigenous and water efficient species to the area, and those which will not cause damage to adjacent buildings and</p> | A landscape plan accompanied the original application. No amended landscape plan was provided in support of the revised proposal which included the extension of the communal open space over the front rooftop portion of the building towards The Avenue, Hurstville. This could be conditioned to provide sufficient detail however the application is not supported for other reasons. | No |

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|  | <p>driveways. Plants that have a short life, drop branches, gum or fruit, or which interfere with underground pipes, must be avoided.</p> <p>(d) Landscaped areas must be irrigated with recycled water.</p> <p>Trees</p> <p>(a) Where possible, the site layout must retain all existing mature trees.</p> <p>(b) Trees planted must optimise shade in summer and allow sunlight in winter and must be positioned appropriately.</p> <p>(c) Protective measures are required around trees during site works and construction. Such measures must be submitted with the development application.</p> <p>(d) All open car parks must be landscaped with adequate trees to shade vehicles, improve amenity and enhance sustainability.</p> <p>5.3.16 Planting on Structures</p> <p>(a) Any Development Application must provide a landscape plan identifying species selection, appropriate soil depth and area of landscaping, as well as the ability for structure to accommodate the nominated landscaped area.</p> <p>As a guide the following</p> |  |  |
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|  | <p>minimum standards are recommended:</p> <ul style="list-style-type: none"> <li>• Minimum 1000mm depth for tree planting;</li> <li>• Minimum 500mm depth for shrub planting/lawn.</li> </ul> <p>Planting must provide for optimum conditions for plant growth by:</p> <ul style="list-style-type: none"> <li>• Providing soil depth, soil volume and soil area that is appropriate to the size of the plants to be established;</li> <li>• Providing appropriate soil conditions and irrigation methods; and</li> <li>• Providing appropriate drainage.</li> </ul> <p>(c) Planters must be able to support appropriate soil depth and plant selection by:</p> <ul style="list-style-type: none"> <li>• Ensuring planter proportions accommodate the largest volume of soil possible and soil depths to ensure tree growth, and</li> <li>• Providing square or rectangular planting areas rather than narrow linear areas.</li> </ul> <p>(d) Soil depths must be increased in accordance with:</p> <ul style="list-style-type: none"> <li>• The mix of plants in a planter, for example where trees are planted in association with shrubs, groundcovers and grass,</li> <li>• The level of landscape</li> </ul> |  |  |
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|                       | <p>management, particularly the frequency of irrigation,</p> <ul style="list-style-type: none"> <li>• Anchorage requirements of large and medium trees, and</li> <li>• Soil type and quality.</li> </ul> <p>(e) Areas with planting on structures must be preferably irrigated with recycled water.</p> <p>(f) Ensure stormwater for structures provides some controlled flow to landscaped areas.</p> <p>(g) Ensure plant species are drought tolerant to minimise the need for irrigation.</p>                |  |                                  |
| 5.3.17 Site Servicing | <p>Mail Boxes</p> <p>(a) Provide letterboxes for residential building and/or commercial tenancies in one accessible location adjacent to the main entrance to the development.</p> <p>(b) Letterboxes must be integrated into a wall where possible and be constructed of materials consistent with the appearance of the building.</p> <p>(c) Letterboxes shall be secure and large enough to accommodate articles such as newspapers.</p> <p>Communication Structures, Air Conditioners and Service Vents</p> | <p>Mail boxes are proposed to be centrally located externally to the main entrance.</p> <p>Letterboxes are integrated into the façade of the commercial tenancy before the main entry to the building.</p> <p>Letterbox designed to satisfy criterion.</p> | <p>Yes</p> <p>Yes</p> <p>Yes</p> |
|                       | (a) Locate satellite dish and telecommunication   | No details provided on the plans. This could be  | Yes                              |

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|  | <p>antennae, air conditioning units, ventilation stacks and any ancillary structures:</p> <ul style="list-style-type: none"> <li>• Away from the street frontage.</li> <li>• Integrated into the roof design and in a position where such facilities will not become a skyline feature at the top of any building, and</li> <li>• Adequately setback from the perimeter wall or roof edge of buildings.</li> </ul> | <p>conditioned however this is not supported for other reason.</p>   |     |
|  | <p>(b) A master antenna must be provided for residential apartment buildings. This antenna shall be sited to minimise its visibility from surrounding public areas.</p>  | <p>No details provided on the plans. This could be conditioned however this application is not supported for other reasons.</p>  | Yes |
|  | <p>Waste (Garbage) Storage and Collection Refer to Section 6.2.4 Waste Minimisation and Management for waste storage and collection controls.</p>  | <p>The proposal has sought to provide separate waste collection rooms for the commercial and residential waste however these space are inadequate in relation to storage areas, access and the ability in which collection is to take place given they have to use the passenger lift to move bins to the street for collection.</p> | No  |
|  | <p>Fire Service and Emergency Vehicles</p> <p>(a) For developments where a fire brigade vehicle is required to enter the site, vehicular access, egress and manoeuvring must be provided to, from and on the site in accordance</p>  | <p>Access for emergency vehicles into the site cannot occur due to the constrained nature of the site and the height of the vehicles cannot be accommodated within the basement.</p>   | No  |



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|  | <p>with the NSW Fire Brigades Code of Practice – Building Construction – NSWFB Vehicle Requirements.</p> <p>(b) Generally, provision must be made for NSW Fire Brigade vehicles to enter and leave the site in a forward direction where:</p> <ul style="list-style-type: none"> <li>• NSW Fire Brigade cannot park their vehicles within the road reserve due to the distance of hydrants from the building or restricted vehicular access to hydrants; or</li> <li>• The site has an access driveway longer than 15m.</li> </ul> | <p>From a fire safety perspective sprinkler and/or hydrant booster assemblies maybe required to service this development and the location of the boosters on the plan are considered to be undersized and therefore will take up a greater proportion of the frontage therefore further reducing the active nature of the frontage.</p> | No  |
|  | <p>Residential</p> <p>(a) Provide either communal or individual laundry facilities to every dwelling The public visibility of this area must be minimised. Drying of clothes is only permitted on balconies that are permanently screened from public view.</p> <p>(b) Provide storage at rate of 10sqm per dwelling unit.</p> <p>(c) Make provision for on-site car washing.</p> <p>(d) Make provision for on-site composting.</p>  | <p>Each unit contains an individual laundry. Each unit fronting The Avenue contains a winter garden.</p> <p>Storage provided in accordance with the AGD.</p> <p>The proposal nominates a car wash bay on site.</p> <p>On site composting can occur through small bins. However not nominated.</p>                                       | <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> |
|  | <p>Electrical Services</p>   | <p>Electricity can be extended to service the</p>   | No  |

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|  | Electrical Service substations and transformers should be designed and integrated into the development to allow service access and screening from public areas in accordance with the requirements of relevant authorities.  | development. No details of substation or investigation of a substation requirement provided. If required this will further compromise the active street frontage by the incorporate of more plant to the frontage of the site.  |  |
| 5.4 Transport, Traffic, Parking and Access |  |   |  |
| 5.4.3.3 Bicycle Facilities                 | <p>(a) Bicycle storage racks must be provided to accommodate a minimum of:</p> <p>1 bicycle space for every 200 square metres of office floor space (116sqm)</p> <p>1 bicycle space per 300 square metres of retail</p> <p>1 bicycle space for every 3 residential units = 5.6 (6) bicycle spaces</p> <p>(b) Bicycle racks must be easily accessible from the public domain, and within areas that are well lit with adequate levels of natural surveillance.</p> <p>(c) The bicycle parking area must be capable of being made secure to protect the security of cyclists and their belongings with communal showers, changing facilities and lockers for storing cycling attire and equipment provided.</p> <p>(d) Notwithstanding (b) and (c) above, bicycle storage facilities for</p> | <p>As the commercial tenancy comprises of 116sqm, the proposal does not trigger the requirement to provide bicycle parking spaces for any office or retail spaces.</p> <p>10 bicycle spaces provided within the basement levels.</p> <p>Bicycle racks located within the basement levels which share common access for residents.</p> <p>Bicycle racks located within the basement levels which share common access for residents.</p> <p>Bicycle spaces are located in common areas.</p> | <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> |

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|  | <p>residential uses can be provided within private garage areas, where it is demonstrated that:</p> <p>There is sufficient storage within the garage for a bicycle and the required number of vehicles; and<br/>There is a safe path for cyclists to leave the garage area.</p>   | Bicycles can exit the basement via the common driveway or lift.   | Yes                           |
| <p>5.4.4. Parking and Service Delivery Requirements</p> <p>5.4.4.1 Vehicle Parking Rates</p> | <p>(a) Parking areas must be designed to facilitate the safe and efficient movement and circulation of vehicles and pedestrians, including safe pedestrian access within car parks.</p> <p>(b) Parking areas and loading/unloading facilities must be designed to comply with the requirements of the latest Australian Standards for standard vehicles as defined by AS 2890.</p> <p>(c) Car park location and design needs to be carefully considered to ensure pedestrian safety, clear sight lines and to maintain streetscape character and amenity. All car parking must be positioned below ground level as demonstrated in Figure 5.4.1 below. Should site constraints restrict parking below ground level, parking must be concealed behind retail development, as</p> | <p>Parking areas provide insufficient turning areas within each level. The location of lift entries to the basement generates a potential conflict with the vehicular circulation.</p> <p>No loading area provided.</p> <p>The proposed layout generates a conflict in relation to pedestrian and vehicular movement. The rear of the car park is not located below ground level.</p> | <p>No</p> <p>No</p> <p>No</p> |

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|  | demonstrated in Figure 5.4.2.   |   |     |
|  | (d) Provide on-site car parking, including visitor parking at the minimum rates stated in the car parking table below.  | Four (4) car parking spaces have been provided in excess of the requirement of RMS GTTGD, in addition to one car wash bay which can be nominated as visitor spaces. | No  |
|  | (e) Where parking calculations produce a fraction, the number is rounded up e.g. 3.2 spaces = 4 spaces.   | Calculation of car spaces has been rounded up.  | Yes |
|  | (f) For mixed use development the allocation of car spaces among the uses is to be indicated on the DA plans.   | Allocated of car parking spaces have been nominated on the plans for either residential or commercial and one (1) car wash bay. No visitors nominated.              | No  |
|  | (g) The use of car spaces is restricted to the occupiers(s) and visitors of a development.  | The residential have not been allocated to individual units.  | No  |
|  | (h) Any non-residential development that cannot provide all of the required car parking on-site will be required to pay a contribution for each deficient car parking space in accordance with Council's adopted section 94 contributions plan.   | Two (2) spaces required ad two (2) provided.  | Yes |
|  | (i) Development generating high amounts of traffic, as defined under State Environmental Planning Policy (Infrastructure) 2007, is to be referred to the Roads and Maritime Services (RMS) for consideration. Schedule 3 of SEPP (Infrastructure) | The proposal seeks to provide 25 car parking spaces in total. The use is not classified as a traffic generating development.  | Yes |

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|                                | 2007 outlines the provisions of developments that need to be referred to the RMS.   |   |  |
|                                | Figure 5.4.2 Parking positioned below ground  | The proposal seeks a rear car park element which is located above ground however it is noted that this is only accessible via the basement car park.  | No   |
|                                | <p>Business Premises and office premises in B4 Mixed Use Zone<br/>1 space per 100sqm (B4 Mixed Use)</p> <p>Residential Rates:<br/>Dwelling (1-2 bedrooms) = 1 space per dwelling</p> <p>Dwelling (3 bedrooms) = 2 spaces per dwelling</p> <p>Dwelling – Visitor spaces = (1 space per 4 dwellings (or part thereof))</p>  | <p>116sqm = 2 car spaces provided</p> <p>15</p> <p>4</p> <p>5</p>   | No, however the proposed car parking complies with the RMS GTTGD under SEPP 65 which prevails over Council's car parking controls. |
| 5.4.3.2 Other parking controls | <p>Visitor Parking</p> <p>(a) Designate disabled and visitor car parking spaces as common property.</p> <p>Car Parking for Adaptable Dwellings</p> <p>(a) Developments containing adaptable housing must allocate at least one accessible parking space to each adaptable dwelling.</p> <p>Car Wash Bays</p> <p>(a) For residential developments containing</p> | <p>An accessible space has been nominated there are no visitor spaces nominated and the residential has not been allocated to individual units.</p> <p>Two (2) accessible spaces proposed, three (3) are required.</p> <p>The proposal contains 17 units. 1 car wash bay is</p> | <p>No</p> <p>No</p> <p>Yes</p>   |

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|  | <p>4 or more dwellings, a car wash bay is to be provided within the visitor parking area. The car wash bay may comprise a visitor car space.</p> <p>(b) The wash bay is to be adequately drained and connected to the sewer line.</p>  | <p>proposed on B1.</p> <p>Car wash bay can be drained and connected to sewer line. This would be conditioned if the application was supported</p>  | Yes                             |
| 5.4.5 Vehicular Access and Manoeuvring | <p>Location of Vehicular Access</p> <p>(a) Vehicular access points must be provided in accordance with Figure 5.4.4.</p> <p>(e) One vehicle access point only (including the access for service vehicles and parking for non-residential uses within mixed use developments) will be permitted per site. More than one vehicular access point may be permitted on larger sites where it can be demonstrated to meet the above objectives.</p> <p>Design of Vehicular Access</p> <p>(a) Vehicle entries must have high quality finishes to walls and ceilings as well as high standard detailing. No service ducts or pipes must be</p> | <p>As the vehicular access point is not consistent with this figure as no access point is indicated on the map for this site. An access point is indicated for 30 The Avenue, Hurstville as it was envisaged amalgamation would happen in this location. It is acknowledged the access point is in a similar location to that existing.</p> <p>One access point proposed.</p> <p>High quality finishes provided.</p> | <p>No</p> <p>Yes</p> <p>Yes</p> |

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|  | <p>visible from the street.</p> <p>(b) Vehicle access is to be designed to:</p> <p>Minimise the impact on the street, site layout and the building façade design; and</p> <p>If located off a primary street frontage, be integrated into the building design.</p> | <p>Singular access point proposed however this single width driveway is not considered to be adequate to service the proposal.</p> | No  |
|  | <p>(d) All vehicles must be able to enter and leave the site in a forward direction</p>  | <p>Vehicles can enter and exit in a forward direction.</p>   | Yes |
|  | <p>(e) Separate and clearly differentiated pedestrian and vehicle access must be provided.</p>   | <p>Separate entries provided.</p>  | Yes |
|  | <p>(f) Vehicular access must be located a minimum of 3m from pedestrian entrances.</p>   | <p>Less than 3m away from central entry.</p>   | No  |
|  | <p>(g) Vehicular access may not ramp along boundary alignments edging the public domain, streets, lanes parks and the like.</p>  | <p>Access ramps from boundary alignment. A platform lift is proposed to service the commercial tenancy.</p>                        | Yes |
|  | <p>(h) Driveway crossing width and the profile must comply with Council Standards and the relevant Australian Standards (AS2890 or as amended)</p>   | <p>Compliant with Australian Standards.</p>  | Yes |
|  | <p>(i) Driveway widths must comply with the relevant Australian Standards.</p>   | <p>Single access compliant with the Australian Standards.</p>  | Yes |
|  | <p>(j) Driveway grades, vehicular ramp width/grades and passing bays must be in accordance with the</p>  | <p>Single access compliant with the Australian Standards.</p>  | Yes |



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|  | <p>relevant Australian Standard, (AS 2890.1 or as amended).</p> <p>(k) Access ways to underground parking should not be located adjacent to doors or windows of the habitable rooms of any residential development.</p>  | Located sufficiently away from doors and windows.   | Yes |
|  | <p>Figure 5.4.4 Vehicle Access Map</p> <p>Note: 32 The Avenue does not indicate that a car park entry is permitted. 30 The Avenue, Hurstville prescribes that a car park entries permitted.</p>  | The proposal is not identified as a site whereby car parking entries are permitted. Given this, the location of a single access driveway within a T intersection is not considered to result in a desirable outcome from a pedestrian and vehicle safety perspective. | No  |
| 5.4.6 Loading/Unloading facilities and Service Vehicle Manoeuvring | <p>(a) For the development of all new buildings, site design must allocate adequate space for the loading, unloading, parking and manoeuvring of delivery and service vehicles within the subject property. Design of these areas shall comply with AS 2890 or as amended.</p> | The proposal has not provided a vehicle loading bay on site, or any form of delivery area.  | No  |
|  | <p>(b) All loading and unloading activities must take place wholly within the loading bay, at all times. No loading or unloading activity is to take place within any car parking area, landscaping area, pedestrian footway or any public road reserve.</p>                   | No loading bay or any form of delivery area has been provided on site.  | No  |
|  | <p>(c) All delivery vehicles must be able to enter and leave the site in a forward direction.</p>  | The proposal has not demonstrated that delivery vehicles are able to enter and exit in a forward  | No  |

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|                                      |  | direction given the basement circulation layout.   |     |
| 5.4.7 Pedestrian Access and Mobility | (a) Access to public areas of buildings and dwellings must follow the principles of universal access, with any development providing continuous paths of travel from all public roads and spaces as well as unimpeded internal access.   | The proposal has provided adequate public access into and internally within the building. This is facilitated by access ramps and a lift. It is acknowledged however that the internal access to the lift is convoluted. | Yes |
|                                      | (b) Access must be direct and without unnecessary barriers. Avoid obstructions, which cause difficulties including:<br><br>Uneven and slippery surfaces;<br><br>Steep stairs and ramps;<br><br>Narrow doorways, paths and corridors; and<br><br>Devices such as door handles which require two hands to operate. | Access is considered to be direct. Much of the criterion in this clause would be considered and implemented in construction level details if the application was supported.  | Yes |
|                                      | (c) Ensure that barrier free access is provided to the common areas of all buildings, and not less than 20% of dwellings in each development.  | Barrier free access is provided to common areas of the buildings. Amendments maybe undertaken to accessible units to achieve barrier free access.  | Yes |
|                                      | (d) The design of facilities (including car parking requirements) for disabled persons must comply with the relevant Australian Standard (AS 1428 Pt 1 and 2, or as amended) and the Disability Discrimination Act 1992 (as amended).  | 2 accessible spaces (referenced as residential spaces 3 and 4) are located on Basement level 1 and contain a shared space between. The development however requires three (3).   | Yes |
|                                      | (e) The development  | Main central entrance is   | Yes |

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|  | <p>must provide at least one main pedestrian entrance with convenient barrier free access in all developments to at least the ground floor.</p> <p>(f) Pedestrian access ways, entry paths and lobbies must use durable materials commensurate with the standard of the adjoining public domain (street) with appropriate slip resistant materials, tactile surfaces and contrasting colours.</p> | <p>barrier free and is required to satisfy the accessible Australian Standards.</p> <p>Durable materials could be conditioned to be incorporated into the development as part of the construction phase if the application as to be supported.</p> | Yes |
|--|---|--|-----|

## 130. Section 6. Site Planning Controls

| Clause                       | Standard  | Proposed   | Complies              |
|------------------------------|---|--|-----------------------|
| 6.1 Public Domain            | Requirement of Public Domain to be satisfied  | The proposal is not considered to be inconsistent with the public domain existing.   | Yes                   |
| 6.2 Environmental Management | Requirements of Environmental Management to be satisfied.   | The proposal is satisfactory regarding environmental management. Conditions to reinforce this would be imposed if the application was supported. | Yes                   |
| 6.2.2 Water Management       | <p>(a) The drainage network must provide capacity to safely convey stormwater run-off resulting from storm events by taking into account roof drainage and site drainage. Adequate provision must be made for the control, reuse and disposal of stormwater from the site.</p> <p>(b) New building or structures will not be permitted over drainage lines, overland flow paths or within stormwater easements.</p> | <p>The proposal has been assessed by Council's Development Engineer and is considered to be satisfactory.</p> <p>Not proposed</p>                | <p>Yes</p> <p>N/A</p> |

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|   | <p>(c) Please refer to Council's Drainage and On-Site Detention Policy (Appendix 2) for further details on stormwater and drainage.</p> <p>Groundwater</p> <p>(a) Disturbances to ground water flows through diversion/extraction or other uses are to be managed to ensure there is no adverse impact on groundwater quality or quantity.</p> <p>(b) Ground water is to be recharged where possible while still protecting and/or enhancing ground water quality.</p>  | <p>An acceptable drainage design has been proposed.</p> <p>Not proposed.</p> <p>Not proposed.</p>   | <p>Yes</p> <p>N/A</p> <p>N/A</p>           |
| 6.2.4 Waste Minimisation and Management | <p>(a) Provide for the recycling of household and commercial waste; provide adequate common storage for recyclables (including paper and cardboard, plastics and aluminium) as well as a waste/recycle storage area within each building.</p> <p>(b) Include on-site composting where possible, either in each dwelling or as a shared facility.</p> <p>(c) Recycling and reuse of materials should occur at all stages of development including demolition of existing buildings, selection of materials and during building construction stages.</p> <p>(d) Where possible, reuse</p> | <p>Separate waste rooms have been provided for commercial and residential; however they are not of sufficient size to accommodate the necessary bins.</p> <p>Not proposed.</p> <p>A satisfactory waste management plan has been provided; a revised plan will be required for any on-going use if the application was supported.</p> <p>This is a new building.</p> | <p>No</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> |

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|  | <p>of existing buildings to be undertaken</p> <p>(e) All development applications must be accompanied by a waste management plan that addresses:</p> <p>Best practice recycling and reuse of construction and demolition materials;</p> <p>Use of sustainable building materials that can be reused or recycled at the end of their life;</p> <p>Handling methods and location of waste storage areas in accordance with the provisions of the DCP, such that handling and storage has no negative impact on the streetscape, building presentation or amenity of occupants and pedestrians; and</p> <p>Procedures for the on-going sustainable management of organic and putrescible waste, garbage, glass, containers and paper, including estimated volumes, required bin capacity and on-site storage requirements.</p> <p>Describe and detail the manner in waste and recyclable material is to be stored on site, including the size and location of bin storage areas, the size and number of bins to be used to store waste and recyclable material, and any other information</p> | <p>Inadequate bin storage areas proposed.</p> <p>Not referenced.</p> <p>The waste areas are within the basement; however they are of insufficient dimensions. A waste vehicle cannot access the basement and the bins will need to be moved to the street for collection by either the driveway ramp or the passenger lift. Both are not ideal from a safety and amenity perspective.</p> | <p>No</p> <p>N/A</p> <p>No</p> |
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|  | <p>relevant to the storage and servicing of bins.</p> <p>The waste management plan is to be prepared by a specialist waste consultant and is subject to approval by Council.</p> <p>(h) Development is required to provide an appropriate room for the storage of garbage, recyclable and compostable waste bins to enable the efficient separation of waste products.</p> <p>(i) The storage area must be located in a position which is:</p> <p>Not visible from the street;</p> <p>Easily accessible to dwelling occupants;</p> <p>Accessible by collection vehicles (or adequately managed by the body corporate to permit relocation of bins to an approved collection point);</p> <p>Has water and drainage facilities for cleaning and maintenance; and</p> <p>Does not immediately adjoin private open space, windows or clothes drying areas.</p> <p>(j) Where a sufficient sized kerbside collection point cannot be provided for the number of bins to stand in single file one metre apart without encroaching</p> | <p>Insufficient sized rooms proposed.</p> <p>They are within a basement.</p> <p>Achieved.</p> <p>A waste truck cannot access the basement; the bins need to be moved to the street.</p> <p>Insufficient detail provided. Could be conditioned if supported.</p> <p>Achieved.</p> <p>Can be achieved kerbside but not a safe location given this site is centrally located within a signalised intersection. There is no alternate location available.</p> | <p>No</p> <p>Yes</p> <p>Yes</p> <p>No</p> <p>No</p> <p>Yes</p> <p>Yes</p> |
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|  | <p>neighbouring properties, Council will require details of an alternative garbage collection service. Council staff should be consulted in these situations, as it may be necessary to engage a private waste collection contractor.</p> <p>(k) Developments are to incorporate convenient access for waste collection, noting that Council does not provide collection from within private properties or roads. Should a private waste collection vehicle be required to enter a property, access driveways and internal roads must be designed to provide adequate clearance and manoeuvring space to allow the waste collection vehicle to enter and exit in a forward direction without impeding upon general access to, from or within the site.</p> <p>(l) In the case where a development proposes to use a dumpster/bulk bins, access is to be provided from the street level without the need for manual handling with sufficient space for the collection vehicle to drive to the collection point, empty the bin safely and exit without traffic interference or any height restrictions. This service is generally not provided by Council's waste contractor, and arrangements may be required.</p> | <p>Not achieved.</p> <p>Single bins required as no waste truck can access the basement.</p> | <p>No</p> <p>Yes</p> |
|--|---|---|----------------------|



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| 6.2.3<br>Stormwater<br>Management        | Stormwater management requirements to be satisfied.                | The site is affected by overland flow and the proposal seeks to connect to an easement at the rear. Council's Development Engineer has reviewed the proposal and is satisfied in relation to, flooding, stormwater impacts and disposal. | Yes |
| 6.4 Preservation of Trees and Vegetation | Preservation of trees and vegetation requirements to be satisfied. | The proposal seeks the retention of one (1) street tree within the road reserve fronting The Avenue, Hurstville and protection of seven (7) trees within adjoining properties.   | Yes |

## SUBMISSIONS

131. The application was notified accordance with the provisions contained within the Hurstville City Centre Development Control Plan No. 2. In response, no submissions were received. The amended plans have been considered as part of this assessment report however these plans were not renotified as the proposal did not result in any greater material environmental impact

## REFERRALS

### Council Referrals

132. The development application was referred to the relevant officers within Council. The responses are outlined as follows.

#### Consultant Arborist

133. The original application was reviewed by Council's Consultant Arborist who supported the original proposal subject to conditions relating to removal, protection and tree replenishment.
134. Planning comment: No amended landscape plan was provided in support of the revised proposal which included the extension of the communal open space over front rooftop portion of the building towards The Avenue, Hurstville however sufficient landscaping details could be conditioned if supported.

#### Environmental Health Officer

135. The original application was reviewed by Council's Coordinator Environmental Health who raised no objections to the proposal. The extent of works were largely unchanged regarding health considerations and did not require a re-referral.

#### Traffic Engineer

136. The amended application has been reviewed by Council's Traffic Engineer, no objections were raised to the proposal.
137. Planning comment: The proposal has not satisfactorily addressed vehicular sight lines, provided correspondence from TfNSW regarding phasing of traffic lights or provided a vehicle loading bay on site which detracts from the functionality of the proposal for future

occupants. Given the above matter, the proposal is not considered to have adequately satisfied Council's concerns in providing safe pedestrian and vehicular access.

Drainage Engineer

138. The site is affected by overland flow and the proposal seeks to connect to an easement at the rear. The amended application was reviewed by Council's Development Engineer who supports the proposal.

Waste/Environmental Services

139. The amended application has been reviewed by Council's Coordinator Environmental Sustainability Officer whom does not support the proposal based on inadequate bin storage on site and vehicular access issues in relation to the collection of waste. Onsite waste collection is preferred for this site.

Infrastructure Engineer

The original application was reviewed by Council's Design Engineer who supported the proposal. The amended proposal did not seek any changes to the driveway layout or works to infrastructure.

GIS Officer

141. The original application was reviewed by Council's GIS Officer who supported the proposal.

**External Referrals**

142. The development application was referred to the external referral bodies.

New South Wales Police Force

143. The application was reviewed by the New South Wales Police Force. Council received correspondence dated 8 September 2020, no concerns with the proposal were raised.

Ausgrid

144. The application was referred to Ausgrid under Clause 45(2) of State Environmental Planning Policy (Infrastructure) 2007. Council received correspondence on 20 May 2020 which supported the proposal subject to compliance with Ausgrid Network Standards.

**IMPACTS**

***Natural Environment***

145. The proposed development is unlikely to generate adverse impacts on the natural environment.

***Built Environment***

146. The proposal seeks variations to the built form controls as the site has an inadequate allotment width and floor plate. The proposal results in poor levels of amenity for future occupants in terms of layout, functionality and privacy impacts. The proposal results in an undesirable precedent whereby the minimum allotment frontage and floor plate has not been achieved which detracts from the amenity for future occupants and visitors. The proposal seeks a significant variation to the height of building for the lift overrun, balustrades and communal open space; however justification for the extent of this variation has not been satisfactorily addressed by the applicant.

***Social Impacts***

147. The proposal is likely to result in adverse pedestrian and vehicle conflicts resulting in social impacts for occupiers, visitors and persons around the site given the nature of the proposal.

### ***Economic Impacts***

148. The proposed development is likely to generate adverse economic impacts given the relatively small size of the single commercial 116sqm tenancy proposed which is not considered to meaningfully satisfy the B4 Mixed Use zone objectives within the Hurstville Local Environmental Plan 2012. The proposal has not provided an adequate active street frontage which detracts from the functionality and serviceability of future commercial tenants.

### ***Suitability of the Site***

149. The proposed physical built form is of a scale and design that is unsuitable for the site having regard to its size, shape, topography, relationship to adjoining developments and evolving character of the Hurstville City Centre.

### ***Public Interest***

150. The proposal is not considered to be in the public interest for the reasons contained within this report. Further that the reduced frontage and limited floor plate results in an undesirable precedent regarding future mixed use developments along The Avenue, Hurstville.

## **CONCLUSION**

151. The development 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.
152. Development application DA2020/0165 for is recommended to be determined by way of refusal under the provisions of Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979.

## **DETERMINATION AND STATEMENT OF REASONS**

### **Statement of Reasons**

- The proposal results in a built form which is inconsistent with the envisaged desired character of the B4 Mixed Use Zone for shop top housing and residential flat buildings.
- The proposal does not satisfy Section 1.3 Objects of the Act of the Environmental Planning and Assessment Act 1979, namely:
  - (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental, and social considerations in decision-making about environmental planning and assessment,*
  - (c) to promote the orderly and economic use and development of land,*
  - (g) to promote good design and amenity of the built environment.*
- The design, functionality and internal layout results in poor levels of occupant amenity.
- The design results in adverse amenity impacts to adjoining residential properties.

- The proposed development seeks numerous variations to the planning controls resulting in poor amenity on site for future occupants and adverse amenity impacts on adjoining properties.
- The proposed development will have unacceptable adverse impacts on the built environment and generates social impacts.
- In consideration of the aforementioned reasons, the proposed development is not a suitable and desired use of the site and its approval is not in the public interest.

#### Determination

153. THAT Pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979, as amended, the Georges River Local Planning Panel refuse DA2020/0165 for demolition works and construction of a shop top housing development and residential flat building over three (3) levels of basement car parking on Lot 185 DP1595 known as 32 The Avenue, Hurstville, for the following reasons;

1. **Environmental Planning Instrument** - Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy the following Objects of the Act:
  - (b) *to facilitate ecologically sustainable development by integrating relevant economic, environmental, and social considerations in decision-making about environmental planning and assessment;*
  - (c) *to promote the orderly and economic use and development of land;*
  - (g) *to promote good design and amenity of the built environment,*
2. **Environmental Planning Instrument** - Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the State Environmental Planning Policy No. 65 (Design Quality of Residential Apartment Development) in terms of the following:
  - 3F Visual Privacy
  - 3G Pedestrian Access
  - 3H Vehicular Access
  - 4A Solar Access
  - 4C Floor to Ceiling Heights
  - 4D Unit Size
  - 4D Unit rooms, Location and Sizes
  - 4E Private Open Space
  - 4M Facades
  - 4N Roof Design
  - 4U Energy Efficiency
  - 4V Water Management and Conservation
3. **Environmental Planning Instrument** - Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with State Environmental Planning Policy (Building and Sustainability Index) BASIX 2004 as an amended BASIX Certificate has not been provided.
4. **Environmental Planning Instrument** - Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does

not satisfy the following objectives of the B4 Mixed Use Zone of the Hurstville Local Environmental Plan 2012.

- *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 allow for residential development in the Hurstville City Centre while maintaining active retail, business or other non-residential uses at street level.*

(a) The proposal fails to satisfy The Aims of the Plan

*(a) to encourage and co-ordinate the orderly and economic use and development of land that is compatible with local amenity.*

(b) The proposal fails to comply with Clause 4.3 Height of Building.

(c) The proposal fails to satisfy Clause 4.6 Exception to Development Standard.

(d) The proposal fails to satisfy Clause 6.6 Active Street Frontages.

(e) The proposal fails to satisfy Clause 6.7 Essential Services.

5. **Development Control Plan** - Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the following sections of the Hurstville Development Control Plan No. 2:

- (a) Section 3 Hurstville City Precincts.
- (b) Section: 5.3 Controls for Residential, Commercial and Mixed Use Development
  - (b)(i) 5.3 Built Form Controls
  - (b)(ii) 5.3.3 Building Height
  - (b)(iii) 5.3.5 Building Separation
  - (b)(iv) 5.3.6 Solar Access
  - (b)(v) 5.3.9 Building Entrances and Lobbies
  - (b)(vi) 5.3.12 Active Street Frontages
  - (b)(vii) 5.3.13 Permeability and Accessibility
  - (b)(viii) 5.3.15 Landscaping
  - (b)(viii) 5.3.17 Site Servicing
  - (b)(viii) 5.4.4.1 Vehicle Parking Rates
  - (b)(x) 5.4.6 Loading/Unloading facilities and Service Vehicle Manoeuvring
  - (b)(xi) 5.4.7 Pedestrian Access and Mobility

6. **Impacts on the Environment** - Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is likely to have an adverse impact on the following aspects of the built environment:

- (a) The proposal results in poor levels of amenity for future occupants in terms of layout and functionality.
- (b) The proposal results in an undesirable precedent whereby the minimum allotment frontage and floor plate has not been achieved which detracts from the amenity for future occupants and visitors.

7. **Suitability of Site** - Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the site is not considered suitable for the proposed development as:
- (a) Safe vehicular and pedestrian access within, to and from the site has not been adequately demonstrated.
  - (b) The development fails to achieve suitable levels of amenity for future residents and adjoining allotments as a result of poor internal layout and functionality.
8. **Public interest** - Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development in its current form is not considered to be in the public interest and is likely to set an undesirable precedent within the locality in particular within The Avenue, Hurstville. Further that the applicant has not provided adequate and consistent information in support of the amended proposal in relation to an amended landscape plan, BASIX Certificate and Clause 4.6 Exception to Development Standard.

**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.

If you are not satisfied with this determination, you may:

- (a) Apply for a Review of a Determination under Section 8.2 of the Environmental Planning and Assessment Act 1979. A request for review and the decision by Council of that request must be made within six (6) months of the date of this Notice of Determination and be accompanied by the relevant fee. You must ensure that an application for review of determination gives Council a reasonable period in which to review its decision having regard to the relevant issues and complexity of the application.

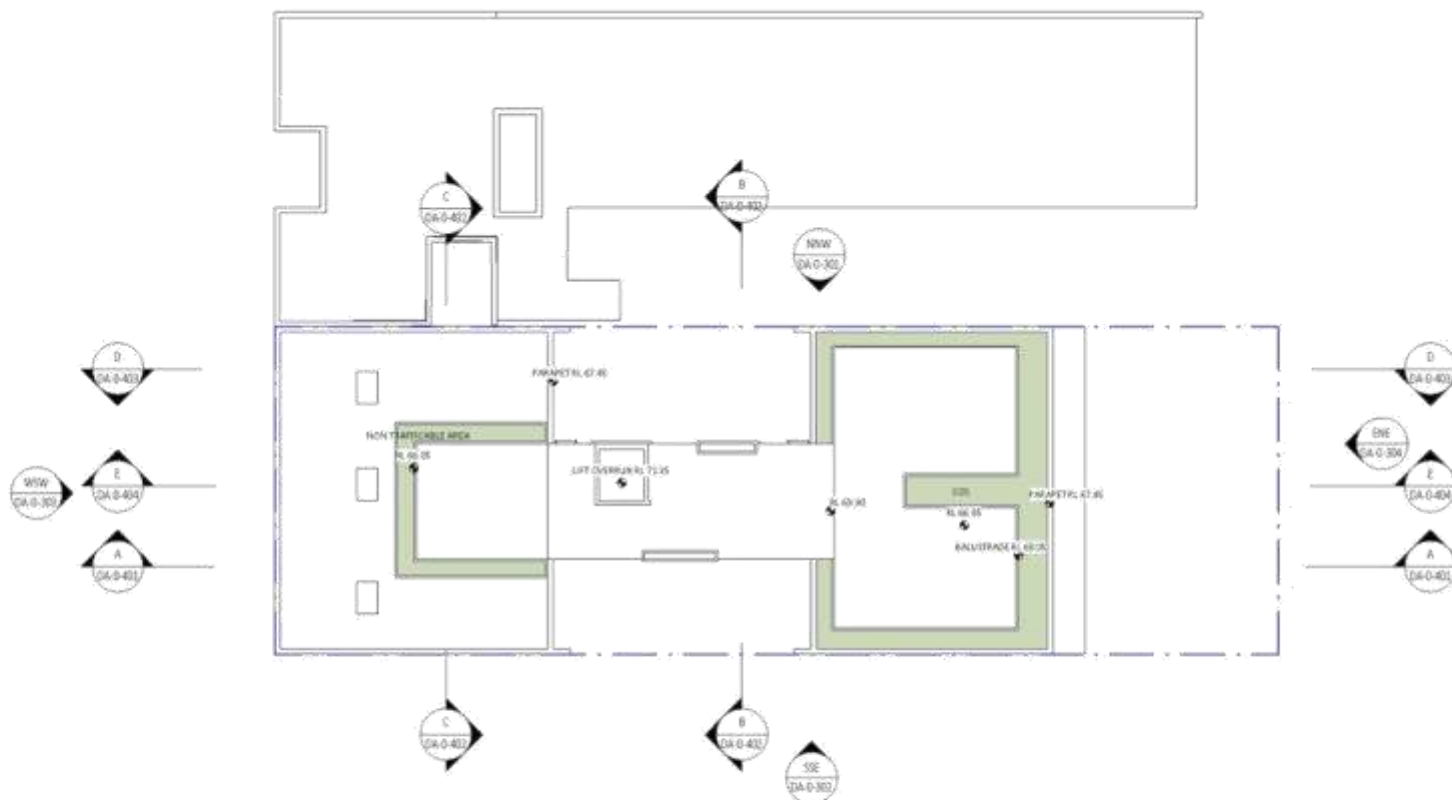
OR

- (b) Appeal to the Land and Environment Court within twelve (12) months of the date of this determine notice, under Section 8.7 of the Environmental Planning and Assessment Act 1979.

(Section 8.2 of the Environmental Planning and Assessment Act 1979 does not apply to the determination of a development application for complying development, designated development or Crown development.)

## ATTACHMENTS

- Attachment [1](#) Roof Plan - 32 The Avenue Hurstville  
Attachment [2](#) Elevations - 32 The Avenue Hurstville



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| REV | DESCRIPTION            | DATE       | DESIGN | ISSUED |
|-----|------------------------|------------|--------|--------|
| 1   | Issue for approval     | 15/05/2020 | ND     | BT     |
| 2   | Issue for construction | 04/05/2020 | ND     | BT     |
| 3   | Issue for construction | 11/05/2020 | ND     | BT     |
| 4   | Issue for construction | 15/05/2020 | ND     | BT     |
| 5   | Issue for construction | 23/05/2020 | ND     | BT     |
| 6   | Issue for construction | 24/05/2020 | ND     | BT     |
| 7   | Issue for construction | 30/07/2020 | QP     | PC     |
| 8   | Issue for construction | 07/06/2020 | QP     | PC     |
| 9   | Issue for construction | 13/06/2020 | QP     | PC     |

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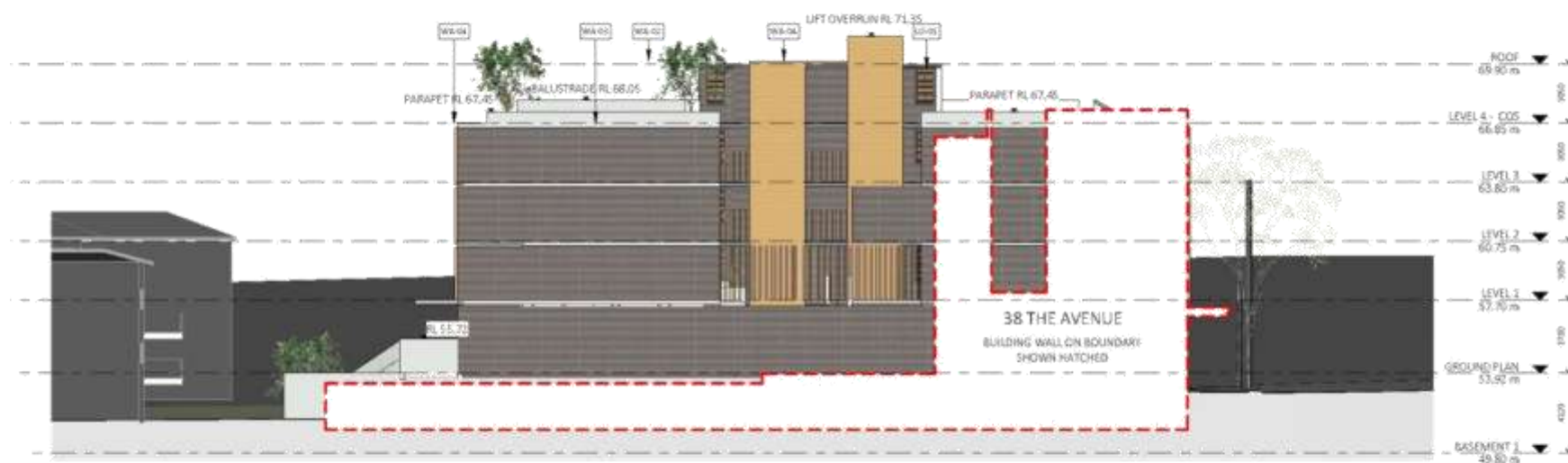
32 The Avenue, Hurstville  
 32, The Avenue, Hurstville, NSW 2220  
 VORTEX PROPERTY GROUP  
 DEVELOPMENT APPLICATION

ROOF PLAN

|             |          |      |            |
|-------------|----------|------|------------|
| PROJECT NO. | DA-0-217 | REV  | 11/08/2020 |
| SCALE       | 1:200    | DATE | 11/08/2020 |
| DESIGNER    | AR/RB    | DATE | 11/08/2020 |







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| REV | DESCRIPTION            | DATE       | DESIGN | CHECKED |
|-----|------------------------|------------|--------|---------|
| 1   | ISSUED FOR INFORMATION | 09/05/2020 | RD     | BT      |
| 2   | ISSUED FOR INFORMATION | 10/05/2020 | RD     | BT      |
| 3   | ISSUED FOR INFORMATION | 11/05/2020 | RD     | BT      |
| 4   | ISSUED FOR INFORMATION | 15/05/2020 | RD     | BT      |
| 5   | ISSUED FOR INFORMATION | 23/05/2020 | RD     | BT      |
| 6   | ISSUED FOR INFORMATION | 24/05/2020 | RD     | BT      |
| 7   | ISSUED FOR INFORMATION | 30/07/2020 | RD     | BT      |
| 8   | ISSUED FOR INFORMATION | 01/08/2020 | RD     | BT      |
| 9   | ISSUED FOR INFORMATION | 13/08/2020 | RD     | BT      |

Project:  
 32 The Avenue, Hurstville  
 32, The Avenue, Hurstville, NSW 2220  
 Client:  
 VORTEX PROPERTY GROUP  
 DEVELOPMENT APPLICATION

Scale:  
 NORTHWEST ELEVATION

| PROJECT NO. | DRAWING NO. | REVISION | DATE       |
|-------------|-------------|----------|------------|
| 18-050      | DA-G-301    | N        | 11/08/2020 |
| SCALE       | DATE        | BY       | CHECKED    |
| 1:200       | AR/RD       | RD       |            |





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| 2   | ISSUED FOR INFORMATION | 10/08/2020 | RD     | BT   |
| 3   | ISSUED FOR INFORMATION | 11/08/2020 | RD     | BT   |
| 4   | ISSUED FOR INFORMATION | 12/08/2020 | RD     | BT   |
| 5   | ISSUED FOR INFORMATION | 13/08/2020 | RD     | BT   |
| 6   | ISSUED FOR INFORMATION | 14/08/2020 | RD     | BT   |
| 7   | ISSUED FOR INFORMATION | 15/08/2020 | RD     | BT   |
| 8   | ISSUED FOR INFORMATION | 16/08/2020 | RD     | BT   |
| 9   | ISSUED FOR INFORMATION | 17/08/2020 | RD     | BT   |
| 10  | ISSUED FOR INFORMATION | 18/08/2020 | RD     | BT   |
| 11  | ISSUED FOR INFORMATION | 19/08/2020 | RD     | BT   |
| 12  | ISSUED FOR INFORMATION | 20/08/2020 | RD     | BT   |

32 The Avenue, Hurstville  
 32 The Avenue, Hurstville, NSW 2220  
 VORTEX PROPERTY GROUP  
 DEVELOPMENT APPLICATION

SOUTHEAST ELEVATION  
 PROJECT NO: 18-050  
 DRAWING NO: SA-C-302  
 SCALE: 1:200  
 DATE: 11/08/2020  
 DRAWN: AR/RB  
 CHECKED: RD





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| REV | DESCRIPTION           | DATE       | DESIGN | CHECKED |
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| 1   | Issue for information | 09/08/2020 | RD     | RT      |
| 2   | Issue for information | 10/08/2020 | RD     | RT      |
| 3   | Issue for information | 11/08/2020 | RD     | RT      |
| 4   | Issue for information | 12/08/2020 | RD     | RT      |
| 5   | Issue for information | 13/08/2020 | RD     | RT      |
| 6   | Issue for information | 14/08/2020 | RD     | RT      |
| 7   | Issue for information | 15/08/2020 | RD     | RT      |
| 8   | Issue for information | 16/08/2020 | RD     | RT      |
| 9   | Issue for information | 17/08/2020 | RD     | RT      |
| 10  | Issue for information | 18/08/2020 | RD     | RT      |
| 11  | Issue for information | 19/08/2020 | RD     | RT      |
| 12  | Issue for information | 20/08/2020 | RD     | RT      |

32 The Avenue, Hurstville  
32 The Avenue, Hurstville, NSW 2220  
VORTEX PROPERTY GROUP  
DEVELOPMENT APPLICATION

SOUTHWEST ELEVATION AND  
STREETSCAPE  
1:100  
11/08/2020  
RD





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| REV | DESCRIPTION           | DATE       | DESIGN | ISSUED |
|-----|-----------------------|------------|--------|--------|
| 1   | Issue for information | 09/05/2020 | ND     | NT     |
| 2   | Issue for information | 10/05/2020 | ND     | NT     |
| 3   | Issue for information | 11/05/2020 | ND     | NT     |
| 4   | Issue for information | 15/05/2020 | ND     | NT     |
| 5   | Issue for information | 24/05/2020 | ND     | NT     |
| 6   | Issue for information | 30/07/2020 | QP     | PC     |
| 7   | Issue for information | 01/08/2020 | QP     | PC     |
| 8   | Issue for information | 13/08/2020 | QP     | PC     |

Project:  
32 The Avenue, Hurstville  
32, The Avenue, Hurstville, NSW 2220  
Owner:  
VORTEX PROPERTY GROUP  
DEVELOPMENT APPLICATION

Drawing:  
NORTH EAST ELEVATION

| PROJECT NO. | DRAWING NO. | REVISION | DATE       |
|-------------|-------------|----------|------------|
| 18-050      | DA-G-304    | P        | 11/08/2020 |
| SCALE       | BY          | CHKD     | APP'D      |
| 1:200       | AR/RB       | ND       |            |



**REPORT TO GEORGES RIVER COUNCIL  
LPP MEETING OF THURSDAY, 19 NOVEMBER 2020**

LPP062-20

|  |  |                                   |                    |
|--|--|-----------------------------------|--------------------|
| <b>LPP Report No</b>   | <b>LPP062-20</b>   | <b>Development Application No</b> | <b>DA2020/0264</b> |
| <b>Site Address &amp; Ward Locality</b>  | 43 Cronulla Street Carlton<br>Hurstville Ward  |                                   |                    |
| <b>Proposed Development</b>  | Demolition, alterations and addition to a heritage dwelling and construction of a detached secondary dwelling and carport including landscaping and site works   |                                   |                    |
| <b>Owners</b>  | Mr Anthony John Papagelis  |                                   |                    |
| <b>Applicant</b>   | Mr Nicholas Karahalios   |                                   |                    |
| <b>Planner/Architect</b>   | Planner: Solutions Zane / Architect: Nick Karahalios - Architectural Drafting Services   |                                   |                    |
| <b>Date Of Lodgement</b>   | 1/07/2020  |                                   |                    |
| <b>Submissions</b>   | No submissions   |                                   |                    |
| <b>Cost of Works</b>   | \$221,900.00   |                                   |                    |
| <b>Local Planning Panel Criteria</b>   | Application involves demolition works to a heritage item   |                                   |                    |
| <b>List of all relevant s.4.15 matters (formerly s79C(1)(a))</b>                   | State Environmental Planning Policy (Affordable Rental Housing) 2009, State Environmental Planning Policy No 55 - Remediation Of Land; State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004; State Environmental Planning Policy (Infrastructure) 2007; 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; Draft State Environmental Planning Policy (Housing Diversity) 2020; Hurstville Local Environmental Plan 2012; Hurstville Development Control Plan No 1 - LGA Wide. |                                   |                    |
| <b>List all documents submitted with this report for the Panel's consideration</b> | Architectural Plans, Statement of Environmental Effects, Heritage Impact Statement, BASIX Certificates   |                                   |                    |
| <b>Report prepared by</b>  | Development Assessment Planner   |                                   |                    |

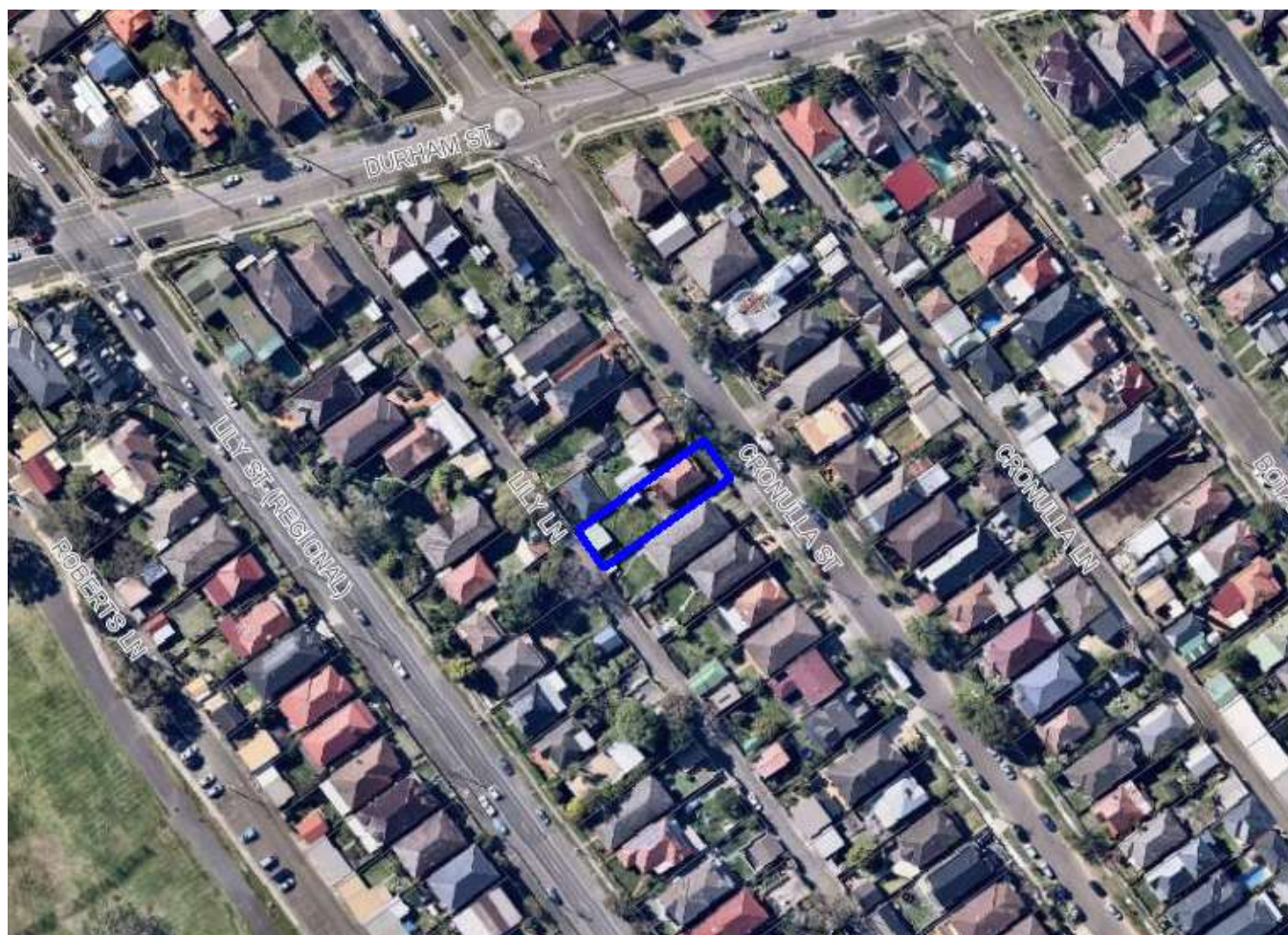
|                       |   |
|-----------------------|---|
| <b>Recommendation</b> | That the application be approved in accordance with the conditions included in this report. |
|-----------------------|---|

|   |            |
|---|------------|
| <b>Summary of matters for consideration under Section 4.15</b><br>Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? | <b>Yes</b> |
| <b>Legislative clauses requiring consent authority satisfaction</b><br>Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied     | <b>Yes</b> |



|   |   |
|---|---|
| about a particular matter been listed and relevant recommendations summarised, in the Executive Summary of the assessment report?   |   |
| <b>Clause 4.6 Exceptions to development standards</b><br>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? | <b>Not Applicable</b>   |
| <b>Special Infrastructure Contributions</b><br>Does the DA require Special Infrastructure Contributions conditions (under s7.24)?   | <b>Not Applicable</b>   |
| <b>Conditions</b><br>Have draft conditions been provided to the applicant for comment?  | <b>No, the conditions can be reviewed when the report is published.</b> |

### Site Plan



**Figure 1:** Aerial view of subject site outlined in blue

## EXECUTIVE SUMMARY

### Proposal

- The application seeks approval for partial demolition of a heritage listed dwelling, demolition of detached structures including a laundry and a garage, alterations and additions to the existing heritage listed dwelling and construction of a detached

secondary dwelling and carport including landscaping and site works at 43 Cronulla Street Carlton.

### Site and Locality

2. The subject site is a rectangular shaped allotment along the south western side of Cronulla Street, Carlton. The site observes a primary frontage of 12.19m to Cronulla Street, a secondary street frontage of 12.19m to Lily Lane, and side boundary lengths of 40.185m and a site area of 489.9sqm.
3. The site currently accommodates a single storey heritage listed dwelling house of local significance with associated detached structures nominated as the laundry and a garage. The dwelling is listed under Schedule 5 of Hurstville LEP 2012 as item 'I12'. The immediate area is dominated by residential uses containing a mix of one (1) and two (2) storey residential developments. The area is generally residential in character.

### Zoning and Permissibility

4. The site is zoned R2 – Low Density Residential and demolition and alterations and additions to a dwelling are ancillary to the use of “dwelling house” which is permissible with consent. The proposed construction of a ‘secondary dwelling’ is also permissible under the provisions of Hurstville Local Environmental Plan 2012 and State Environmental Planning Policy (Affordable Rental Housing) 2009 in the zone with consent.

### Submissions

5. The application was notified to surrounding neighbours for a period of fourteen (14) days between 8 July 2020 and 22 July 2020 in accordance with this Section 2 of HDCP No. 1. The application was also advertised in the St George and Sutherland Shire Leader. No submissions were received.

### Conclusion

6. Having regard to the matters for consideration under section 4.15(1) of the Environmental Planning and Assessment Act 1979 and following a detailed assessment, the proposed Development Application (DA2020/0264) is recommended for approval subject to the conditions referenced at the end of this report.

## REPORT IN FULL

### Proposal

7. Development consent is sought for partial demolition of a heritage listed dwelling, demolition of detached structures including a laundry and a garage, alterations and additions to the existing heritage listed dwelling and construction of a detached secondary dwelling and carport including landscaping and site works at 43 Cronulla Street Carlton.
8. Further details of the proposed development are as follows:

#### Demolition:

- Demolition of a portion of the rear of the dwelling which removes a room referenced as ‘dinning room’ to facilitate the proposed additions.
- Demolition of detached structures including garage, laundry and concrete paving in the rear of the site.

#### Alteration and Addition:

- Construction of a stepped down rear extension creating a kitchen, family/meals area and rear deck.
- Renovation of the existing WC.
- Conversion of existing kitchen to a bathroom and laundry room.
- Conversion of existing bathroom to a powder room.
- The dwelling house will consist of the following: front verandah, three bedrooms, powder room, living room, bathroom/laundry, kitchen, family/meals area, rear deck, and WC (accessed from the outside).

#### Detached secondary dwelling:

- Construction of a detached secondary dwelling consisting of the following: two (2) bedrooms, bathroom, kitchen, living area, laundry closet and verandah and a landscaping strip along Lily Lane.

#### Ancillary development:

- Construction of a new vehicular crossing and layback leading to a new carport and hardstand along the south eastern façade of the secondary dwelling.
- Ancillary landscape and stormwater works.

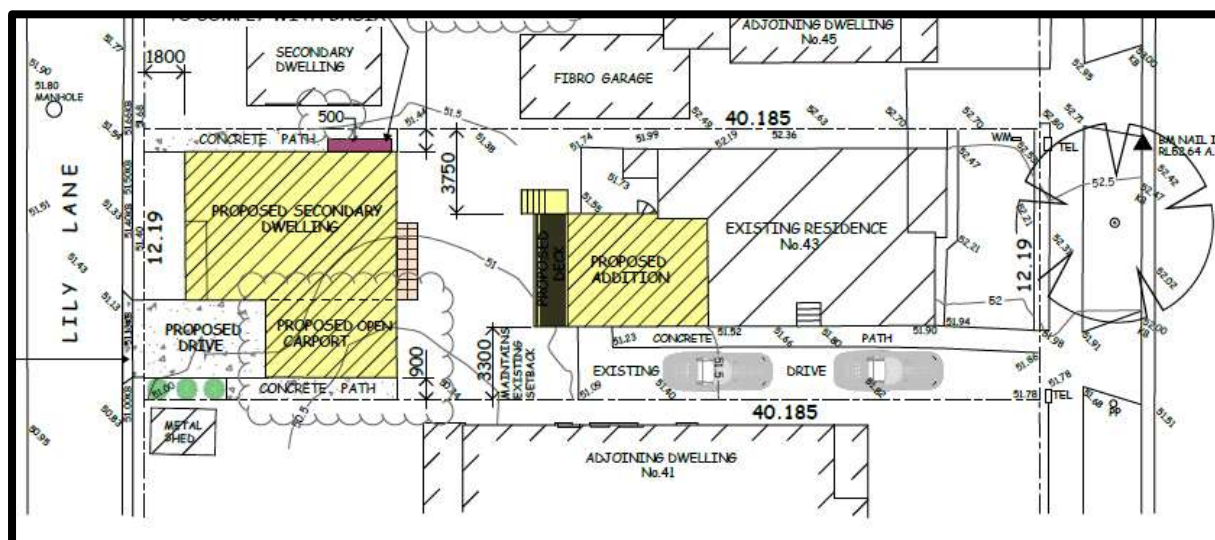


Figure 2: Proposed site plan (Source: NKDrafting 2020).

### **The Site and Locality**

- The subject site is formally identified as Lot 1 in DP 85615 and known as 43 Cronulla Street Carlton. The subject site is a rectangular shaped allotment along the south western side of Cronulla Street. The site observes a primary frontage of 12.19m to Cronulla Street, a secondary street frontage of 12.19m onto Lily Lane, a site depth of 40.185m and a site area of 489.9sqm. The site slopes to the rear (Lily Lane) with an average height difference of 0.9m.
- The site currently accommodates a single storey heritage listed dwelling house of local significance. The dwelling is listed under Schedule 5 of Hurstville LEP 2012 as item '112' and detached outbuildings being a laundry and garage.
- The existing heritage house was built in 1926 and is known as "Beverley". The property "Beverley" is of historic heritage significance to the local area as an intact and representative example of an Interwar (1925-6) Californian Bungalow with distinctive detailing and strong streetscape presence (Heritage NSW 2020).



12. The site is serviced by an existing vehicular crossing along the south eastern side of the allotment from Cronulla Street.
13. The immediate area is dominated by residential uses containing a mix of one (1) and two (2) storey residential developments. The area is generally residential in character.
14. In the wider context, the subject site is located approximately 500m north east of Allawah Station and approximately 270m east of Allawah Park.



**Figure 3:** Street view of subject site from the assessing officers inspection.

### Background

15. Development application 'DA69/97' was approved on 30 May 1997 for the use of the rear detached garage as a workshop.
16. The current development application has been amended through Council's assessment of the application. The initial application proposed a garage along the south eastern façade of the secondary dwelling. The proposal was not supported by Council's heritage consultant and amended plans were submitted depicting an open carport.

### Compliance and Assessment

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

### STATE ENVIRONMENTAL PLANNING INSTRUMENTS

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

|  |                 |
|--|-----------------|
| <b>State Environmental Planning Policy</b> | <b>Complies</b> |
|--|-----------------|

|   |     |
|---|-----|
| State Environmental Planning Policy (Affordable Rental Housing) 2009            | 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 (AFFORDABLE RENTAL HOUSING) 2009 (ARHSEPP)

19. The application is designed having regard to the provisions of ARHSEPP and as such the provisions of Division 2 relating to secondary dwelling are applicable to the application.
20. The following table is an assessment of the provisions listed under the SEPP as applicable to secondary dwellings.

| SEPP Provision  | Development proposal  | Complies                             |
|---|---|--------------------------------------|
| <b>19 Definition</b><br>Development for the purposes of a secondary dwelling includes the following:<br>(a) The erection of, or alterations or additions to, a secondary dwelling,<br>(b) Alterations or additions to a principal dwelling for the purposes of a secondary dwelling.<br><u>Note.</u><br>The standard instrument defines secondary dwelling as follows:<br>secondary dwelling means a self-contained dwelling that:<br>(a) is established in conjunction with another dwelling (the principal dwelling), and<br>(b) is on the same lot of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling, and<br>(c) Is located within, or is attached to, or is separate from, the principal dwelling. | Erection of a new detached secondary dwelling.<br><br>Alteration and addition is proposed to the dwelling house however no part of the dwelling will be attached to the proposed secondary dwelling.<br><br>The proposed secondary dwelling will be constructed in conjunction with the existing principle dwelling house.<br><br>The proposed secondary dwelling is located on the same lot of land as the principle dwelling.<br><br>The proposed secondary dwelling is detached from the primary dwelling. | Yes<br><br>Yes<br><br>Yes<br><br>Yes |
| <b>20 Land to which Division applies</b>  |   |                                      |

|  |  |   |
|--|--|---|
| <p>This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones, but only if development for the purposes of a dwelling house is permissible on the land:</p> <p>(b) Zone R2 Low Density Residential,</p>   | <p>The subject site is zoned R2 – Low Density Residential</p>  | <p>Yes</p>                                  |
| <p><b>21 Development to which Division applies</b></p> <p>This Division applies to development, on land to which this Division applies, for the purposes of a secondary dwelling and ancillary development (within the meaning of Schedule 1).</p>   | <p>This division permits secondary dwelling developments on the subject allotment.</p>   | <p>Yes</p>                                  |
| <p><b>22 Development may be carried out with consent</b></p> <p>(1) Development to which this Division applies may be carried out with consent.</p> <p>(2) A consent authority must not consent to development to which this Division applies if there is on the land, or if the development would result in there being on the land, any dwelling other than the principal dwelling and the secondary dwelling.</p> <p>(3) A consent authority must not consent to development to which this Division applies unless:</p> <p>(a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument, and</p> <p>(b) The total floor area of the secondary dwelling is no more than 60sqm or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area.</p> | <p>This division permits secondary dwelling developments on the subject allotment.</p> <p>The development is limited to alterations and additions to a primary dwelling and a new secondary dwelling.</p> <p>The permitted Floor Space Ratio (FSR) according to the HLEP 2012 is 0.55:1 as per clause 6.5. The proposed FSR is 0.33:1 – 163.185sqm.</p> <p>Total floor area is 59.98sqm, complying with the maximum permitted.</p> <p><u>Note:</u> Total floor area is not a defined term; in this regard the assessment has been undertaken using the definition of gross floor area under the Hurstville LEP in order to establish the</p> | <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> |

|  |  |                                  |
|--|--|----------------------------------|
| <p>(4) A consent authority must not refuse consent to development to which this Division applies on either of the following grounds:</p> <p>(a) site area if:</p> <ol style="list-style-type: none"> <li>the secondary dwelling is located within, or is attached to, the principal dwelling, or</li> <li>the site area is at least 450sqm,</li> </ol> <p>(b) parking: if no additional parking is to be provided on the site.</p> <p>(5) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (4).</p> | <p>development does not exceed the residential floor space ratio applicable to the site.</p> <p>Site area is 489.9sqm.</p> <p>The application proposes a new vehicular crossing from Lily Lane servicing a new carport and hardstand area along the south eastern side façade of the secondary dwelling.</p> <p>The carport represents a sheltered car space for the principle dwelling. The carport has been proposed at the rear of the site and not from the existing Cronulla Street vehicular crossing in order to preserve and maintain a sufficient curtilage and setting to the heritage item. As per Council's Heritage Consultant:<br/><i>"It is noted that the primary manner in which the heritage item is viewed and appreciated is from Cronulla Street and views from the rear laneway are secondary".</i></p> <p>Secondary dwelling complies with subclause (4).</p> | <p>Yes</p> <p>Yes</p> <p>Yes</p> |
| <p><b>23 Complying development</b><br/>Clauses (1) through to and including (5)</p>  | <p>Development is not complying development.</p>   | <p>N/A</p>                       |
| <p><b>24 No subdivision</b><br/>A consent authority must not consent to a development application that would result in any subdivision of a lot on which development for the purposes of a secondary dwelling has been carried out under this Division.</p>  | <p>The development application will not result in any subdivision of a lot on which development for the purposes of a secondary dwelling will be carried out under this Division.</p>  | <p>Yes</p>                       |

**STATE ENVIRONMENTAL PLANNING POLICY NO 55 – REMEDIATION OF LAND (SEPP 55)**

21. 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.
22. 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 there is no indication that the land is contaminated. The criterion of SEPP 55 have been satisfied.

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

23. 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. BASIX Certification is also triggered when proposing a swimming pool with a volume of 40,000 litres or more.
24. Two BASIX Certificates prepared by Nick Karahalios Drafting Services, dated 18 October 2020, certificate numbers 1094805S\_02 and A374921\_02 have been submitted with the Development Application satisfying the minimum requirements of SEPP (Building Sustainability Index: BASIX) 2004.
25. The BASIX Certificates have been revised in light of the amended plans.

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

26. The Vegetation SEPP regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.
27. 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).
28. 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.

29. 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).
30. The proposal does not require the removal of any significant trees or vegetation. Standard and specific tree and landscape conditions have been recommended by Council's consultant arborist and have been referenced at the end of this report.

## **GREATER METROPOLITAN REGIONAL ENVIRONMENTAL PLAN NO 2 - GEORGES RIVER CATCHMENT**

31. 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,*
32. The proposed stormwater drainage system has been assessed by Council's Development Engineer and has been found to be satisfactory. Specific stormwater conditions have been imposed in this regard.

### **Draft Environmental Planning Instruments**

#### **DRAFT ENVIRONMENTAL STATE ENVIRONMENTAL PLANNING POLICY**

33. 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.
34. The proposal is not inconsistent with the provisions of this Draft Instrument.

**DRAFT REMEDIATION OF LAND STATE ENVIRONMENTAL PLANNING POLICY**

35. 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.

36. The proposal is not inconsistent with the provisions of this Draft Instrument as there is no evidence this site is contaminated based on previous uses.

**DRAFT STATE ENVIRONMENTAL PLANNING POLICY (HOUSING DIVERSITY) 2020**

37. The New South Wales Department of Planning, Industry and Environment previously exhibited an Explanation of Intended Effect between 29 July and 9 September 2020 for the proposed new Housing Diversity State Environmental Planning Policy (Housing Diversity SEPP) that:

- *introduces new definitions for build-to-rent housing, student housing and co-living;*
- *amends some state-level planning provisions, particularly for boarding house and seniors housing development;*
- *amends some state-level planning provisions to support social housing developments undertaken by the NSW Land and Housing Corporation (LAHC) on government-owned land; and*
- *consolidates three housing-related SEPPs*
  - *State Environmental Planning Policy (Affordable Rental Housing) 2009*
  - *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004*
  - *State Environmental Planning Policy No 70 – Affordable Housing (Revised Schemes).*

38. The application was lodged on the 1 July 2020 prior to the exhibition of Explanation of Intended Effect. Notwithstanding the above, the proposal is not considered to be inconsistent with the provisions of the Draft SEPP.

**HURSTVILLE LOCAL ENVIRONMENTAL PLAN 2012**

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

40. The allotment is zoned R2 – Low Density Residential Zone, 'dwelling houses' and 'secondary dwellings' are permitted with consent. It is noted that alteration and addition works and the construction of a carport are considered ancillary to the dwelling house use and are also a permitted form of development with consent.



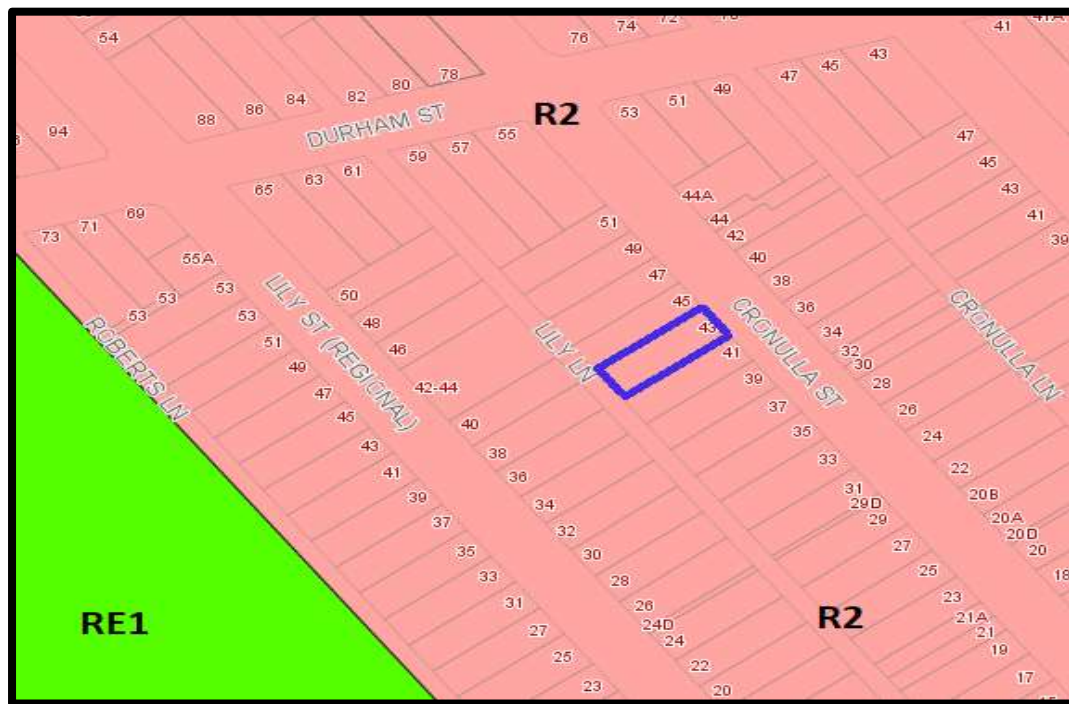


Figure 4: Zoning Map – site outlined in blue

| Clause  | Standard   | Proposed  | Complies |
|---|--|---|----------|
| <b>Part 1 Preliminary</b>                         |  |   |          |
| 1.2 – Aims of the Plan                            | In accordance with Clause 1.2 (2).   | The development is consistent with the aims of the plan.  | Yes      |
| 1.4 – Definitions                                 | Dwelling house <i>means a building containing only one dwelling.</i>   | The proposed development is consistent with the definition.   | Yes      |
|   | Secondary dwellings have been defined and assessed under the ARH SEPP assessment above.  | As established in the ARHSEPP assessment above, the proposed development is consistent with the definition. | Yes      |
| <b>Part 2 Permitted or prohibited development</b> |  |   |          |
| 2.3 – Zone objectives and Land Use Table          | <p>Meets objectives of R2-Low Density Residential Zone:</p> <ul style="list-style-type: none"> <li><i>To provide for the housing needs of the community within a low density residential environment.</i></li> <li><i>To enable other land uses that provides facilities or services to meet the day to</i></li> </ul> | The proposal satisfies the objectives of the R2 zone and is permissible with development consent.           | Yes      |



|   |  |   |     |
|---|--|---|-----|
|   | <p><i>day needs of residents.</i></p> <ul style="list-style-type: none"> <li><i>• To encourage development of sites for a range of housing types, where such development does not compromise the amenity of the surrounding area, or the natural or cultural heritage of the area.</i></li> <li><i>• To ensure that a high level of residential amenity is achieved and maintained.</i></li> <li><i>• To encourage greater visual amenity through maintaining and enhancing landscaping as a major element in the residential environment.</i></li> <li><i>• To provide for a range of home business activities where such activities are not likely to adversely affect the surrounding residential amenity.</i></li> </ul> |   |     |
| <b>Part 4 Principal development standards</b> |  |   |     |
| 4.3 – Height of Buildings                     | 9m as identified on Height of Buildings Map  | <p>Dwelling house extension: 3.96m.</p> <p>Secondary dwelling: 4.09m.</p> <p>Carport: 3.0m.</p> | Yes |

|   |   |   |     |
|---|---|---|-----|
| 4.4 – Floor space ratio                                   | <p>(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.</p> <p>0.6:1</p> <p>Note: Although the maximum FSR is 0.6:1, the maximum floor space permitted for a dwelling house and secondary dwelling is the maximum floor area allowed for a dwelling house as per clause 22 (3) (a) of the SRH SEPP. In this case, the maximum FSR is 0.55:1 as per clause 6.5 of HLEP 2012.</p> | 0.33:1 equating to 163.185sqm.  | Yes |
| <b>Part 5 Miscellaneous provisions</b>                    |   |   |     |
| 5.4 – Controls relating to miscellaneous permissible uses | <p>(9) Secondary dwellings<br/>If development for the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater—</p> <p>(a) 60sqm,<br/>(b) 10% of the total floor area of the principal dwelling.</p>   | 59.98sqm  | Yes |
| 5.10 – Heritage conservation                              | <p>(2) Requirement for consent Development consent is required for any of the following—</p> <p>(a) demolishing or moving any of the following or altering the exterior of any of the following (including, in</p>  | Consent is sought for demolition and alterations and additions work to a heritage item. | Yes |

|  |  |  |            |
|--|--|--|------------|
|  | <p>the case of a building, making changes to its detail, fabric, finish or appearance)—</p> <p>(i) a heritage item,<br/>(ii) an Aboriginal object,<br/>(iii) a building, work, relic or tree within a heritage conservation area,</p> <p>(5) Heritage assessment<br/>The consent authority may, before granting consent to any development—</p> <p>(a) on land on which a heritage item is located, or<br/>(b) on land that is within a heritage conservation area, or<br/>(c) on land that is within the vicinity of land referred to in paragraph (a) or (b),</p> <p>Require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</p> | <p>The site contains a local heritage item (I12), being a house identified as 'Beverley'. The Statement of Significance is provided below.</p> | <p>Yes</p> |
|--|--|--|------------|

**Statement of Significance**

*"The subject house at 43 Cronulla St, Carlton is of local significance as a representative of Inter-War housing development and growth in the wider Municipality. It was built following the subdivision of a larger estate in 1897. It reflects Carlton's most significant period of suburban residential settlement in the Inter-War period, and also the broader expansion of settlement in the Hurstville area which began in the Federation period, but more notably in the Inter-War period. Evidence for this is provided by this house, together with nearby properties at 136 Carlton Parade, and 3 and 7 Cronulla Street.*

*The house is a well detailed Inter-War house with the asymmetrical massing and stylistic elements typical of the period. It retains its original architectural and decorative features,*

*including, street facing gables, a deep verandah with masonry piers and base, and leadlight windows. It is also one of a relatively small number of Inter-War period houses across the Hurstville LGA which is well maintained and remains intact”.*

Comment: The application was accompanied by a heritage impact statement prepared by Heritage 21 dated May 2020.

The application was referred to Council’s Heritage Consultant. The plans were amended accordingly as per Council’s Heritage Consultant advice by converting the proposed garage to an open carport in addition to other changes to the rear dwelling addition. The amendments have been reviewed by Council’s Heritage Consultant who supported the development on heritage ground subject to specific conditions.



**Figure 4:** Heritage Map – site outlined in blue

#### Part 6 Additional local provisions

|   |   |  |     |
|---|---|--|-----|
| 6.1 – Acid sulfate soils                                  | (2) Development consent is required for the carrying out of works described in the table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works. | Site has not been identified as located in an area containing Acid Sulfate soils as per HLEP 2012 Acid Sulfate Soils Map.    | Yes |
| 6.5 – Gross floor areas of dwellings in residential zones | For a site area $\leq 630$ square metres the FSR is not to exceed site area x 0.55  | 0.33:1 - 163.185sqm<br><br>Although this clause is only specific to dwelling houses, the maximum floor space permitted for a | Yes |

|                          |  |  |     |
|--------------------------|--|--|-----|
|                          |  | dwelling house and secondary dwelling is the maximum floor area allowed for a dwelling house as per clause 22 (3)(a) of the ARHSEPP. |     |
| 6.7 – Essential services | Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—<br>(a) the supply of water,<br>(b) the supply of electricity,<br>(c) the disposal and management of sewage,<br>(d) stormwater drainage or on-site conservation,<br>(e) suitable road and vehicular access. | All essential services are available for the subject site.   | Yes |

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### DRAFT GEORGES RIVER LOCAL ENVIRONMENTAL PLAN 2020

41. Consideration is given to the provisions of Draft Georges River Local Environmental Plan 2020 in the assessment this application.
42. 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

43. The proposal has been assessed under the relevant sections of the Hurstville Development Control Plan No.1 as follows.

| Section   | Design Solution  | Section  | Complies |
|---|--|--|----------|
| <b>Section 4.4 Dwelling Houses on Standard Lots</b> |  |  |          |
| PC1 – Neighbourhood Character                       | DS1.1 – The development application is supported by a Statement of | The application is accompanied by an acceptable Statement of Environmental | Yes      |

|                       | Environmental Effects  | Effects.   |     |
|-----------------------|--|--|-----|
| PC2 – Building Height | DS2.2 – Maximum ceiling height is 7.2m above the existing ground level vertically below that point   | Main dwelling height will remain existing. The house extension ceiling height is 3.8m as it is a recessive element being a skillion at the rear.<br><br>The secondary dwelling ceiling height: 2.89m.  | Yes |
| PC3 – Setbacks        | DS3.1 – Minimum setback from the primary street boundary is: a. 4.5m to the main building face<br>b. 5.5m to the front wall of garage, carport roof or onsite parking space                        | <u>Front setback</u><br>The existing front setback will remain unchanged.  | Yes |
|                       | DS3.4 – The minimum side setback outside the FSPA is 900mm (ground floor) and 1.2m (first floor).  | <u>Side setback</u><br>The proposed minimum side setbacks of the new extension measured from the outermost face of the building are as follows:<br><br><ul style="list-style-type: none"> <li>• North western side boundary: 3.75m</li> <li>• South eastern side boundary: 3.3m</li> </ul><br>Secondary dwelling and carport setbacks are assessed in the following sections | Yes |
|                       | S3.6 – Minimum rear boundary setbacks are:<br>a. 3m for any basement and ground floor level solid wall<br>b. 6m for first floor level solid walls<br>c. where a first floor balcony is proposed at | <u>Rear setback of dwelling extension:</u><br>17.4m  | Yes |

|                      |   |  |     |
|----------------------|---|--|-----|
|                      | the rear, 6m from the balustrade  |  |     |
| PC4 – Façades        | DS4.2 – The dwelling house incorporates at least two of the following building elements facing any street frontage:<br>a. entry feature or portico<br>b. awnings or other features over windows<br>c. eaves and sun shading<br>d. window planter box treatment<br>e. bay windows or similar features<br>f. wall offsets, balconies, verandas, pergolas or the like. | The existing dwelling's entry door, verandah, windows and façade features will be retained.  | Yes |
| PC6 – Solar access   | DS6.1 – 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 9.00am and 3.00pm on 21 June.  | The proposed development will allow for at least 3 hours of sunlight on the windows of the main living areas and adjoining principal private open space of adjacent dwellings between 9.00am and 3.00pm on 21 June.  | Yes |
| PC7 – Visual Privacy | DS7.3 – Development applications are accompanied by a survey plan or site analysis plan (to AHD) of the proposed dwelling showing the location of adjoining property windows, floors levels, window sill levels and ridge and gutter line levels.   | The application is accompanied by a site analysis plan of the proposed dwelling showing the location of adjoining property windows, floors levels, window sill levels, the ridge and gutter line levels.<br><br>The proposed development will not result in adverse impacts relating to visual privacy given the setbacks proposed provide the required offset and visual privacy protection for | Yes |

|   |  |  |     |
|---|--|--|-----|
|   |  | <p>neighbouring properties.</p> <p>The proposal involves the following measures for the dwelling extension to protect the neighbouring properties' visual privacy:</p> <ul style="list-style-type: none"> <li>• 1.8m privacy screen along south east elevation of rear deck.</li> </ul> <p>This outcome is considered appropriate.</p>                     |     |
| PC8 – Noise                                     | DS8.1 – Noise generators such as plant and machinery including air conditioning units and pool pumps are located away from windows or other openings of habitable rooms and are screened to reduce noise or acoustically enclosed. | The proposed rainwater tank is located along north-western façade of secondary dwelling and with an appropriate setback.   | Yes |
| PC9 – Vehicular access, parking and manoeuvring | DS9.1 – Car parking is provided on site in accordance with the following minimum rates: a. for 1 and 2 bedroom dwellings, 1 car parking space b. for 3 or more bedroom dwellings, 2 car parking spaces                             | <p>The proposal includes hardstand parking along the south east boundary accessed from the existing vehicular crossing off Cronulla Street.</p> <p>One (1) car space in the form of an open carport and hard stand area along the south eastern façade of the secondary dwelling which is accessed from the proposed driveway crossing from Lily Lane.</p> | Yes |



|  |   |  |     |
|--|---|--|-----|
|  | DS9.2 – For all new dwellings, at least 1 car space must be located behind the front building setback   | One car space in the proposed carport is located behind the nominated building setback.  | Yes |
| PC10 – Landscaped areas and private open space | DS10.1 – Where located outside the FSPA, a minimum of 20% of site area is landscaped open space.  | 134.1sqm (27%) of the site will be landscaped open space, include the retained front yard.   | Yes |
|  | DS10.3 – The minimum dimension of landscaped open space is 2m in any direction.   | All landscaped areas are 2m in any direction.  | Yes |
|  | DS10.4 – A minimum of 15m <sup>2</sup> of the landscaped open space is provided between the front setback and the street boundary in the form of a front yard   | The front yard remains unchanged by the proposal.  | Yes |
|  | DS10.5 – An area of Principal Private Open Space is to be provided which: a. has a minimum area of 30sqm<br>b. has a minimum dimension of 5m<br>c. is located at ground level and behind the front wall of the dwelling<br>d. is directly accessible from a main living area. | The proposed principal private open space is located at the rear of the site having a total area of 95sqm and has direct access from the proposed rear deck area of the dwelling extension, and the living area of the secondary dwelling. | Yes |
| PC11 – Stormwater                              | DS11.8 – Development applications are to be supported by a Stormwater Management Plan showing how surface and roof runoff will be discharged to the street or into an easement. This plan must show the size of all pipes.  | The application has been referred to Council's Drainage Engineer. Stormwater related conditions of consent have been imposed in support of the proposal.   | Yes |
| PC15 – Alterations and additions               | DS15.1 – Alterations and additions comply with the relevant requirements of this  | The proposed alterations and additions comply with the DCP   | Yes |

|  |   |   |                       |
|--|---|---|-----------------------|
|  | <p>DCP for setbacks, car parking and landscaping.</p> <p>DS15.2 – Alterations and additions do not intrude within the existing primary street setback.</p> <p>DS15.4 – Existing significant vegetation is retained where not reasonably required to site development.</p> | <p>requirements for setbacks, car parking and landscaping.</p> <p>The proposed addition, secondary dwelling and carport additions do not extend into the existing primary street setback.</p> <p>No significant trees or vegetation are proposed to be removed.</p> | <p>Yes</p> <p>Yes</p> |
| <b>Section 4.6 Secondary Dwellings</b> |   |   |                       |
| PC1 – Site area                        | DS1.1 – Minimum site area is 450sqm   | The subject site area is 489.9sqm   | Yes                   |
| PC2 – Floor area                       | DS2.1 – The maximum floor area is 60sqm, or 10% of the total floor area of the dwelling house, whichever is greater.  | The proposed secondary dwelling has a floor space area of 59.98sqm.   | Yes                   |
| PC3 – Building height:                 | DS3.1 – Maximum building height is 1 storey   | The proposed secondary dwelling is 1 storey in height.  | Yes                   |
|  | DS3.2 – The minimum floor to ceiling height is 2.4m.  | 2.4m  | Yes                   |
|  | DS3.3 – The maximum floor to ceiling height is 3.6m.  | 2.4m  | Yes                   |
| PC4 – Setbacks:                        | DS4.1 – The minimum setback to side and rear boundaries is 900mm.   | <ul style="list-style-type: none"> <li>North western side boundary: 1.2m</li> <li>South eastern side boundary: 4.32m to façade of secondary dwelling, and 900mm to carport column.</li> <li>South western rear setback: 1.8m</li> </ul>                             | Yes                   |
| PC5 – Car parking                      | DS5.1 – Car parking is located behind the main  | The proposed carport is located to the rear   | Yes                   |

|                                 |   |  |     |
|---------------------------------|---|--|-----|
|                                 | building face to primary or secondary streets.  | of the site access from Lily Lane; the carport is to service the primary dwelling.   |     |
| PC6 – Landscaped open space     | DS6.1 – The landscaped area for a secondary dwelling is shared with the principal dwelling.   | The proposed development will provide a shared landscaped area for the principal and secondary dwelling. The landscaped area will occupy 27% of the total site area.   | Yes |
| PC8 – Stormwater                | DS7.2 – Stormwater management is in accordance with the provisions contained in Section 4.4 Dwelling Houses on Standard Lots – PC.11.   | The application has been referred to Council's Drainage Engineer. Stormwater related consent conditions of consent have been imposed.  | Yes |
| <b>Section 4.7 Outbuildings</b> |   |  |     |
| PC2 – Building height           | DS2.1 – Maximum height is 3m.   | 3.0m   | Yes |
| PC3 – Setbacks:                 | DS3.1 – Minimum setbacks for garages, gyms, cabanas and sheds are 900mm.  | South eastern side setback: 900mm  | Yes |
|                                 | DS3.2 – An open carport, awning or similar structure may extend from the dwelling to the side or rear boundary providing Council is satisfied that:<br><br>a. engage with and activate the street | The proposed carport (5.9m length x 3.42m width x 3m height) is sympathetic to the street and located to satisfy the heritage controls. There is a hardstand area located between the carport and Lily Lane. | Yes |
|                                 | b. they are designed in accordance with the BCA.  | A condition will be imposed to ensure that BCA (NCC) requirements are satisfactorily met.  | Yes |

|  |  |  |     |
|--|--|--|-----|
|  | c. no eaves or gutters overhang any boundary   | No eaves or gutters overhang any of the boundaries.  | Yes |
|  | d. two or more sides of the structure are open and at least one third of its perimeter is open (otherwise it is considered an enclosed garage).                        | The carport has three (3) open sides.<br><br>A third of the perimeter is open:<br><br>Full perimeter = 18.64m (third of the perimeter = 6.24m)<br><br>Proposed carport = 6.84m of the perimeter is open (south eastern façade is considered closed as roof cladding is not at least 500mm clear from side boundary). | Yes |
|  | e. the roof cladding of the carport must be at least 500mm clear of the allotment boundary or another building on the same allotment for a side to be considered open. | Roof cladding is setback 450m from the south eastern boundary. Although this side is considered closed, the carport still complies with DS3.2(d) above.  | Yes |
|  | DS3.4 – Outbuildings located on rear laneways are setback a minimum of 1m from the rear boundary   | 5.4m to the carport with a hardstand area forward of this carport.   | Yes |
|  | DS5.1 – External finishes and claddings have low reflectivity.   | A condition of consent will be imposed to ensure compliance.   | Yes |

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**GEORGES RIVER DEVELOPMENT CONTROL PLAN 2020 (INTERIM POLICY)**

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

45. In relation to the proposed dwelling house, the proposal does not conflict with the controls of the Interim Policy Development Control Plan.

## **IMPACTS**

### ***Natural Environment***

46. The development will not result in any significant adverse impacts on the natural environment. Although the proposal does not seek to remove any trees, the proposal was referred to Council's consultant arborist who supported the application subject to specific landscape conditions for the resulting landscape design.

### ***Built Environment***

47. The proposed alterations and additions are considered acceptable in that they will have a low visual and material impact on the heritage item, having been designed in a manner that will sit recessively at the rear of the dwelling, without obscuring or impacting on significant features or distorting the streetscape presentation. The proposed materials, colours and finishes as nominated in the schedule dated October 2020, are considered acceptable.
48. The proposed secondary dwelling remains similar in the overall footprint, however the deletion of the garage and its replacement with an open carport structure has positively reduced the bulk and scale presenting to Lily Lane through eliminating the bulk of the structures.
49. The application was referred to Council's Heritage Consultant who initially required amendments including converting the garage to an open carport, amendments to the roof form and schedule of finishes. Council's Heritage Consultant supported the amended plans subject to specific conditions.

### ***Social and Economic Impact***

50. The proposed development would not result in any adverse social and/or economic impacts within the locality.

### ***Suitability of the Site***

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

## **SUBMISSIONS AND THE PUBLIC INTEREST**

52. The application was notified to surrounding neighbours for a period of fourteen (14) days between 8 July 2020 and 22 July 2020 in accordance with this Section 2 of Hurstville Development Control Plan No. 1. The application was also advertised in the St George and Sutherland Shire Leader. No submissions were received.

## **REFERRALS**

### **Council Referrals**

#### **Consultant Arborist**

53. The application has been assessed and endorsed by Council's Consultant Arborist and relevant tree and landscaping conditions have been recommended.

#### **Heritage Consultant**

54. The proposal is supported by Council's Heritage Consultant subject to standard and specific conditions of consent. Council's Heritage Consultant has specifically requested for amendments which has been taken into consideration in the amended plans.

#### Drainage Engineering

55. The application has been assessed and endorsed by Council's Drainage Engineer. Stormwater related consent conditions of consent have been imposed.

#### GIS

56. The application has been referred to Council's GIS team. A street address has been obtained for the secondary dwelling.

#### **External Referrals**

##### Ausgrid

57. The application was referred to Ausgrid as per Clause 45(2) of the State Environmental Planning Policy (Infrastructure) 2007. A response was received stating that no objection is raised with regards to the proposal.

#### **CONCLUSION**

58. The application seeks approval for partial demolition of a portion of the rear of the heritage listed dwelling, alterations and additions to this dwelling and construction of a detached secondary dwelling, carport, hardstand area, landscaping and site works at 43 Cronulla Street Carlton.
59. The application was notified to surrounding neighbours for a period of fourteen (14) days between 8 July 2020 and 22 July 2020 in accordance with this Section 2 of Hurstville Development Control Plan No. 1. The application was also advertised in the St George and Sutherland Shire Leader. No submissions were received.
60. The proposal has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act, 1979. As discussed throughout this report, the proposal satisfies the R2 Low Density zone objectives, in addition to complying with the relevant State Environmental Planning Policies, Local Environmental Plan and Development Control Plan.
61. Given the heritage status of the existing dwelling, the proposal was referred to Council's Heritage Consultant who assessed and supported the application subject to standard and specific conditions of consent.
62. The proposal will not result in any unreasonable impacts to the amenity of adjoining properties subject to the conditions of consent recommended below.
63. The application is recommended for approval subject to conditions.

#### **DETERMINATION AND STATEMENT OF REASONS**

##### Statement of Reasons

64. The statement of reasons are as following:
- The development proposal is of a scale and bulk that does not dominate the heritage item are minimised;

- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality;
- The proposed development, subject to the recommended conditions, will have no unacceptable adverse impacts upon the heritage item and the natural or built environments;
- The building will not unreasonably affect the amenity of any immediately adjoining properties in terms of unreasonable overlooking, overshadowing or view loss;
- The proposal is not inconsistent with the provisions of Draft Georges River Local Environmental Plan 2020;
- The proposed development is a suitable and planned use of the site and its approval is in the public interest.

### Determination

65. That pursuant to Section 4.16 (1) of the Environmental Planning and Assessment Act, 1979; as amended, the Georges River Local Planning Panel grants development consent to Development Application DA2020/0264 for partial demolition of a rear portion of the heritage listed dwelling, alterations and additions to this dwelling and construction of a detached secondary dwelling, carport, hard stand area, landscaping and associated site works at Lot 1, DP85615 and known as 43 Cronulla Street, Carlton, subject to the conditions listed below.

### **Development Conditions**

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

| Description                             | Reference No.          | Date         | Revision | Prepared by   |
|---|------------------------|--------------|----------|---|
| Site Plan                               | Job 201677<br>Sheet 09 | October 2020 | B        | Nick Karahalios<br>Architectural<br>Drafting Services |
| Demolition Plan                         | Job 201677<br>Sheet 02 | October 2020 | B        | Nick Karahalios<br>Architectural<br>Drafting Services |
| Floor Plan<br>(principal dwelling)      | Job 201677<br>Sheet 03 | October 2020 | B        | Nick Karahalios<br>Architectural<br>Drafting Services |
| Elevation Plans<br>(principal dwelling) | Job 201677<br>Sheet 05 | October 2020 | B        | Nick Karahalios<br>Architectural<br>Drafting Services |
| Section Plans<br>(principal dwelling)   | Job 201677<br>Sheet 04 | October 2020 | B        | Nick Karahalios<br>Architectural<br>Drafting Services |
| Floor Plan<br>(secondary dwelling)      | Job 201677<br>Sheet 06 | October 2020 | B        | Nick Karahalios<br>Architectural<br>Drafting Services |
| Elevation Plans<br>(secondary dwelling) | Job 201677<br>Sheet 8  | October 2020 | B        | Nick Karahalios<br>Architectural<br>Drafting Services |
| Section Plans<br>(secondary dwelling)   | Job 201677<br>Sheet 07 | October 2020 | B        | Nick Karahalios<br>Architectural                      |

|  |                                |              |   |   |
|--|--------------------------------|--------------|---|---|
| dwelling)                              |                                |              |   | Drafting Services                                     |
| Landscape Plan                         | Job 201677<br>Sheet LP-01      | October 2020 | B | Nick Karahalios<br>Architectural<br>Drafting Services |
| Roof Plan                              | Job 201677<br>Sheet 11         | October 2020 | B | Nick Karahalios<br>Architectural<br>Drafting Services |
| Schedule of<br>Colours and<br>Finishes | 43 Cronulla<br>Street, Carlton | October 2020 | - | -   |
| Heritage Impact<br>Statement           | Job 8697                       | May 2020     | - | Heritage 21   |

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### 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](http://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](http://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. **Sydney Water - Tap in<sup>TM</sup>** - The approved plans must be submitted to a Sydney Water Tap in<sup>TM</sup> 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](http://www.sydneywater.com.au) then see 'Building', or telephone 13000 TAP IN (1300 082 746). The Certifying Authority must ensure that a Tap in<sup>TM</sup> agent has appropriately stamped the plans prior to the issue of the Construction Certificate.

### **Prior to the Issue of a Construction Certificate**

6. **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.

7. **Stormwater System - Gravity to the Kerb and Gutter** - All stormwater shall drain by gravity to Council's kerb and gutter in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).
8. **On Site Detention** - The submitted Concept Stormwater and OSD Plan prepared by NB Consulting with reference number 200637 revision A dated June 2020 has been assessed as a concept plan only. Final detailed plans of the drainage system, prepared by a professional engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate.

The following **amendments** must be made to the Approved Concept Stormwater Plans:

- (a) The OSD volume **MUST** be increased from 800 litres to 2400 litres. This may require a larger rainwater tank or a second tank to ensure compliance with BASIX.
- (b) Both the alterations and additions and the granny flat must drain to OSD system.
- (c) The orifice diameter must be equivalent to 35mm for the system.
- (d) Overflow from the OSD system during the 1%AEP event must be safely and practically discharged to the street. In this respect details of an overflow path either piped or overland must be provided and noted on plans.

An OSD facility designed by a professional engineer who specialises in Hydraulic engineering must be designed, approved and installed.

The OSD facility shall be designed to meet all legislated safety requirements and child proof 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

9. **Building works to comply with BCA** - Any building works required to ensure compliance with the BCA or new building standards not specified in the submitted/approved plan must not damage existing fabric and building features. If such upgrading works will potentially impact on existing fabric and features, details of the works must be submitted and approved by Council's Heritage Consultant prior to issue of a Construction Certificate.

Reason: To ensure building works do not adversely affect significant heritage fabric.

10. **Engineer's Certificate** - A certificate from a professional engineer specialising in structural engineering certifying the structural adequacy of the existing structure, to support all proposed additional superimposed loads shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate.
11. **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](http://www.georgesriver.nsw.gov.au)).

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

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

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

| Fee Type  | Fee        |
|---|------------|
| <b>GENERAL FEES</b>   |            |
| Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See <a href="https://portal.longservice.nsw.gov.au/bci/levy/">https://portal.longservice.nsw.gov.au/bci/levy/</a> |            |
| Builders Damage Deposit   | \$1,900.00 |
| Inspection Fee for Refund of Damage Deposit   | \$155.00   |
| Georges River Council Section 94A Development Contributions Plan 2017   | \$2,219.00 |

### General Fees

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

### 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](http://www.georgesriver.nsw.gov.au).

12. **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.

13. **Site Management Plan** - A Site Management Plan detailing all weather access control points, sedimentation controls, fencing, builder's site sheds office, amenities, materials storage and unloading arrangements must be submitted with the application for the Construction Certificate.
14. **BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificates No. 1094805S\_02 and A374921\_02 prepared by Nick Karahalios Drafting Services, dated 18 October 2020 must be implemented on the plans lodged with the application for the Construction Certificate.
15. **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.

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 be drained in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).
  - (b) Stormwater drainage plans including pipe sizes, type, grade, length, invert levels,

dimensions and types of drainage pits prepared by a professional engineer who specialises in Hydraulic Engineering in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (1987) and Council's Stormwater Drainage Guidelines, shall accompany the application for the Construction Certificate.

17. **Stormwater System - Silt Arrestor** - A Silt Arrestor Pit must be located inside the property just upstream of the point of discharge from the site. This pit must have minimum dimensions of 450mm x 450mm and shall have a 150mm deep sump and galvanised mesh screen permanently fixed over the outlet pipe or pipes. A minimum of 4 x 30mm diameter seepage holes shall be provided in the pit base. For drainage into the surrounding soil, the pit base shall be constructed on a layer of 200mm thick aggregate base wrapped in geotextile fabric. All non-plastic drainage pits must be benched and streamlined.
18. **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.

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

| Dwelling description on plans | Secondary address allocated   |
|-------------------------------|-------------------------------|
| Proposed Secondary Dwelling   | 46 Lily Lane CARLTON NSW 2218 |

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

The primary address of 43 Cronulla Street Carlton NSW 2218, will remain unchanged.

22. **Landscape Plans** - All landscape works shall be carried out in accordance with the approved landscape plans and specifications, drawn by Nick Karahalios, Ref No LP 01, Issue A and dated April 2020. The landscaping shall be maintained in accordance with the approved plans in perpetuity, subject to the following -

- (a) The proposed plant species, and quantities of plants shall be in accordance with the proposed plant schedule upon the landscape plan.

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

| Tree Species            | Location of Tree / Tree No.                 | Tree Protection Zone (metres) TPZ as per AS4970 – 2009<br>Fencing distance from trunk |
|-------------------------|---|---|
| <i>Ulmus parvifolia</i> | Councils Street tree within Cronulla Street | 4.2 metres radially out from its trunk, without blocking the footpath                 |

- (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.

**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) 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 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.
- (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 out 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 tree 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 and canopy 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.
- (l) 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).

#### **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.

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

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

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

The Photographic Archival Recording shall be prepared in accordance with the guidelines "Archival Recording of Heritage Items Using Film or Digital Capture" published by the Heritage Council of NSW.

One complete copy of the Photographic Archival Recording shall be submitted to Council and should contain (for digital projects):

- A brief report or introduction which explains the purposes of the Photographic Archival Recording and gives a brief description of the subject site, as well as details of the sequence in which images were taken. The report may also address the



limitations of the photographic record and may make recommendations for future work;

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

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

25. **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](http://www.SafeWork.nsw.gov.au).

26. **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](#).

27. **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.
28. **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.

### During Construction

29. **General Heritage-**
- (a) The proposed works are to be carried out in a manner that minimises demolition, alterations and new penetrations/fixings to the significant fabric of the existing heritage item.
  - (b) The fabric and features to be retained by the proposal must be properly protected during the process of demolition and construction.
  - (c) All conservation and adaptation works are to be in accordance with the Articles of the Australia ICOMOS Burra Charter (2013).
  - (d) New services are to be surface mounted rather than chased-in to existing walls to minimise impact on significant heritage fabric.
  - (e) Appropriately qualified tradespersons (as appropriate) are to be commissioned who

are skilled in traditional building and engineering trades to carry out the proposed scope of works.

30. **Uncovering of concealed architectural features or detailing** - Should any concealed architectural features or detailing, not previously noted in the DA documentation, be discovered during demolition or building works, all works are to immediately cease and the architectural features or detailing to be photographically recorded and Council's Heritage Consultant is to be contacted for advice. No works are permitted to commence in the affected area(s) until written approval is given by Council.
31. **Archaeology** - As required by the National Parks and Wildlife Service Act 1974 and the Heritage Act 1977, in the event that Aboriginal cultural heritage or historical cultural fabric or deposits are encountered/discovered where they are not expected, works must cease immediately and Council and Heritage NSW must be notified of the discovery.

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

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

32. **Site sign - Soil & Erosion Control Measures** - Prior to the commencement of works (including demolition and excavation), a durable site sign, issued by Council in conjunction with this consent, must be erected in a prominent location on site. The site sign warns of the penalties which apply to pollution, storing materials on road or footpath and breaches of the conditions relating to erosion and sediment controls. The sign must remain in a prominent location on site up until the completion of all site and building works.
33. **Hours of construction for demolition and building work** - Any work activity or activity associated with the development consent that requires the use of any tools (including hand tools) or any power operated plant and machinery that creates noise on or adjacent to the site shall not be performed, or permitted to be performed, except between the hours of 7.00am to 5.00pm, Monday to Saturday inclusive. No work or ancillary activity is permitted on Sundays, or Public Holidays.
34. **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.
35. **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.

36. **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.
37. **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**

38. **Restriction to User and Positive Covenant for On-Site Detention Facility** - A Restriction on Use of the Land and Positive Covenant shall be created and registered on the title of the property, which places the responsibility for the maintenance of the on-site stormwater management system on the owners of the land. The terms of the instrument are to be in accordance with Council's standard terms and restrictions which are as follows;

#### **Restrictions on Use of Land**

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

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

#### **Positive Covenants**

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

2. Pursuant to Section 88F(3) of the Conveyancing Act 1919 the Council shall have the following additional powers:

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

- 39. **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.
- 40. **Requirements prior to the issue of the Occupation Certificate** - The following shall be completed and or submitted to the PCA prior to the issue of the Occupation Certificate:
  - (a) Construction of new vehicle crossings as required by this consent.
  - (b) Replacement of all redundant vehicle crossing laybacks with kerb and guttering, and replacement of redundant concrete with turf.
- 41. **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.

- 42. **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.
- 43. **Completion of Landscape Works** - All landscape works must be completed before the issue of the Final Occupation Certificate and to the satisfaction of the PCA.
- 44. **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)

- 45. **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).
- 46. **Dividing Fence between Principal Dwelling and Secondary Dwelling** - No dividing fence (or the like) is to be erected between the principal dwelling and the secondary dwelling.
- 47. **No enclosure of carport** - No elevation of the carport shall be enclosed either in part or in full.
- 48. **No painting or rendering of masonry or stone** - No painting or rendering shall be permitted to masonry or stone surfaces which have not previously been painted or rendered.
- 49. **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.
- 50. **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.

51. **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.
52. **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.

### **Operational Requirements Under the Environmental Planning & Assessment Act 1979**

53. **Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued.
54. **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.

55. **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.
56. **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.

57. **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](#).
58. **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.

59. **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

60. **Clause 97A - BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
61. **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.
62. **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.
63. **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](#).
64. **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.
65. **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.

66. **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

67. **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.

68. **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.
69. **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.
70. **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.

71. **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.

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

73. **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](http://www.SafeWork.nsw.gov.au)).

74. **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](http://www.georgesriver.nsw.gov.au).
- (b) In the Application Form, quote the Development Consent No. and reference this condition number.
- (c) Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Council's adopted Fees and Charges for the administrative and inspection charges associated with stormwater applications.

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

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

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

## ATTACHMENTS

- Attachment [↓](#)1 Site Plan - 43 Cronulla Street Carlton
- Attachment [↓](#)2 Elevation Plans - 43 Cronulla Street Carlton
- Attachment [↓](#)3 Schedule of colours and finishes - 43 Cronulla Street Carlton

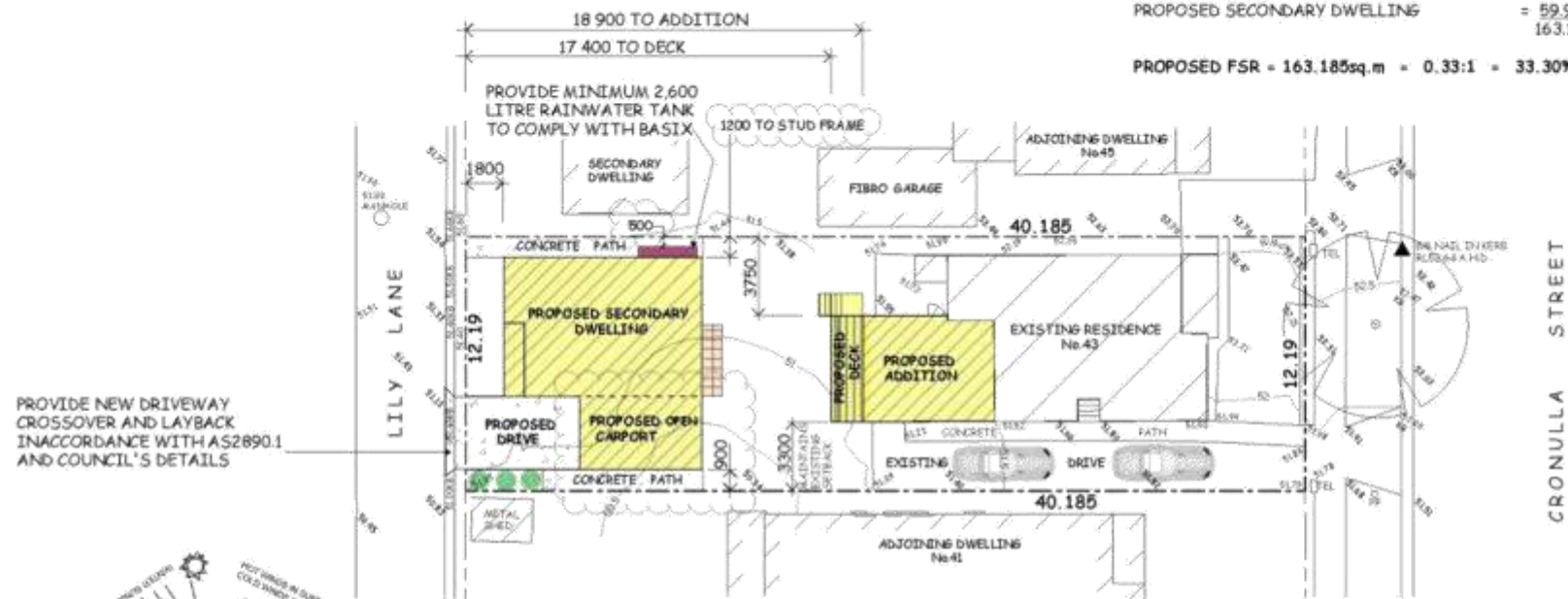
# FSR CALCULATIONS

SITE AREA = 489.90sq.m

MAXIMUM ALLOWABLE FSR 0.6 = 60% = 293.94sq.m

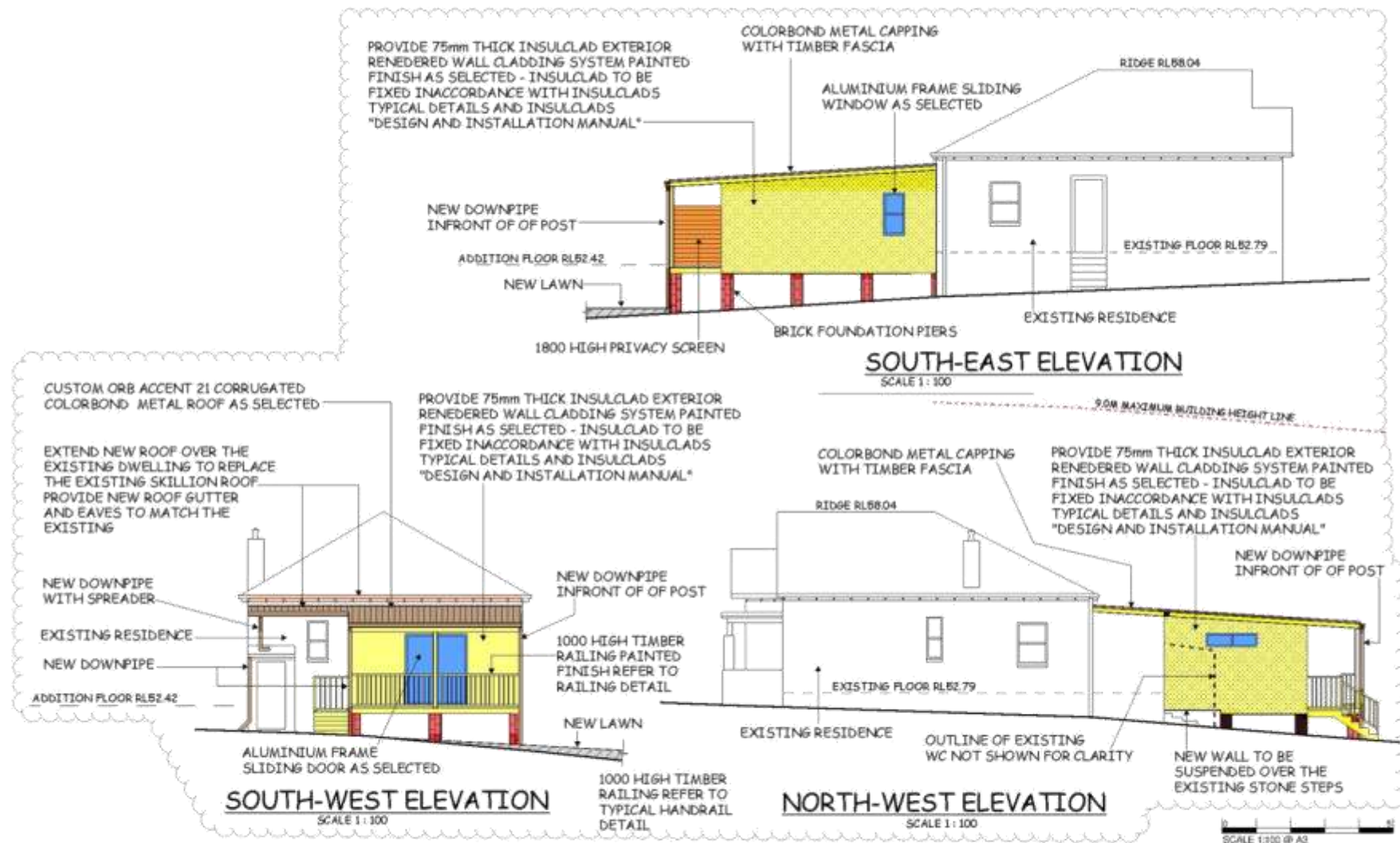
EXISTING RESIDENCE INCLUDING ADDITION = 103.20  
PROPOSED SECONDARY DWELLING = 59.985  
163.185

PROPOSED FSR = 163.185sq.m ÷ 489.90 = 0.33:1 = 33.30%

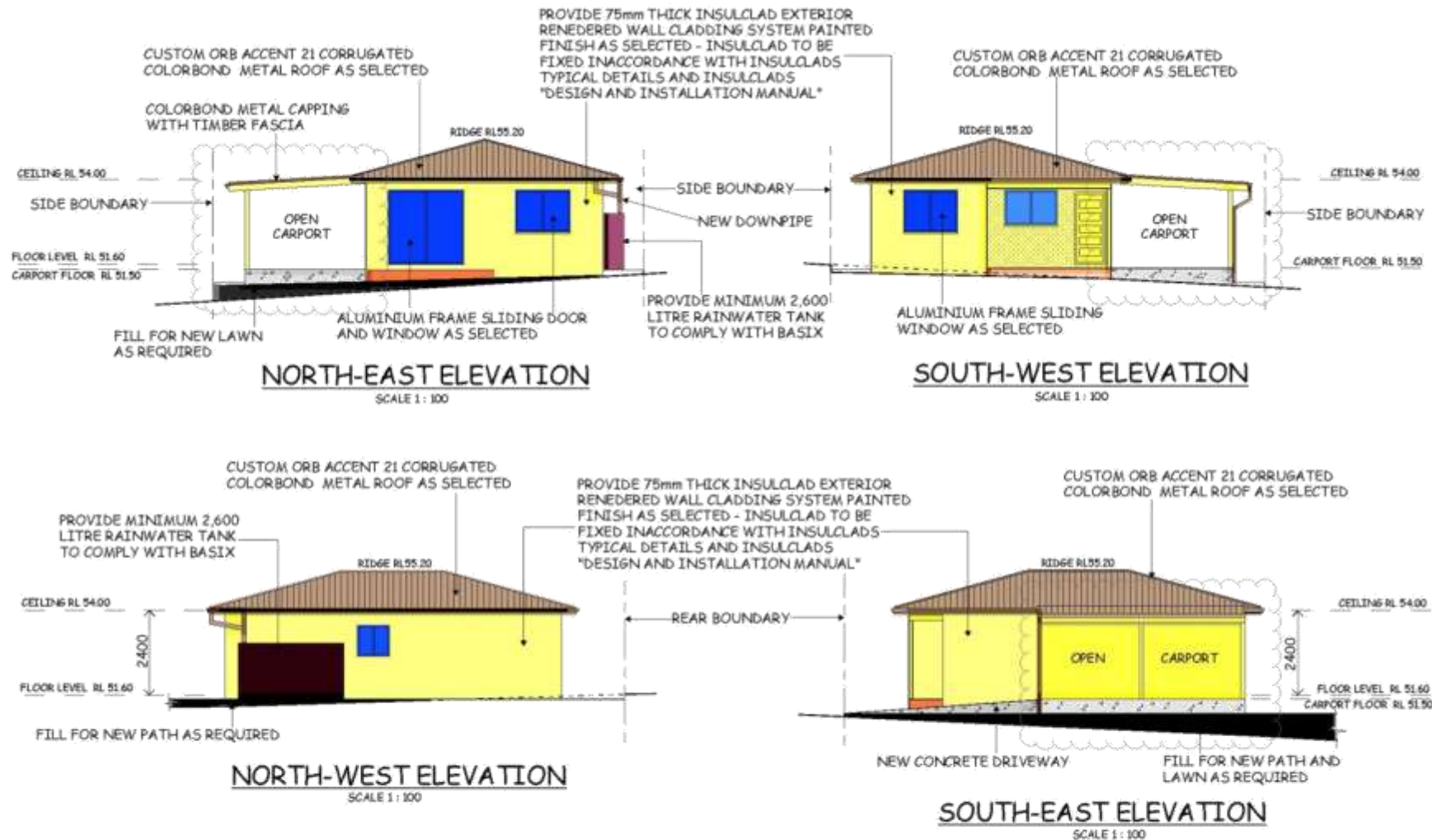


**SITE PLAN AND SITE ANALYSIS PLAN**  
SCALE 1:200

| AMENDMENTS: |                                       | PROJECT:   | FOR:                |        |          |         | PREPARED BY:  |
|-------------|---------------------------------------|--|---------------------|--------|----------|---------|---|
| ISSUE       | DESCRIPTION                           |  | MR & MRS. PAPAGELIS |        |          |         |   |
|             |                                       | PROPOSED ADDITIONS TO THE EXISTING<br>RESIDENCE AND NEW SECONDARY DWELLING |                     |        |          |         | NICK KARAHALIOS ARCHITECTURAL DRAFTING SERVICES<br>513 BOURKE STREET, SURRY HILLS 2010<br>MOBILE - 0407 360512<br>EMAIL - nick@nickdrafting.com.au<br><br>NOTE:<br>THIS DRAWING IS THE COPYRIGHT OF NICK KARAHALIOS ARCHITECTURAL<br>DRAFTING SERVICES AND SHALL NOT BE REPRODUCED IN PART OR WHOLE<br>WITHOUT THEIR WRITTEN APPROVAL |
| 6           | AMENDED DEVELOPMENT APPLICATION PLANS |  |                     | DATE   | DRAWN BY | JOB No. |   |
|             |                                       | LOCATION:  | OCTOBER 2020        | NICK K | 201677   | 09      |   |
|             |                                       | 43 CRONULLA STREET, CARLTON  |                     |        |          |         |   |



|                            |  |   |                                 |                 |                |                  |   |
|----------------------------|--|---|---------------------------------|-----------------|----------------|------------------|---|
| <b>AMENDMENTS:</b>         |  | <b>PROJECT:</b><br>PROPOSED ADDITIONS TO THE EXISTING<br>RESIDENCE AND NEW SECONDARY DWELLING | <b>FOR:</b> MR & MRS. PAPAGELIS |                 |                |                  | <b>PREPARED BY:</b><br>NICK KARAHALIOS ARCHITECTURAL DRAFTING SERVICES<br>513 BOURKE STREET, SURRY HILLS 2010<br>MOBILE - 0407 360512<br>EMAIL - nick@nickdrafting.com.au<br><b>NOTE:</b><br>THIS DRAWING IS THE COPYRIGHT OF NICK KARAHALIOS ARCHITECTURAL<br>DRAFTING SERVICES AND SHALL NOT BE REPRODUCED IN PART OR WHOLE<br>WITHOUT THEIR WRITTEN APPROVAL |
| <b>ISSUE   DESCRIPTION</b> |  |   | <b>DATE</b>                     | <b>DRAWN BY</b> | <b>JOB No.</b> | <b>SHEET No.</b> |   |
| 1                          | ARCHIVED DEVELOPMENT APPLICATION PLANS | <b>LOCATION:</b> 43 CRONULLA STREET, CARLTON  | OCTOBER 2020                    | NICK K          | 201677         | 05               |   |



|                    |                                       |   |                                    |          |         |           |  |
|--------------------|---------------------------------------|---|------------------------------------|----------|---------|-----------|--|
| <b>AMENDMENTS:</b> |                                       | <b>PROJECT:</b><br>PROPOSED ADDITIONS TO THE EXISTING<br>RESIDENCE AND NEW SECONDARY DWELLING | <b>FOR:</b><br>MR & MRS. PAPA6ELIS |          |         |           | <b>PREPARED BY:</b><br>NICK KARAHALIOS ARCHITECTURAL DRAFTING SERVICES<br>513 BOURKE STREET, SURRY HILLS 2010<br>MOBILE - 0407 360512<br>EMAIL - nick@nickdrafting.com.au    |
| ISSUE              | DESCRIPTION                           |   | DATE                               | DRAWN BY | JOB No. | SHEET No. |  |
| 1                  | AMENDED DEVELOPMENT APPLICATION PLANS | <b>LOCATION:</b><br>43 CRONULLA STREET, CARLTON   | OCTOBER 2020                       | NICK K   | 201677  | 08        | <b>NOTE:</b><br>THIS DRAWING IS THE COPYRIGHT OF NICK KARAHALIOS ARCHITECTURAL DRAFTING SERVICES AND SHALL NOT BE REPRODUCED IN PART OR WHOLE WITHOUT THEIR WRITTEN APPROVAL |
|                    |                                       |   |                                    |          |         |           |  |



## **EXTERIOR COLOUR SELECTIONS**

OCTOBER 2020

PROPOSED ADDITIONS TO THE EXISTING DWELLING AND NEW  
SECONDARY DWELLING  
AT: 43 CRONULLA STREET, CARLTON



SECONDARY DWELLING AND PROPOSED ADDITION  
EXTERNAL WALL "SURFMIST"



ALUMINIUM FRAME SLIDING WINDOWS AND SLIDING DOORS TO  
BE WHITE POWDER COATED

|            |               |            |               |               |
|------------|---------------|------------|---------------|---------------|
| Surfmist   | Evening Haze  | Shale Grey | Classic Cream | Dune          |
| Windspray  | Pale Eucalypt | Sandbank   | Paperbark     | Bushland      |
| Ironstone  | Wilderness    | Jasper     | Headland      | Woodland Grey |
| Deep Ocean | Cottage Green | Loft       | Manor Red     | Monument      |

SECONDARY DWELLING - ROOF, GUTTER AND DOWNPIPES  
 COLORBOND "IRONSTONE" OR "WOODLAND GREY"

PROPOSED ADDITION - ROOF, GUTTER AND DOWNPIPES  
 COLORBOND "MANOR RED"