

## AGENDA - LPP

<b>Meeting:</b>	Georges River Local Planning Panel (LPP)
<b>Date:</b>	Thursday, 22 April 2021
<b>Time:</b>	4.00pm
<b>Venue:</b>	Council Chambers, Civic Centre, Hurstville
<b>Panel Members:</b>	Sue Francis (Chairperson) Milan Marecic (Expert Panel Member) Jason Perica (Expert Panel Member) Fiona Prodromou (Community Representative)

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### 1. On Site Inspections

- a) 16 Lesley Crescent Mortdale
- b) 9 Marine Drive, Oatley
- c) 2-8 James Street, Blakehurst
- d) 29-31 Dora Street Hurstville

### 2. Opening

### 3. Consideration of items and verbal submissions

**LPP006-21          9 Marine Drive, Oatley – DA2020/0241**

(Report by Senior Development Assessment Planner)

**LPP007-21          16 Lesley Crescent Mortdale – 149D2020/0048**

(Report by Building Surveyor)

**LPP008-21          2-8 James Street, Blakehurst – DA2020/0366**

(Report by Senior Development Assessment Planner)

**LPP009-21          29-31 Dora Street Hurstville – DA2020/0470**

(Report by Development Assessment Planner)

### 4. LPP Deliberations in Closed Session

### 5. Confirmation of Minutes

# REPORT TO GEORGES RIVER COUNCIL LPP MEETING OF THURSDAY, 22 APRIL 2021

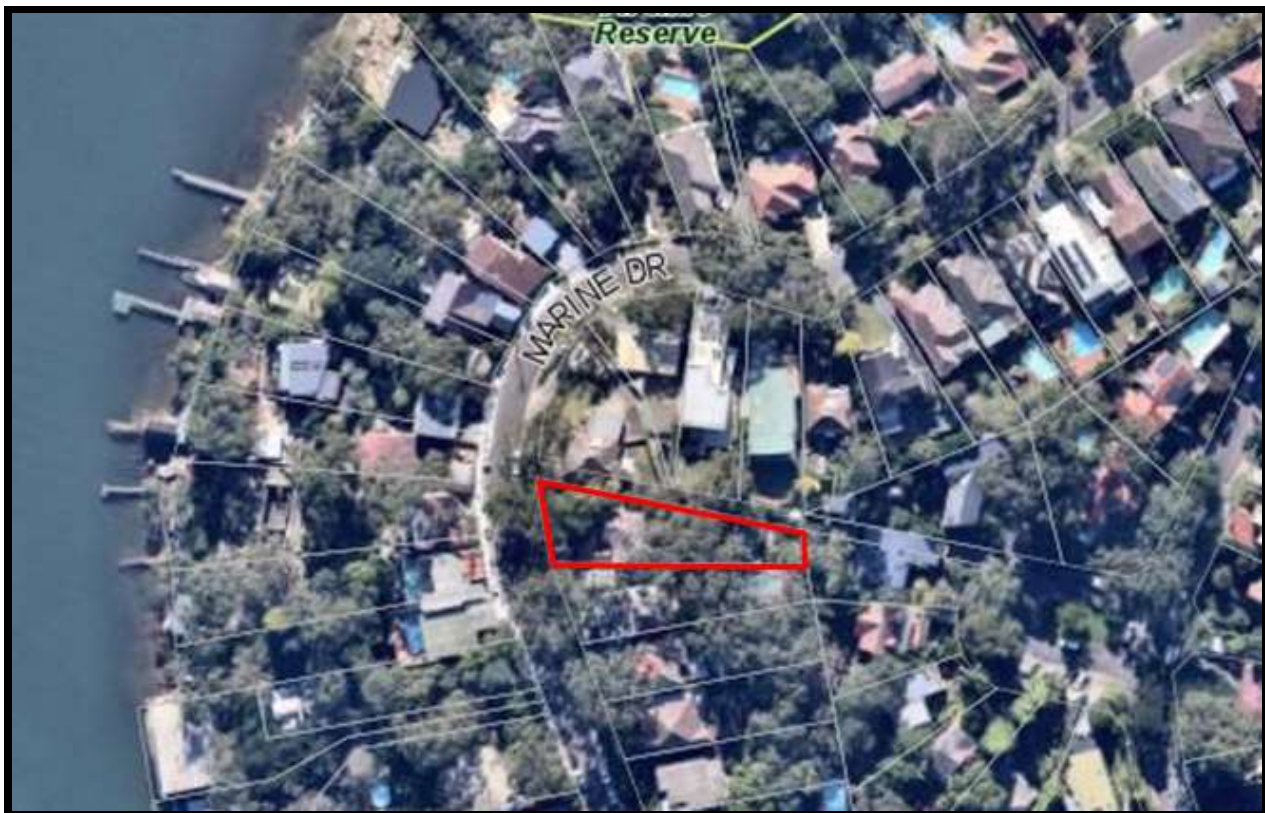
<b>LPP Report No</b>	<b>LPP006-21</b>	<b>Development Application No</b>	<b>DA2020/0241</b>
<b>Site Address &amp; Ward Locality</b>	9 Marine Drive, Oatley Peakhurst Ward		
<b>Proposed Development</b>	Demolition work, retention of existing swimming pool, construction of a dwelling house, construction of a detached outbuilding (gym) and decking		
<b>Owners</b>	R Awadalla		
<b>Applicant</b>	S Kirovski		
<b>Planner/Architect</b>	Femme Build		
<b>Date Of Lodgement</b>	22/06/2020		
<b>Submissions</b>	Round 1: 16 submissions. Round 2: 5 Submissions		
<b>Cost of Works</b>	\$770,000		
<b>Local Planning Panel Criteria</b>	The application is for a dwelling house and more than five (5) objections were received.		
<b>List of all relevant s.4.15 matters (formerly s79C(1)(a))</b>	State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment, State Environmental Planning Policy No.55 – Remediation of Land, State Environmental Planning Policy (Infrastructure) 2007, Draft Environmental State Environmental Planning Policy, Draft State Environmental Planning Policy – Remediation of Land, Draft Georges River Local Environmental Plan 2020, Hurstville Local Environmental Plan 2012, Hurstville Development Control Plan No. 1		
<b>List all documents submitted with this report for the Panel's consideration</b>	Architectural Plans, Statement of Environmental Effects, Stormwater Plans, Arborist Report, Submissions		
<b>Report prepared by</b>	Senior Development Assessment Planner		

<b>Recommendation</b>	That the application be approved subject to the conditions in this report.
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<b>Summary of matters for consideration under Section 4.15</b> Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	<b>Yes</b>
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<b>Legislative clauses requiring consent authority satisfaction</b> Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?	Yes
<b>Clause 4.6 Exceptions to development standards</b> If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Not Applicable
<b>Special Infrastructure Contributions</b> Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	Not Applicable
<b>Conditions</b> Have draft conditions been provided to the applicant for comment?	No, standard conditions have been attached with no design changes

### Site Plan



## Executive Summary

### Proposal

1. Development consent is sought for the demolition of the existing dwelling and garage, tree removal, and construction of a two storey dwelling house and pool deck.

### Site and Locality

2. The lot is an irregular shape and has a total site area of 765sqm (by title) and a 18.16m (with splay corner of 0.9m) frontage to Marine Drive. The site slopes up from the street and down from the rear yard toward the rear site boundary.
3. The site is currently occupied by a dwelling house, detached garage and swimming pool (the pool is registered on the NSW Swimming Pool Register, and complies with the relevant legislation, however no approval can be found on file for the pool).
4. In the wider context, the subject site is located in an established R2 Low Density Residential Area containing single and two storey dwelling houses. The site is located in the Foreshore Scenic Protection Area. Photos of the subject site and immediate neighbours are provided below.

### Zoning and Permissibility

5. The site is zoned R2 - Low Density Residential under the provisions of Hurstville Local Environmental Plan 2012 (HLEP 2012). Dwelling houses and ancillary development are permitted with consent.

### Submissions

6. A total of 21 public submissions were received (16 in the first round of notification and five in the notification period of the amended plans). The issues raised in the submissions include tree removal, stormwater design, privacy impacts, overshadowing, built form, setbacks, landscaped area, excavation and location of the pool pump and clothesline.

### Conclusion

7. 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 (DA2020/0241) is recommended for approval subject to conditions of consent.

### Report in Full

#### PROPOSAL

8. Development consent is sought for the demolition of the existing dwelling and garage, tree removal, and construction of a two storey dwelling house and a pool deck.
9. A detailed description of the proposal is as follows:
  - The existing dwelling is proposed to be demolished and three trees removed.
  - Decking is proposed around the existing swimming pool.
  - The proposed dwelling contains:
    - o Car parking for two cars and storage;
    - o A ground level with living areas, study, WC, laundry, kitchen, alfresco area at the rear and street-facing balcony at the front;
    - o A first floor with five bedrooms (including a master bed with ensuite), a bathroom and study, and front balconies.

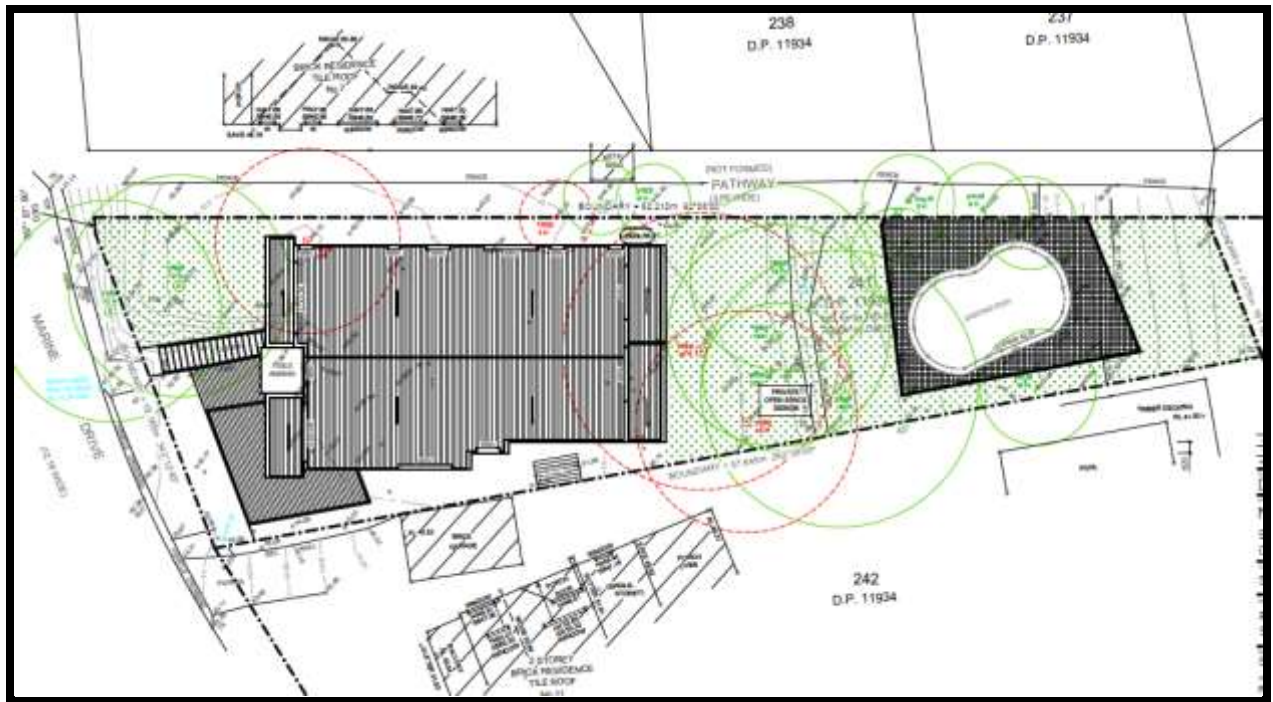


Figure 1: Proposed site plan

## BACKGROUND

10. The proposal was amended during the assessment of the application. Changes from the original proposal include deletion of the proposed gym and deck above, siting of the dwelling to retain trees on the site. The pool is existing and the proposed deck around the pool as shown in Figure 1 is not supported.

## THE SITE AND LOCALITY

11. The site is identified as Lot 241 in DP11934 and is known as No. 9 Marine Drive, Oatley. The lot is triangular in shape and has a total site area of 765sqm with a 19m frontage to Marine Drive.
12. The site is currently occupied by a dwelling house, detached garage and swimming pool.
13. In the wider context, the subject site is located in an established R2 Low Density Residential Area containing a single and two storey dwelling houses. The site is located in the Foreshore Scenic Protection Area. Photos of the subject site and immediate neighbours are provided below.





**Figure 2:** The subject site as viewed from Marine Drive



**Figure 3:** The rear elevation and yard of the subject site





**Figure 4:** The pool on the subject site



**Figure 5:** The rear of No. 1 Marine Drive (looking north from the pool deck)





**Figure 6:** The pool on No. 11 Marine Drive (looking south from the pool deck)



**Figure 7:** No. 7 Marine Drive (north of the subject site)





**Figure 8:** No. 11 Marine Drive (south of the subject site)



**Figure 9:** Development opposite the site on the western side of Marine Drive

### Compliance and Assessment

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

**STATE ENVIRONMENTAL PLANNING INSTRUMENTS**

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

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

16. State Environmental Planning Policies 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.

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.

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

17. 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.

A BASIX Certificate prepared by Femme Build, dated 27 October 2020, certificate number 1093241S\_02, has been submitted with the Development Application satisfying the minimum requirements of State Environmental Planning Policies (Building Sustainability Index: BASIX) 2004.

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

18. The Vegetation State Environmental Planning Policy regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.

The Vegetation State Environmental Planning Policy 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).
19. The objectives of the State Environmental Planning Policy 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 State Environmental Planning Policy as the site is within both Georges River Council and the R2 Low Density Residential zone.



20. Pursuant to Clause 8(1) of the State Environmental Planning Policy, 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).
21. As part of the proposal, three trees have been nominated for removal. The application was referred to Council's Consultant Arborist and specific conditions of consent have been recommended if the application is to be supported. No street trees were nominated for removal.

#### **STATE ENVIRONMENTAL PLANNING POLICY (COASTAL MANAGEMENT) 2018**

22. State Environmental Planning Policy (Coastal Management) 2018 updates and consolidates three previous State Environmental Planning Policies (SEPP 14 Coastal Wetlands, SEPP 26 Littoral Rainforests, SEPP 71 Coastal Protection) into one integrated Policy and is a matter for consideration for the current DA.
23. The Coastal Management State Environmental Planning Policy 2018 aims to: "Promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016 including the management objectives for each coastal management area".
24. Under State Environmental Planning Policy (Coastal Management) 2018, the subject site is mapped as a Coastal Environment area and a Coastal Use area. These have the following management objectives under the State Environmental Planning Policy:
  - (a) to protect and enhance the coastal environmental values and natural processes of coastal waters, estuaries, coastal lakes and coastal lagoons, and enhance natural character, scenic value, biological diversity and ecosystem integrity,
  - (b) to reduce threats to and improve the resilience of coastal waters, estuaries, coastal lakes and coastal lagoons, including in response to climate change,
  - (c) to maintain and improve water quality and estuary health,
  - (d) to support the social and cultural values of coastal waters, estuaries, coastal lakes and coastal lagoons,
  - (e) to maintain the presence of beaches, dunes and the natural features of foreshores, taking into account the beach system operating at the relevant place,
  - (f) to maintain and, where practicable, improve public access, amenity and use of beaches, foreshores, headlands and rock platforms.
25. The following is an assessment of the matters for consideration listed under the State Environmental Planning Policy as applicable to the Coastal Environment Area and Coastal Use Area.

State Environmental Planning Policy Control	Proposal	Complies
<b>13. Development on land within the coastal environment area</b>		
(1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:		
(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,	Surface water runoff is to be managed in accordance with the approved stormwater management plan and relevant conditions imposed. The proposal is generally satisfactory subject to conditions.	NA
(b) coastal environmental values and natural coastal processes,	The proposal is used for residential purposes and will unacceptably impact the coastal environmental values and there is not impact on coastal processes.	Yes
(c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,	Appropriate standard conditions to be imposed to ensure water quality is maintained. The site is not located on any of the sensitive coastal lakes identified in Schedule 1.	Yes
(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,	There will be no unreasonable impact upon these features. The trees proposed for removal have been supported by Council's Arborist as discussed further in this report.	Yes
(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,	Subject site does not have access to the foreshore.	NA
(f) Aboriginal cultural heritage, practices and places,	The allotment is not known as a place of Aboriginal significance. There is no impact in terms of Aboriginal heritage.	NA
(g) the use of the surf zone.	The development is not located near the surf zone.	NA
(2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:		
(a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or	The proposal is generally satisfactory in terms of impact as discussed throughout this report.	Yes



(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or	NA	NA
(c) if that impact cannot be minimised—the development will be managed to mitigate that impact	NA	NA
<b>14 Development on land within the coastal use area</b>		
(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:		
(a) has considered whether the proposed development is likely to cause an adverse impact on the following:		
(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,	Subject site does not have access to the foreshore.	Yes
(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,	The proposal will not shadow the foreshore.	Yes
(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,	The proposal is a cascading development form following the topography of the site. This development form is not inconsistent with the development forms in the locality and will not be visible from the river.	Yes
(iv) Aboriginal cultural heritage, practices and places,	The property is not a known site of Aboriginal heritage.	NA
(v) cultural and built environment heritage, and	The site does not contain or adjoin any heritage items.	NA
(b) is satisfied that:		
(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or	Proposal is generally satisfactory in terms of impact as discussed throughout this report.	Yes
(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or	NA	NA
(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and	NA	NA
(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.	Development is generally satisfactory in terms of the built form controls in Hurstville LEP 2012 and Development Control Plan.	Yes

	The development form and scale is not inconsistent with the built form immediately adjoining and that of the visual catchment.	
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26. Generally, the proposed development is consistent with the management objectives of the State Environmental Planning Policy.

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

27. 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,*

The proposed stormwater drainage system has been assessed by Council's Development Engineer and has been found to be satisfactory and conditions of consent can be imposed should the application be approved.

## **DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS**

### Draft Environment State Environmental Planning Policy

28. The Draft Environment State Environmental Planning Policy was exhibited from 31 October 2017 to 31 January 2018. This consolidated State Environmental Planning Policy 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 State Environmental Planning Policies:
- 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.
29. The proposal is not inconsistent with the provisions of this Draft Instrument.



**Draft Remediation of Land State Environmental Planning Policy**

30. The Draft Remediation of Land State Environmental Planning Policy was exhibited from 31 January 2018 to 13 April 2018. The proposed remediation of land State Environmental Planning Policy 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.*
31. The proposal is not inconsistent with the provisions of this Draft Instrument.

**Draft Design and Place State Environmental Planning Policy**

32. The Draft Design and Plan State Environmental Planning Policy will repeal and replace State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development and State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004. The explanation of intended effect of the draft State Environmental Planning Policy was publicly exhibited in February/March 2021. Following submissions of the EIE the draft State Environmental Planning Policy will be on public exhibition in late 2021.

**HURSTVILLE LOCAL ENVIRONMENTAL PLAN 2012**

33. The subject site is zoned R2 Low Density Residential under the provisions of the Hurstville Local Environmental Plan 2012. The proposed development is for a dwelling house and ancillary structures which are permissible land uses in the zone.
34. The extent to which the proposed development complies with the Hurstville Local Environmental Plan 2012 is detailed and discussed in the table below.

<b>Clause</b>	<b>Standard</b>	<b>Proposal</b>	<b>Complies</b>
2.2 Zoning	R2 Low Density Zone	The development type proposed comprises of a dwelling house and ancillary structures.	Yes
2.3 Zone objectives	Objectives of the R2 Zone.	The density and height of the proposal and design generally satisfies the zone objectives.	Yes
4.3 – Height of Buildings	9m as identified on Height of Buildings Map	8m.	Yes

4.4 – Floor Space Ratio	0.6:1 as identified on Floor Space Ratio Map (An assessment under Clause 6.5 – Gross floor area of Dwelling Houses in Residential Zones is referenced later in this table)	See Clause 6.5 below	Yes
4.5 – Calculation of floor space ratio and site area	FSR and site area calculated in accordance with Cl4.5(b)	The floor space of the dwelling has been calculated in accordance with Clause 4.5 and the “gross floor area” definition within the Hurstville Local Environmental Plan.	Yes
6.4 – Foreshore Scenic Protection Area (FSPA)	The objectives of clause are:  (a) to recognise, protect and enhance the natural, visual, environmental and heritage qualities of the scenic areas of Hurstville and the Georges River, (b) to protect significant views to and from the Georges River, (c) to reinforce the dominance of landscape over built form.	The proposal is a suitable response to the site as discussed in this report.  Views to and from the river are not adversely impacted by the proposal.  The trees approved for removal are to be replaced 2:1 in accordance with council’s tree management policy.	Yes  Yes  Yes
6.5 – Gross Floor Area of Dwellings in residential zones	The gross floor area calculation $\leq 630$ square metres Site area $\times 0.55$ <b><math>&gt; 630</math> square metres <math>\leq 1000</math> square metres</b> <b>(Site area – 630) <math>\times 0.3 + 346.50</math></b> $> 1000$ square metres $\leq 1500$ square metres (Site area – 1000) $\times 0.2 + 457.50$ $> 1500$ square metres (Site area – 1500) $\times 0.1 + 557.50$	Maximum: 387sqm Proposed: 372sqm	Yes

6.7 – Essential Services	Development consent must not be granted to development unless services that are essential for the development are available	The specified essential services are currently available to the site and can be extended to service the development; conditions could be imposed if the application was to be supported.	Yes
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### Draft Georges River Local Environmental Plan 2020

35. The Local Planning Panel considered the report on the outcomes of the Public Exhibition and Finalisation of Georges River Local Environmental Plan 2020 (DLEP2020) on 25 and 26 June 2020. In relation to this development site the zoning, height and floor space ratio are unchanged.
36. Consideration is given to the provisions of Draft Georges River Local Environmental Plan 2020 in the assessment this application.
37. In this regard, the provisions have no determining weight as a result of proposed operation of Clause “1.8A Savings provisions relating to development applications” of the Draft Plan which provides *“If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.”*

### DEVELOPMENT CONTROL PLAN

38. The proposed development is subject to the provisions of the Hurstville Development Control Plan. The following comments are made with respect to the proposal considering the objectives and controls contained within both Development Control Plans.

Applicable Development Control Plan Controls	Development Control Plan Provisions	Development Provisions	Complies
<b>Chapter 4.4 Dwelling Houses on Standard Lots</b>			
Neighbourhood character	DS1.1 The development application is supported by a Statement of Environmental Effects that: a. includes a satisfactory neighbourhood and site description, including the identification of the key features of the neighbourhood and site b. shows how the siting and design response derives from and responds to the key	The proposal is supported by an SEE and addresses the key features of neighbourhood character and demonstrates how the siting and design responds to the site.	Yes



	<p>features identified in the neighbourhood and site description</p> <p>c. demonstrates that the residential development proposal respects the existing or preferred neighbourhood character and satisfies objectives of the zone in the LEP</p>		
Building Height	<p>DS2.1. Maximum building height is in accordance with the LEP</p> <p>DS2.2. Maximum ceiling height is 7.2m above the existing ground level vertically below that point. Note: maximum ceiling height is measured at the intersection of the upper most ceiling with the internal face of any external wall</p> <p>DS2.3. For flat roofed dwellings, maximum height to the top of the parapet of the building is: a. 7.8m above the existing ground level vertically below that point.</p> <p>DS2.4. For steep or sloping sites, the building is sited and designed to be staggered or stepped into the natural slope of the land</p>	<p>The maximum building height is 8m.</p> <p>6.8m</p> <p>7.5m</p> <p>The site is not steeply sloping within the building footprint area.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
Setbacks	<p>DS3.1. The minimum front setback to a primary street is:</p> <p>a. 4.5m to the main face of the dwelling or</p> <p>b. 5.5m to the garage</p>	<p>5m</p> <p>2.16m</p>	<p>Yes</p> <p>No – refer to discussion below</p>

	DS3.2. For properties greater than 15m in width, the minimum setback to a secondary street boundary is 2.0m to the wall of the dwelling	NA	N/A
	DS3.3. For properties 15m or less in width, the minimum setback to a secondary street boundary is in accordance with the side boundary setback requirements.	NA	NA
	DS3.5. The minimum side setback inside the FSPA is 900mm (ground floor) and 1.5m (first floor).	Both levels: Northern side - 1.465m Southern side – 1.2m to 4.2m	No – refer to discussion below
	DS3.6. Minimum rear boundary setbacks are:		
	a. 3m for any basement and ground floor level solid wall	31m	Yes
	b. 6m for first floor level solid walls	31m	Yes
	c. where a first floor balcony is proposed at the rear, 6m from the balustrade	29m	Yes
	DS3.7. For battle-axe lots, minimum side boundary setbacks apply to all boundaries.	NA	NA

**Discussion on front setback to garage:** The proposed setback to the garage is 2m which does not comply with the minimum control of 5.5m. The non-compliance is supported on merit as there are numerous examples in the immediate locality of garages on, or close to, the street boundary as a result of the topography of the land, either sloping up from Marine Parade, for properties on the eastern side of the street, or sloping away from the street on the western side of Marine Parade. It is noted that the existing garage is located within the front setback of the existing dwelling, and the proposed new dwelling and garage seek to utilise the existing driveway.

The non-compliance is considered worthy of support on merit for the reasons outlined above.

**Discussion on side setbacks:** The proposed dwelling is setback 1.465m from the northern side boundary at both levels, and between 1.2m and 4.2m on both levels to the southern side boundary. The control stipulates 0.9m for the ground floor and 1.5m for the first floor. Each ground floor complies.

The siting of the new dwelling is based on the siting of the existing dwelling and the need to retain and protect certain trees on the site. During the assessment of the application, the design was amended to retain trees at the front of the site, as well as in the rear yard.

Despite the minor numerical non-compliance of the first floor (north - 0.035m and south - 0.3m) the proposal still meets the objectives of the control which include areas for landscaping, visual privacy, retaining existing patterns of development and maintaining view corridors. The proposal meets the minimum landscaped area, limits windows to active areas in size and number to the side boundaries.

The non-compliance is considered worthy of support on merit for the reasons outlined above.

Facades	DS4.1. The dwelling house has a front door or window to a habitable room facing the primary street frontage.	Complies	Yes
	DS4.2. The dwelling house incorporates at least two of the following building elements facing any street frontage: a. entry feature or portico b. awnings or other features over windows c. eaves and sun shading d. window planter box treatment e. bay windows or similar features f. wall offsets, balconies, verandas, pergolas or the like	Complies	Yes
	DS4.3. Garage doors are not wider than 6m	The garage door is 5.8m wide.	Yes
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	Adjoining properties will continue to receive greater than 3 hours during mid-winter to private open space areas and main living areas – refer to	Yes

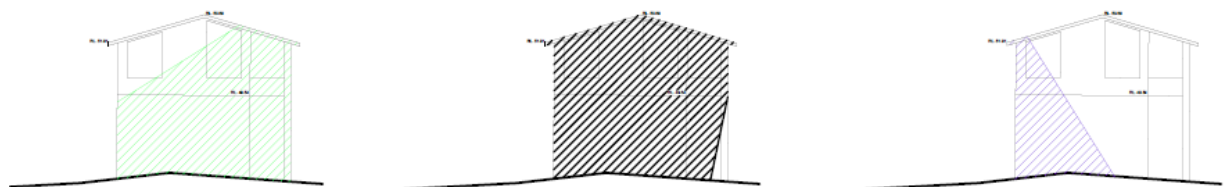


	<p> dwellings between 9.00 am and 3.00 pm on 22 June.</p> <p>DS6.2. Development complies with the Energy Efficiency section in Appendix 1 of this Development Control Plan and BASIX requirements.</p> <p>DS6.3. Buildings are encouraged to incorporate window shading devices where necessary to minimise exposure to direct summer sun. Alternatively, windows may be shaded by the planting of large trees, including deciduous species.</p>	<p>discussion below.</p> <p>The proposal is BASIX compliant.</p> <p>The proposal is BASIX compliant.</p>	<p>Yes</p> <p>Yes</p>
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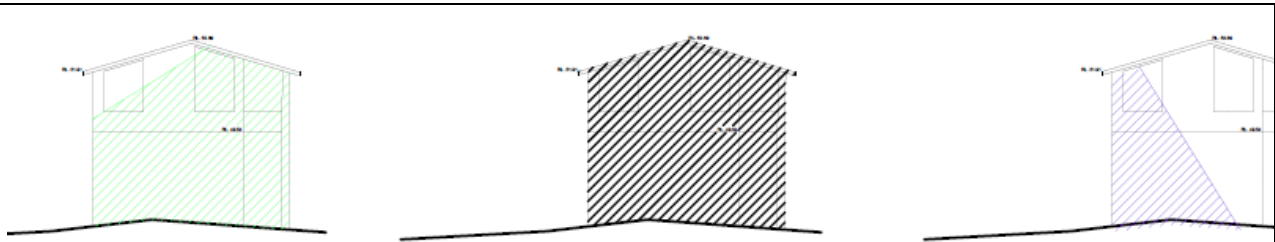
#### **Discussion on solar access to neighbouring property:**

A submission was received in relation to overshadowing from a neighbouring property, No. 11 Marine Drive, which is south of the subject site. An inspection of the neighbour's house was undertaken to establish which windows would be impacted by the proposed dwelling in terms of solar access. The windows impacted by the proposal are on the northern side of the building, however these windows, are not all located in the primary living area of the dwelling. The primary living area of the dwelling also has east facing windows.

The affected windows on the northern elevation of the neighbouring house are depicted in the existing and proposed elevational shadow diagrams submitted by the applicant. These are reproduced below:



**Existing shadow mid winter (northern elevation of No. 11 Marine Drive)**



**Proposed shadow mid winter (northern elevation of No. 11 Marine Drive)**

The diagrams indicate the extent of overshadowing of the proposed dwelling compared to the existing dwelling is negligible.

Visual Privacy	DS7.1. Windows of proposed dwelling must be offset from neighbouring windows by 1m, especially windows of high-use rooms.	Windows are offset from adjoining properties. Due to the size and number of the north-facing windows proposed, a condition has been recommended that they all be frosted/opaque glass or have a minimum sill height of 1.6m.	Yes
	DS7.2. Windows for primary living rooms must be designed so that they maintain privacy of adjoining site's principal private open space.	The windows for primary living areas are to the rear yard of the subject site.	Yes
	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 includes survey plan and architectural plans indicating the adjoining properties, and window sill levels.	Yes
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	There is no change to the existing pool pump location.	Yes

	<p>habitable rooms, screened to reduce noise or acoustically enclosed.</p> <p>DS8.2. For sites in proximity to a busy road or railway line, development is to comply with the provisions of State Environmental Planning Policy (Infrastructure) 2007 and the NSW Government's Development Near Rail Corridors and Busy Roads - Interim Guideline</p>		
Vehicle access, parking and manoeuvring	<p>DS9.1. Car parking is provided on site in accordance with the following minimum rates:</p> <ul style="list-style-type: none"> <li>a. for 1 and 2 bedroom dwellings, 1 car parking space</li> <li>b. for 3 or more bedroom dwellings, 2 car parking spaces</li> </ul> <p>DS9.2. For all new dwellings, at least 1 car space must be located behind the front building setback</p> <p>DS9.3. Enclosed or roofed car accommodation, including garages and carports, are located at least 1m behind the main setback. Note: Carports forward of the front setback may be considered where no vehicular access behind the front building alignment is available.</p> <p>DS9.4. The maximum width of a garage opening is 6m.</p>	<p>2 spaces</p> <p>The garage is located partially further forward of the building line – refer to comments on garage setback earlier.</p> <p>The garage is integrated with the design of the dwelling.</p> <p>5.8m.</p>	<p>Yes</p> <p>Supported on merit</p> <p>Yes</p> <p>Yes</p>



	DS9.9. Driveway gradients must be constructed in accordance with Australian Standard 2890.1(2004).	Complies.	Yes
Landscaped areas and private open space	DS10.1. Where located outside the FSPA, a minimum of 20% of site area is landscaped open space.	N/A	N/A
	DS10.2. Where located in the FSPA, a minimum of 25% of the site area is landscaped open space.	35%.	Yes
	DS10.3. The minimum dimension of landscaped open space is 2m in any direction.	Complies.	Yes
	DS10.4. A minimum of 15sqm of the landscaped open space is provided between the front setback and the street boundary in the form of a front yard.	48sqm.	Yes
	DS10.5. An area of Principal Private Open Space is to be provided which: a. has a minimum area of 30m <sup>2</sup> b. has a minimum dimension of 5m c. is located at ground level and behind the front wall of the dwelling d. is directly accessible from a main living area	174sqm and is located at ground level and accessible from main living area.	Yes
Stormwater	DS11.1. Diversion of flows from one drainage sub-catchment to another is not encouraged.	Council's Development Engineer has provided comments and raised no objection in this regard, subject to the recommended	Yes

	DS11.2. Stormwater drainage is to occur by: drainage by gravity to the adjacent road kerb and Council's drainage system or	conditions relating to this development if the proposal was able to be supported.	
Balconies	DS14.1. Access to balconies and terraces is direct from a habitable room at the same floor level. Note: a level difference of one step may be considered for the purpose of rain water protection.	Complies	Yes
	DS14.2. Balconies and terraces include fixed planter boxes and / or privacy screens.	The street-facing first floor balconies have solid privacy walls.	Yes
	DS14.3. Fixed planter boxes are at least 1m wide.	NA	NA
	DS14.4. Privacy screens are between 1.5m and 1.8 m high	1.8m	Yes
	DS14.5. Terraces are not visible from the street.	There are no private open space terraces visible from the street.	Yes
	DS14.6. Roof top terraces are not provided.	Not proposed.	Yes
	DS14.7. Development applications for terraces and balconies must provide sight line diagrams that demonstrate how privacy issues to neighbouring properties are proposed to be addressed.	The rear alfresco area has solid side walls to reduce the opportunity for overlooking.	Yes

LPP006-21

### Georges River Development Control Plan 2020

39. The Georges River Development control Plan was made by the Georges River Local Planning Panel on 24 March 2021.

40. This does not come into effect until the Georges River Local Environmental Plan is gazetted.

#### Interim Policy Georges River Development Control Plan 2020

41. The proposed development is subject to the provisions of the Interim Policy Georges River Development Control Plan 2020. Only the applicable aspects have been assessed with respect to the Interim Development Control Plan. All other aspects have been thoroughly assessed under Hurstville Development Control Plan. 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 Development Control Plan is prepared and implemented. Comments are made with respect to the proposal satisfying the objectives and controls contained within the Development Control Plan.

Section	Interim Policy Control	Proposal	Complies?
Building Setback (Front)	<input type="checkbox"/> Minimum setback from the primary street boundary is:  a) 4.5m to the main building face b) 5.5m to the front wall of garage, carport roof or onsite parking space Or a) Within 20% of the average setback of dwellings on adjoining lots	5m  2m  NA	Yes  No  NA
Building Setback (Rear)	<input type="checkbox"/> Buildings are to have a minimum rear setback of 15% of the average site length, or 6m, whichever is greater  <input type="checkbox"/> Where the existing pattern of development displays an established rear setback, development should recognise and respond to site features and cross views of neighbouring properties	31m  Consistent	Yes  Yes
Building Setback (Side)	<input type="checkbox"/> The minimum side setback outside the FSPA is 900mm (ground floor) and 1.2m (first floor)  <input type="checkbox"/> The minimum side setback inside the FSPA is 900mm (ground floor) and 1.5m (first floor) with a minimum of 5.5m in front of any proposed new garage.	NA  N – 1.465m S – 1.2m to 4.2m	NA  Supported on merit – refer to discussion in Development Control Plan table.

Landscaped area	<input type="checkbox"/> Where located outside the FSPA, a minimum of 20% of site area is landscaped open space  <input type="checkbox"/> Where located inside the FSPA, a minimum of 25% of the site area is landscaped open space  <input type="checkbox"/> The minimum dimension of landscaped open space is 2m, designed in a useable configuration  <input type="checkbox"/> 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	NA  35%  Complies  48sqm	NA  Yes  Yes  Yes
Private Open Space	<input type="checkbox"/> An area of Principal Private Open Space is to be provided which:  a) has a minimum area of 30m <sup>2</sup> b) has a minimum dimension of 5m, designed in a useable configuration c) is located at ground level and behind the front wall of the dwelling d) is directly accessible from a main living area	174sqm  10m x 12m  Complies  Complies	Yes  Yes  Yes  Yes
Basement/ Land Modification	Basements are permitted where Council's height controls are not exceeded, and it is demonstrated that there will be no adverse environmental impacts (e.g. affectation of watercourses and geological structure).  <input type="checkbox"/> Basements for low grade sites (ie < 12.5% Grade front to rear):  a) Basements on land where the average grade is less than 12.5% are permitted only where they are not considered	A semi basement garage is proposed which will not have any adverse impacts on watercourses or geological structures on the site.	Yes



	<p>a storey (see definition below) and the overall development presents as 2 storeys to the street.</p> <p>b) A basement is not considered a storey if it is:</p> <p>situated partly below the finished ground and the underside of the ceiling is not more than 1m above the natural ground at the external wall for a maximum of 12m in length, with the exception of the façade in which the garage door is located.</p>		
Solar Access	<p>Development allows for at least 3 hours of sunlight on the windows of main living areas and adjoining principal private open space of adjacent dwellings between 9.00 am and 3.00 pm on 22 June.</p> <p>Note 1: Development applications for development two storeys and over are to be supported by shadow diagrams demonstrating compliance with this design solution.</p> <p>Note 2: Exemptions will be considered for developments that comply with all other requirements but are located on sites with an east-west orientation</p>	<p>The neighbouring property to the south will receive more than 3 hours sunlight to more than 50% of the private open space area and living room windows.</p> <p>Refer to additional discussion under the Development Control Plan.</p>	Yes

## IMPACTS

### **Natural Environment**

42. The proposal seeks to remove three trees from the site and the removal has been assessed and endorsed by Council's Consultant Arborist. If the application was to be supported conditions would be imposed for replacement trees to be provided.
43. The proposed works will not directly impact the natural environment with the built form but will indirectly impact the environment through excavation works and drainage management, which have been designed to minimise impacts.

**Built Environment**

44. The proposal represents a good planning outcome for the site with respect to its bulk, scale and density and is an appropriate response to the context of the site and its R2 Low Density Residential zoning.

**Social Impact**

45. 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.

**Economic Impact**

46. The proposal is not considered to result in unreasonable material economic impact.

**Suitability of the Site**

47. The site is zoned R2 Low Density Residential. The proposal is a permissible form of development in this zone and has been appropriately designed given the site constraints and context of the site in the locality.

**SUBMISSIONS, REFERRALS AND THE PUBLIC INTEREST**

48. The application was advertised and adjoining residents were notified by letter and given fourteen (14) days in which to view the plans and submit any comments on the proposal. 16 submissions were received during the neighbour notification period.

49. Issue: Tree removal

Comments: Council's Consulting Arborist has reviewed the application. The plans submitted with the DA originally proposed the removal of eight trees. Through amendments to the design, the number of trees to be removed has been reduced to three trees, which is supported by Council's Arborist. 18 trees are to be retained and protected, including the six Angophoras in the rear yard. The trees permitted to be removed include the Jacaranda at the front of the site as it is located within the building footprint of the dwelling. The dwelling has been reduced in length to ensure the retention and protection of the significant trees in the rear yard and a condition is included for replacement planting to offset the loss of the trees to be removed.

50. Issue: Stormwater Design

Comments: The stormwater from the site is to be drained to Marine Parade via new pipes to a pit in the kerb and edge of the rockface. Council's Development Engineer has reviewed the application and stormwater plan submitted, and raises no concern. Conditions of consent have been provided.

51. Issue: Privacy impacts from pool deck and proposed gym

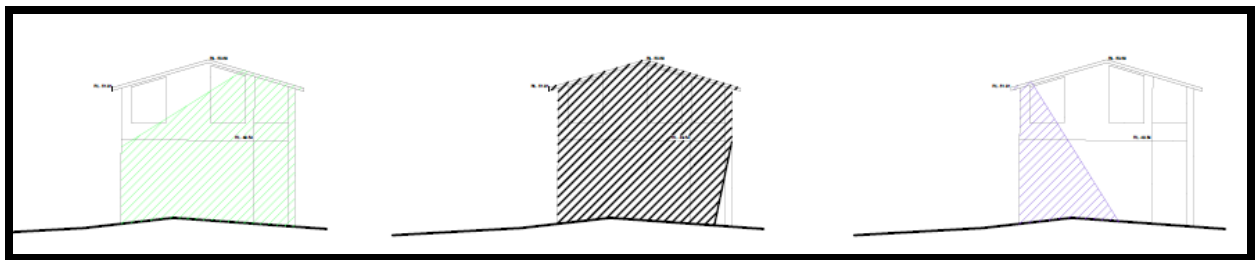
Comments: The proposed gym has been deleted from the proposal. The proposed extension of the pool deck the northern boundary is not supported. A design change condition is recommended such that the existing pool deck is to be retained and no extension is permitted. (The pool is registered on the NSW Swimming Pool Register however no approval can be found on file for the pool). The pool complies with the relevant legislation for pool safety. As a result of the design change condition to delete the proposed deck around the pool, the pool does not form part of this DA.

52. Issue: Overshadowing

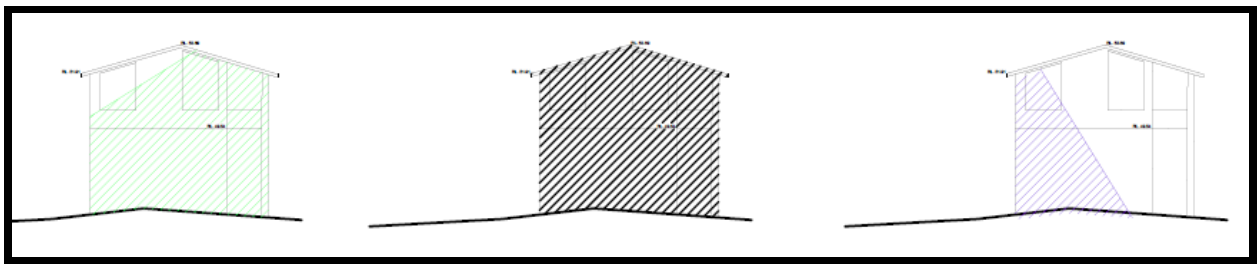
Comments: The proposal complies with the Hurstville Development Control Plan control that requires adjoining properties to have solar access to the private open space area and living room windows for a minimum of 3 hours during midwinter.

A submission was received in relation to overshadowing from a neighbouring property, No. 11 Marine Drive, which is south of the subject site. An inspection of the neighbour's house was undertaken to establish which windows would be impacted by the proposed dwelling in terms of solar access. The windows impacted by the proposal are on the northern side of the building, however these windows, are not all located in the primary living area of the dwelling. The primary living area of the dwelling also has east facing windows.

The affected windows on the northern elevation of the neighbouring house are depicted in the existing and proposed elevational shadow diagrams submitted by the applicant. These are reproduced below:



**Existing shadow mid winter (northern elevation of No. 11 Marine Drive)**



**Proposed shadow mid winter (northern elevation of No. 11 Marine Drive)**

The diagrams indicate the extent of overshadowing of the proposed dwelling compared to the existing dwelling is negligible.

53. Issue: Three storey appearance  
Comments: The proposed garage is partially beneath the proposed dwelling. The extent to which the garage walls extend above the natural ground level on the southern elevation is an appropriate design response to the sloping nature of the land.
54. Issue: Setback to the street  
Comments: The reduced setback to the street of the garage is supported on merit due to the existing location of the garage and other examples of garages forward of the building line in the immediate locality. The setback of the dwelling house is compliant with the 4.5m control in the Hurstville Development Control Plan for dwelling houses.
55. Issue: Non-compliant landscaped area  
Comments: The landscaped area proposed as part of the development exceeds the minimum control of 25% in the Hurstville Development Control Plan 2012. The proposal provides 35% landscaped area.
56. Issue: Excavation damage  
Comments: Conditions of consent have been recommended for pre and post construction dilapidation reports to be prepared for neighbouring properties.

57. Issue: Location of pool pump and AC unit  
Comments: AC is not proposed as part of the development. The pool pump will remain in its existing location.
58. Issue: Location of clothes line  
Comments: Council staff raise no issue with the location of the clothes line as it will have no adverse impact on adjoining properties.
59. Issue: 1938 Covenant prohibiting excavation  
Comments: The covenant refers to the “...excavation and removal of any earth, clay, gravel, stone soil or sand from the land except for the purposes of excavating for the foundation of any building to be erected thereon...”

Clause 1.9A of the Hurstville Local Environmental Plan 2012 states:

**1.9A Suspension of covenants, agreements and instruments**

*(1) For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.*

For the purposes of planning assessment, the covenant is suspended to enable development on the land. This is not a fetter on council's power.

Conditions of consent have been recommended requiring pre and post construction dilapidation reports to be prepared.

**Council Referrals**

Development Engineer

60. Council's assessment of the drainage system concluded that the proposal is satisfactory. The dwelling will drain to Marine Parade and conditions of consent provided.

Consultant Arborist

61. The plans submitted with the DA originally proposed the removal of eight trees. Through amendments to the design, the number of trees to be removed has been reduced to three trees, which is supported by Council's arborist.
62. The Jacaranda at the front of the site is to be removed and a Thyer valuation undertaken, with the fees payable to offset the loss of the tree for the planting of new trees elsewhere in the local government area, pursuant to council's Tree Management Policy. In addition, the removal of three trees from the rear yard are to be replaced at a ratio of 2:1 on the site.
63. If the application was to be supported conditions of consent would be imposed.

**External Referrals**

Ausgrid

64. The application was referred to Ausgrid as per Clause 45(2) of the State Environmental Planning Policy (Infrastructure) 2007. No objection was raised and no conditions of consent required.



**Contributions**

65. The development is subject to Section 7.12 (former Section 94A Contribution) contribution as the proposed cost of works exceed \$100,000.00. In accordance with Council's Section 94A Contributions Plan 2017, Section 7.12 – Fixed Development Consent Levies are applicable to dwelling house developments. A condition of consent requiring payment of the contribution will be imposed should the application be supported.

**CONCLUSION**

66. The proposal has been assessed using the matters for consideration listed in Section 4.15 of the Environmental Planning and Assessment Act 1979. The proposal is considered to be a reasonable redevelopment of the site and the proposed scale, bulk and height is considered to be an acceptable planning and design outcome for this site and will be consistent with the existing and desired future character of development in the R2 zoned land in this location and immediate locality.
67. The proposal has been assessed against the provisions of the relevant State Environmental Planning Policies, Hurstville Local Environmental Plan 2012 and Hurstville Development Control Plan No. 1. The proposal satisfies the key planning controls in the Local Environmental Plan.

**DETERMINATION AND STATEMENT OF REASONS**Statement of Reasons

68. The reasons for this recommendation are:
- The proposal is an appropriate response to the zoning of the site.
  - The proposed development complies with the requirements of the relevant environmental planning instruments.
  - The proposed design has been sensitively considered to be consistent with the existing and desired future character for development in this area.
  - The proposal has effective façade modulation and wall articulation that will serve to provide visual interest and reduce the bulk of the building.

Determination

69. 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 DA2020/0241 demolition work and construction of a dwelling house on Lot 241 in DP 11934 known as 9 Marine Drive, Oatley, subject to the following conditions of consent:

## Development Details

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

Description	Reference No.	Date	Revision	Prepared by
Proposed Demolition Plan	A.01.0	5/3/21	04	Femme Build
Proposed Site Plan	A.01.1	5/3/21	04	Femme Build
Proposed Environmental Plan	A.01.3	5/3/21	04	Femme Build
Proposed Sediment and Erosion Control Plan	A.01.5	5/3/21	04	Femme Build
Proposed Basement Floor Plan	A.02.1	5/3/21	04	Femme Build
Proposed Ground Floor Plan	A.02.2	5/3/21	04	Femme Build
Proposed First Floor Plan	A.02.3	5/3/21	04	Femme Build
Proposed Roof Plan	A.02.4	5/3/21	04	Femme Build
Proposed Elevations 1 & 2	A.03.1	5/3/21	04	Femme Build
Proposed Elevations 3 & 4	A.03.2	5/3/21	04	Femme Build
Proposed Section and Details	A.04.2	5/3/21	04	Femme Build
Stormwater Drainage Plan	SWDP01	26.11.2020	G	BMV Building Consultants
Stormwater Drainage Plan	SWDP02	26.11.2020	G	BMV Building Consultants
Stormwater Drainage Plan	SWDP03	26.11.2020	G	BMV Building Consultants
Stormwater Drainage Plan	SWDP04	26.11.2020	G	BMV Building Consultants
Stormwater Drainage Plan	SWDP05	26.11.2020	G	BMV Building Consultants
Stormwater Drainage Plan	SWDP06	26.11.2020	G	BMV Building Consultants
Stormwater Drainage Plan	SWDP07	26.11.2020	G	BMV Building Consultants
Stormwater Drainage Plan	SWDP08	26.11.2020	G	BMV Building Consultants

## 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. **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

4. **Sydney Water - Tap in™** - The approved plans must be submitted to a Sydney Water Tap in™ to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately endorsed. For details please refer to 'Plumbing, building and developing' section of Sydney Water's web site at [www.sydneywater.com.au](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™ agent has appropriately stamped the plans prior to the issue of the Construction Certificate.

## Prior to the Issue of a Construction Certificate

### 5. Pre-Construction Dilapidation Report – Private Land

A professional engineer specialising in structural or geotechnical engineering shall prepare a Pre-Construction Dilapidation Report detailing the current structural condition of adjoining premises, retaining walls or other structures including but not limited to:

- (a) 7 Marine Drive, Oatley; and
- (b) 11 Marine Drive, Oatley; and
- (c) Any neighbouring buildings likely to be affected by the excavation as determined by the consulting engineer.

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

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

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

### 6. Geotechnical report

Geotechnical Reports: The applicant must submit a Geotechnical Report to the PCA, prepared by a professional engineer specialising in geotechnical engineering who holds the relevant Certificate of accreditation as required under the Building Professionals Act 2005 in relation to dilapidation reports, all site works and construction. This is to be submitted prior to the issue of the Construction Certificate and is to include:

- a) Investigations certifying the stability of the site and specifying the design constraints to be placed on the foundation, any earthworks/stabilization works and any excavations.



- b) Dilapidation Reports on the adjoining properties including, but not limited to 7 Marine Drive, Oatley and 11 Marine Drive, Oatley, prior to any excavation of site works. The Dilapidation Report is to include assessments on, but not limited to, the dwellings at those addresses and any external paths, grounds etc. This must be submitted to the PCA and the adjoining residents as part of the application for the Construction Certificate. Adjoining residents are to be provided with the report five (5) working days prior to any works on the site.
- c) On-site guidance by a vibration specialist during the early part of excavation.
- d) Measures to minimise vibration damage and loss of support to other buildings. Where possible any excavation into rock is to be carried out with tools such as rock saws which reduce vibration to adjoining buildings and associated structures. Where a hydraulic hammer is to be used within 30 metres of any building (other than a path or a fence) the report shall detail the maximum size of hammer to be used and provide all reasonable recommendations to manage impacts.
- e) Sides of the excavation are to be pierced prior to any excavation occurring to reinforce the walls of the excavation to prevent any subsidence to the required setbacks and neighbouring sites.

## 7. Garage Level & Vehicular Access Grades

The garage must be constructed at a level that allows for practical entry and exit in accordance with Australian Standards. In this respect the Finished Floor Level of the **garage must be lowered to have a maximum relative level of 42.75m AHD.**

The applicant must submit a profile (longitudinal section) demonstrating access clearance by the B85 Design Vehicle (85% percentile vehicle in accordance with AS2890.1 2004)" for the entry.

This profile (scale 1:20) is to show levels and grades from road centreline to the proposed internal garage floor level including but not limited to levels of, road centreline, changes of grade on road surface, lip of gutter, invert of gutter, back of vehicular crossing(gutter layback), front of path, back of path and boundary. The profiles provided are to also include the natural surface of the land as well as the proposed design including cut and fill dimensions.

Additional profiles are to be provided on either side of driveway when longitudinal grade of road exceeds 8%.

The profile will be used to assess suitability of proposed internal driveway levels and does not represent final footpath or road levels. The levels on Councils road related area including boundary level will be verified following the submission of an "Application for Driveway Crossing and Associated Works on Council Road Reserve" issued under Section 138 Roads Act

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

Tree Species / Number of trees	Location of trees	Approved Works
<i>Angophora costata</i> x 2	Closest to dwelling	Pruning class - "S" - Selective pruning - clause 7.2.4 (deadwood only)
All pruning must be conducted in accordance with - AS 4373 - 2007, <i>Pruning of amenity trees</i> .		

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).

9. **Fees to be paid** - The fees listed in the table below must be paid in accordance with the conditions of this consent and Council's adopted Fees and Charges applicable at the time of payment (available at [www.georgesriver.nsw.gov.au](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	\$160.00
<b>DEVELOPMENT CONTRIBUTIONS</b>	
Georges River Council Section 94A Development Contributions Plan 2017	\$7,700

### 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).

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

- a) Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development: \$1,900.00
- b) Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee to enable assessment of any damage and repairs where required: \$160.00
- c) Submit to Council, before the commencement of work, a photographic record of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal.

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

11. **Site Management Plan** -

### Minor Development

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

12. The site management measures are to be implemented prior to the commencement of any works including demolition and excavation. The site management measures are to be maintained throughout the works, to maintain reasonable levels of public health, safety and amenity. A copy of the Site Management Plan must be kept on site and is to be made available upon request.
13. **BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No. 1093241S must be implemented on the plans lodged with the application for the Construction Certificate.
14. **Required design changes** - The following changes are required to be made and shown on the Construction Certificate plans:

Pool deck	No extension of the pool deck is permitted.
Windows on northern elevation	<p>The ground floor windows on the northern elevation of the approved dwelling are to be fitted with frosted/opaque glass or have a minimum sill height of 1.6m as measured from finished floor level.</p> <p>The first floor windows on the northern elevation are to be fitted with opaque glass or have a minimum sill height of 1.6m as measured from finished floor level.</p>

**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**

**General**

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.

### **Gravity to the Kerb and Gutter**

All stormwater shall drain by gravity to Council's kerb and gutter directly in front of the development site in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).

### **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.

17. **Compliance with Swimming Pool Act 1992** - The alterations and additions to the dwelling house and/or the construction of the new dwelling house subject of this consent must not generate any non-compliances with the Swimming Pools Act 1992, Swimming Pool Regulation 2008, Building Code of Australia and/or AS 1926.1-2007 - Swimming Pool Safety. Details of compliance to be illustrated on the plans lodged with the application for the Construction Certificate.
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. **Landscape Plans** - A detailed landscape plan, drawn to scale, **A3 size and coloured**, by a qualified landscape architect or an AQF Level 5 landscape designer, must be submitted prior to the issue of the Construction Certificate and signed off as compliant if the following items have been addressed below. The plan must include:



- a) Reference Georges River Councils, Tree Management Policy, 2019, 2:1 tree replacement. Councils Policy requires that for every tree removed from the site, two (2) trees shall be planted to replace those lost.
- b) For the removal of three (3) trees a total of six (6) trees must be represented upon the landscape plan and be minimum 45 litre pot/ bag size.
- c) Location of existing and proposed structures, services and existing trees to be retained and /or removed
- d) Details of earthworks including mounding and retaining walls, Reduced Levels and planter boxes;
- e) Location of proposed eight (8) trees and plants proposed as well as a plant schedule showing the plant symbol, botanical name/ common name; **quantity; pot size/**; and mature height x width.
- f) A higher proportionate mix of natives than exotics plantings, with all eight (8) trees proposed, able to reach a height at maturity of nine (9) metres.
- g) Tree species selection from - Georges River Councils, Tree Management Policy, April 2019, Appendix 1 - Tree Planting.
- h) Details of planting specifications, procedures and a maintenance schedule for twelve (12) months;
- i) Landscape ratios - pervious to impervious surfaces / deep soil zones
- j) Details of drainage and watering systems;
- k) Details of garden edging and turf; and
- l) Any required fencing, retaining walls and other structures not shown on other approved architectural and engineering plans.
- m) The contact details and website of the landscape architect or AQF Level 5 landscape designer, as well as qualifications.
- n) Associations and / or Memberships of Affiliation within the landscape industry.

## 22. Tree Protection and Retention

The following trees shall be retained and protected:

Tree Species	Location of Tree / Tree No.	Tree Protection Zone (metres) TPZ as per AS4970 -2009 Fencing distance from trunk
<i>Angophora costata</i>	Councils street tree	7.0 metres
<i>Corymbia gummifera</i>	Within front yard of the site	7.6 metres
The entire front portion, front yard of the site must be fenced off from all construction works, to protect the two (2) trees above. No storage, no preparation of building products and no stockpiling of anything is permitted within the front portion of the site		
<i>Callistemon viminalis</i> x 2	North side of dwelling	2.5 metres
<i>Archontophoenix cunninghamiana</i> x 2	Pool area	3.2 metres
<i>Callistemon viminalis</i>	Easement pathway, north side, pool area	2.0 metres
<i>Archontophoenix cunninghamiana</i> x 2	Easement pathway, north side, pool area	2.5 metres
<i>Eucalyptus eugenioides</i>	Rear east, past pool area	6.5 metres

<i>Archontophoenix cunninghamiana</i>	Pool area south side	3.0 metres
<i>Elaeocarpus reticulatus</i>	Pool area, corner	2.4 metres
The six (6) <i>Angophoras</i> below, located within the rear yard must all be fenced off under the one tree protection fencing across the site from the south side fence to the north side fence and placed in front of the piers for the alfresco area. This area must be isolated from any construction activity, with no storage or preparation of building products.		
<i>Angophora costata</i>	Open grassed rear yard	8 metres
<i>Angophora costata</i>	Middle of rear yard	6.5 metres
<i>Angophora costata</i>	Middle of rear yard	6.5 metres
<i>Angophora costata</i>	Co dominant trunks, middle of yard	5.0 metres
<i>Angophora costata</i>	Closest to south side fence	6.5 metres
<i>Angophora costata</i>	Closest to rear of deck	8 metres

- a) The client shall engage a qualified Arborist who holds an AQF Level 5 or above in Arboriculture and who is a current practicing and financial member of an Arboricultural Association or Affiliation, with a letter of engagement forwarded to the nominated PCA.
- b) A certificate of compliance letter from the AQF 5 Arborist must be forwarded to the PCA - Principal Certifying Authority, at a minimum three (3) stages being, before works, during works and once all building works have been completed, that tree protection measures have been installed and being maintained during the building process.

#### Tree Protection Measures

- c) All trees on Council property, subject site and adjacent sites, to be retained must be protected before site set up and maintained during demolition, excavation and construction of the site.
- d) 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.
- e) The tree protection measures must be undertaken in accordance AS4970 -2009 *Protection of trees on development sites*.
- f) 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.
- g) 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.

- h) 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 two (2) trees located upon the front yard must be isolated from all construction impacts with the entire front portion of the site fenced off.
- i) Within the rear yard, all *Angophora costata* trees must be fenced off from the south side fence to the north side fence with this area isolated from all construction impacts.
- j) A layer of organic mulch 100 millimetres thick shall be placed over the protected areas and no soil or fill should be placed within the protection area.
- k) The tree protection fencing must be kept in place during demolition, excavation and 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.
- l) The Tree Protection Zone of each tree, to be protected, shall be watered thoroughly and regularly to minimise the effects of construction works.
- m) No building products, preparation of building products, storage of materials, stockpiling, site sheds or services shall be installed within the TPZ of the trees to be retained.

#### Excavation works near tree to be retained

- n) Excavations around the trees to be retained on site, Councils street verge or the adjoining properties shall be supervised by the AQF 5 Project Arborist to ensure that the root system will not adversely be affected.
- o) All excavations and stormwater piping installations within the tree protection zones of all trees to be retained, must be conducted using hand methods and or Hydro vac or Air spade type of non-destructive excavations and signed off by the Project Arborist if compliance has been met. No machinery of bucket or trench type are permitted to be used.
- p) 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.
- q) 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.

#### Pier and Beam / Post and rail -

- r) To preserve the six (6) *Angophora costata* trees within the rear yard, the alfresco room must be built upon isolated individual hand dug piers, with no strip footings permitted, as per proposed elevations plan 1 & 2, Dwg A.03.1 and A.04.2, Rev 04, dated 05/03/21. Soil levels under the Alfresco area must be retained as per prior to development of the site with no fill or cut permitted.

- s) Prior to any works, the proposed alfresco area must have 100mm of mulch laid over the entire area, watered in well, for the protection of the *Angophora* trees close to dwelling. This mulch must be maintained in its location for the entirety of the project.
- t) 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).

### 23. Tree Removal & Replacement - Tree removal

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

Permission is granted for the removal of the following trees:

Tree Species	Number of trees	Location
<i>Jacaranda mimosifolia</i>	X1	Front of the site, north side
The <i>Jacaranda mimosifolia</i> must be valued prior to removal and Councils viewing and determination, by using the Thyer method of tree valuation by a minimum AQF 5 Arborist. The fees payable are to offset the loss of this tree for the planting of new trees elsewhere within the Municipality. < <a href="http://peterthyer.com/Thyer%20Tree%20Valuation%202000b%20(2007)%20spreadsheet.XLS">http://peterthyer.com/Thyer%20Tree%20Valuation%202000b%20(2007)%20spreadsheet.XLS</a> >		
<i>Allocasuarina littoralis</i>	X1	Front of the site, south side
<i>Rondeletia amoena</i>	X1	Side of existing dwelling
<i>Hakea salicifolia</i>	X1	Close to side pool area, south fence

#### 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.

Summary	
Number of trees removed from site	X4
Number of trees required as per offset scheme (2:1 ratio)	X8
Number of trees to be shown upon the landscape plan and planted within the site	X8

A copy of the Hurstville City Council's Tree Removal and Pruning Guidelines and Kogarah City Council, Street Tree Management Strategy and Masterplan, can be downloaded from Council's website [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au).

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

24. **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).

25. **Demolition Notification Requirements** - The following notification requirements apply to this consent:
- (a) The developer /builder must notify adjoining residents five (5) working days prior to demolition. Such notification is to be a clearly written note giving the date demolition will commence, contact details of the developer/builder, licensed asbestos demolisher and the appropriate regulatory authority. Notification is to be placed in the letterbox of every premises (including every residential flat or unit, if any) either side and immediately at the rear of the demolition site.
  - (b) Five (5) working days prior to demolition, the developer/builder is to provide written notification to Council advising of the demolition date, details of the SafeWork licensed asbestos demolisher and the list of residents advised of the demolition.
  - (c) On demolition sites where buildings to be demolished contain asbestos, a standard commercially manufactured sign containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm is to be erected in a prominent visible position (from street frontage) on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos material has been removed from the site to an approved waste facility.
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 Pool Formwork - Before concreting of pool shell, detailing the location of the pool relative to the adjacent boundaries and its height relative to the datum shown on the approved plans.
  - f) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries.
  - g) Completion of all Work - Detailing the location of the structure (including eaves/gutters) relative to adjacent boundaries and its height relative to the datum shown on the approved plans. A final Check Survey must indicate the reduced level of the main ridge.

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

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

### **During Construction**

30. **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.

31. **Hours of construction for demolition and building work** - Unless authorised by Council:
- Building construction and delivery of material hours are restricted to: 7.00 am to 5.00 pm (inclusive) Monday to Saturday and no work on Sundays and Public Holidays.
  - Demolition and excavation works are restricted to: 8.00 am to 5.00 pm (inclusive) Monday to Friday only. Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site.
32. **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. All site works and retaining walls are to be constructed wholly on the subject site, including footings.
33. **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.
34. **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.
35. **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**

36. **Requirements prior to the issue of the Occupation Certificate - Driveways Works**  
The following shall be completed and or submitted to the PCA prior to the issue of the Occupation Certificate:
- Construction of new vehicle crossings as required by this consent.
  - Replacement of all redundant vehicle crossing laybacks with kerb and guttering, and replacement of redundant concrete with turf.
  - Removal and reconstruction of kerb and gutter as per approved General Arrangement Plan SWDP05 Revision H Prepared by BMY consultants dated 22/12/2020.

37. **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.
38. **Completion of Landscape Works**
- All landscape works and the planting of eight (8) trees must be completed before the issue of the Final Occupation Certificate and to the satisfaction of Councils Tree Management Officers, with the nominated PCA signing off if compliance has been met.
  - A certificate of compliance for the planting of all eight trees and shrubs proposed for the site. An AQF 5 Horticulturist shall be engaged and in writing certify that all trees have been planted as per these Conditions of Consent and forwarded to the PCA - Principal Certifying Authority forming compliance.
39. **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.

40. **Post Construction Dilapidation report – Private Land**

At the completion of the construction works, a suitably qualified person is to be engaged to prepare a post-construction dilapidation report. This report is to ascertain whether the construction works associated with the subject development created any structural damage to the adjoining premises assessed pre-construction.

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

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

**Operational Conditions (On-Going)**

41. **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, fertilising, pest and disease control, replacement of dead or dying plants and other operations required to maintain healthy trees, plants and turfed areas.

### Tree Protection Measures

- b) A final certificate of compliance letter forwarded to the nominated PCA, once all building and landscape works have been completed, from the engaged AQF 5 Consulting Arborist, that tree protection measures have been installed and maintained for the entirety of the project and report on the condition of the trees that as part of this Consent, were to be protected and retained.

### Tree Replacement within subject site

- a) A minimum of 8 x 45 litre size trees, which will attain a minimum mature height of nine (9) metres, must be planted within the property. The trees are to conform to AS2303 - 2018, *Tree stock for landscape use*.
- b) Tree species selected shall be from Georges River Councils Tree Management Policy, April 2019. Appendix 1 - Tree Planting.
- c) If the replacement trees are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species. If the trees are found dead before they reach a height where they are protected by Councils Tree Management Controls, they must be replaced with the same species and pot/bag size.
- d) A copy of the Hurstville City Council's Tree Removal and Pruning Guidelines and Kogarah City Council, Street Tree Management Strategy, Masterplan, and Tree Management Policy 2019, can be downloaded from Council's website [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au) <<http://www.georgesriver.nsw.gov.au>>.

- 42. **Swimming Pools - Resuscitation Notice** - An expired air resuscitation warning notice complying with the [Swimming Pools Act 1992](#) must be affixed in a prominent position adjacent to the pool.
- 43. **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.
- 44. **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.
- 45. **Private Swimming Pools & Spas - Pump Noise** - The swimming pool/spa pump and associated equipment must be located so that the noise emitted does not exceed 5dB(A) above the background level. If this cannot be achieved, a ventilated and sound-proofed enclosure must enclose the pump to achieve the required noise levels.

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

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

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

46. **Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued.
47. **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.

48. **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.

49. **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.

50. **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](#).

51. **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.

52. **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

53. **Clause 97A - BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
54. **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.
55. **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.
56. **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](#).
57. **Clause 98E - Site Excavation** - Excavation of the site is to extend only to that area required for building works depicted upon the approved plans. All excess excavated material shall be removed from the site.

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

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

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

### Advice

58. **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.

59. **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.
60. **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.
61. **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.

62. **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.

63. **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. (eg. DA2018/0\*\*\*) and reference this condition number (e.g. Condition 23)

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

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

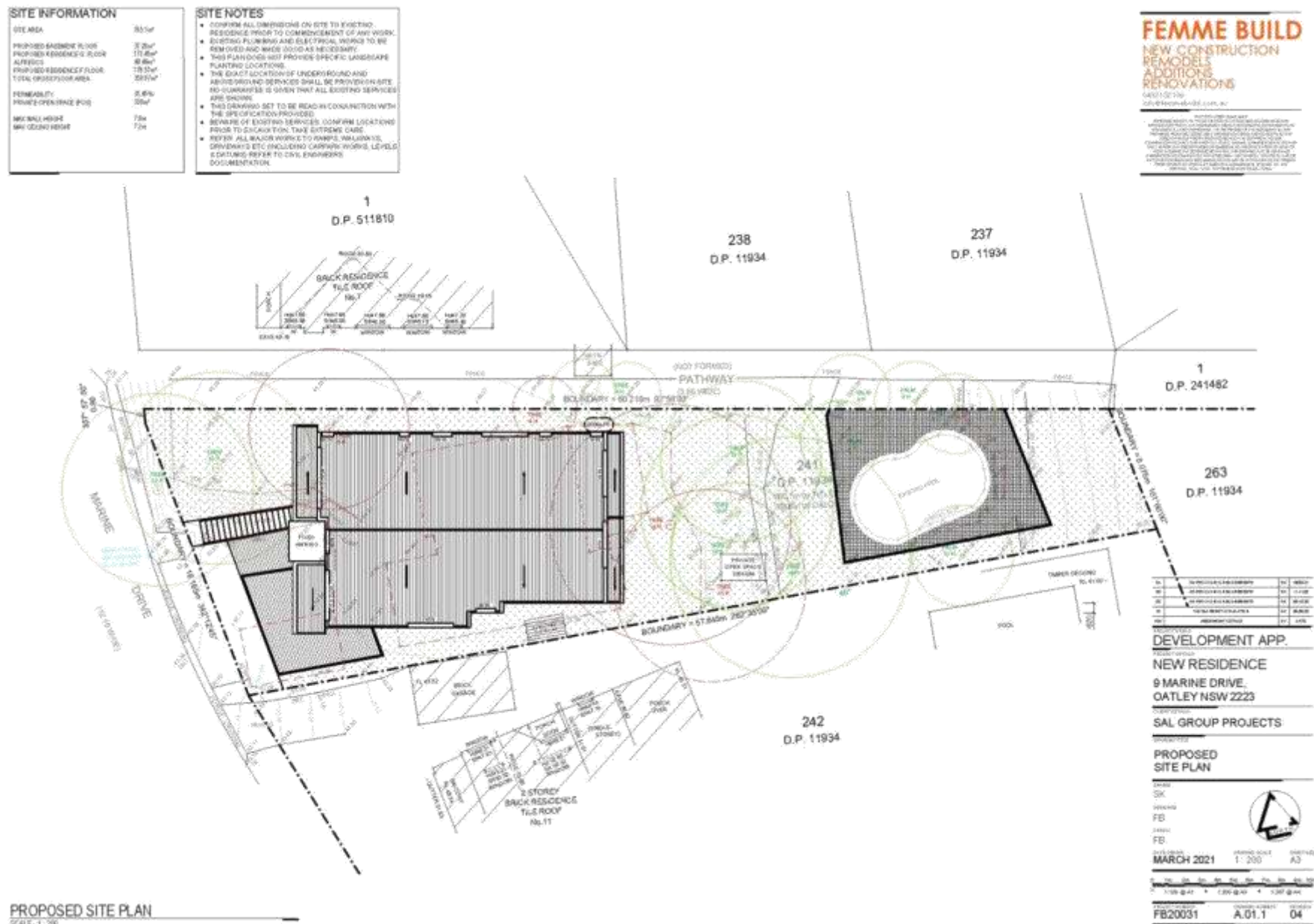
The preparation of all engineering drawings (site layout plans, cross sections, longitudinal sections, elevation views together with a hydraulic grade analysis) and specifications for the new stormwater drainage system to be arranged by the applicant. The design plans must be lodged and approved by Council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

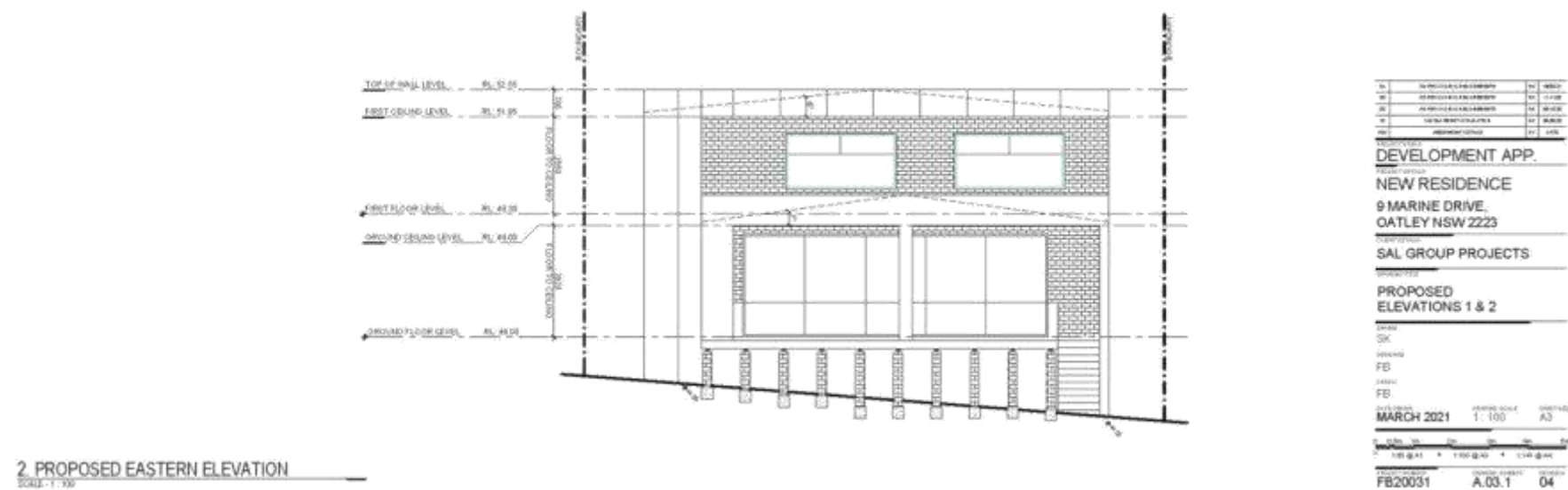
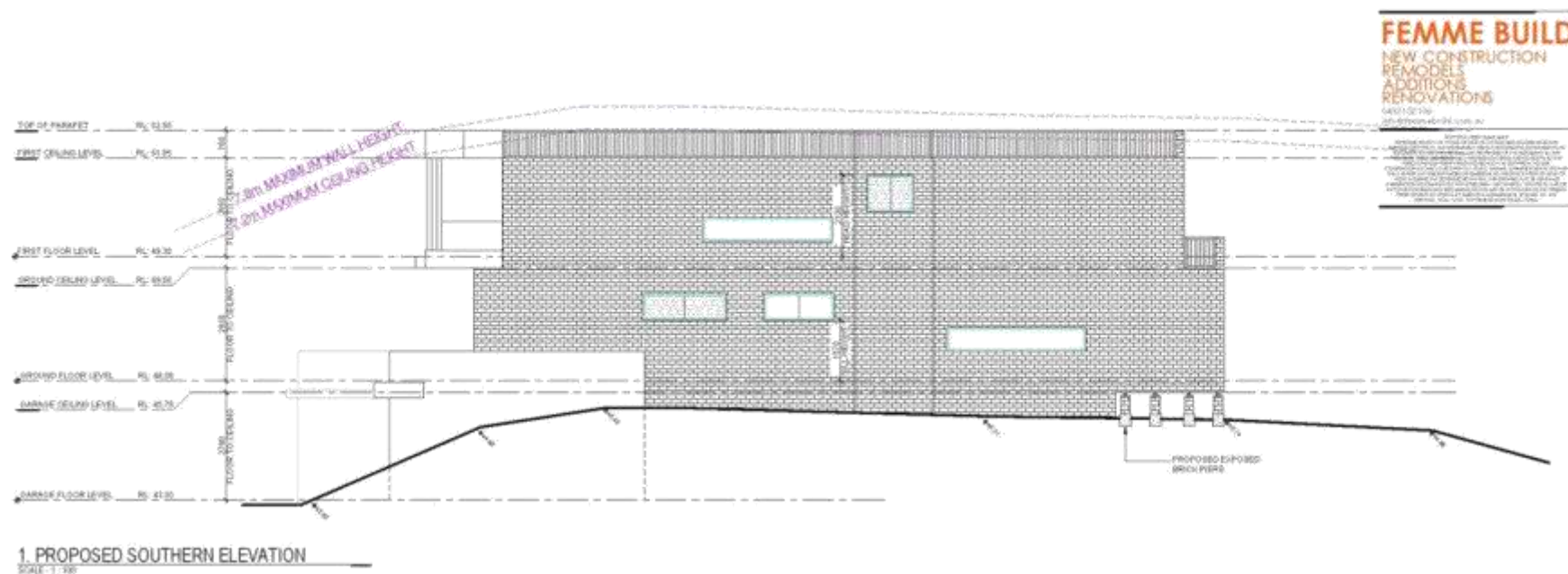
NOTE: A minimum of four weeks should be allowed for assessment.

64. **Council as PCA - Deemed to Satisfy Provisions of Building Code of Australia** - 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 Building Code of Australia. However, if an alternative fire solution is proposed it must comply with the performance requirements of the Building Code of Australia, 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.
65. **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)).
66. **Register your Swimming Pool** - All swimming pools in NSW are required to be registered. Fines apply for pools that are not registered. To register please visit: [swimmingpoolregister.nsw.gov.au](http://swimmingpoolregister.nsw.gov.au).

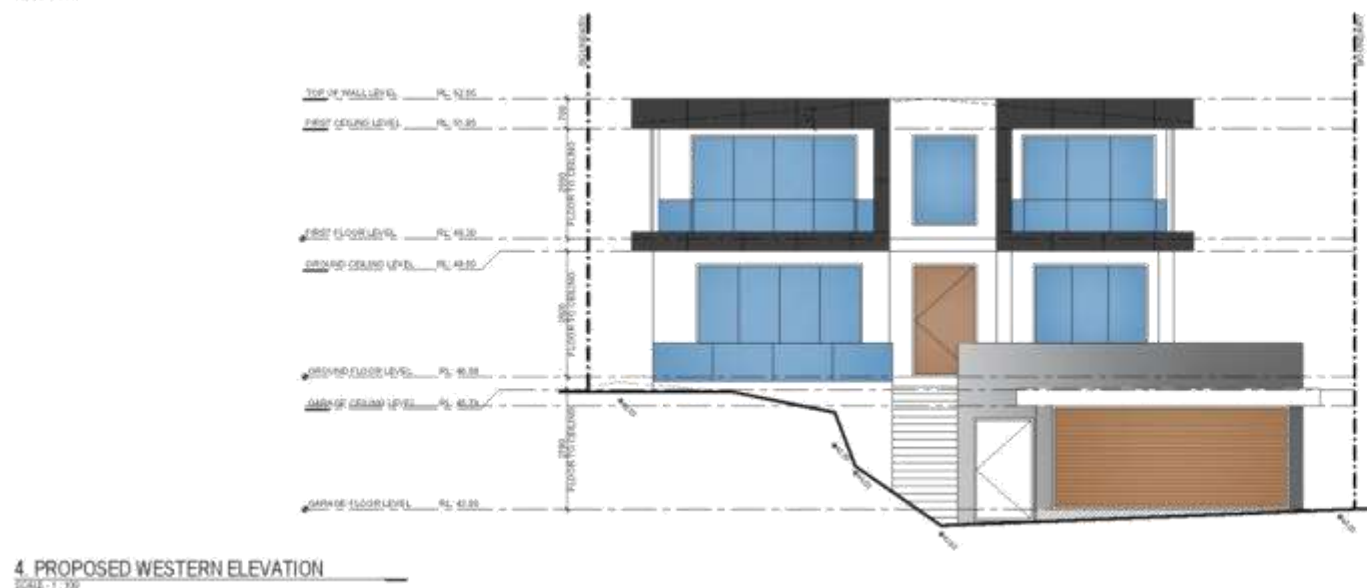
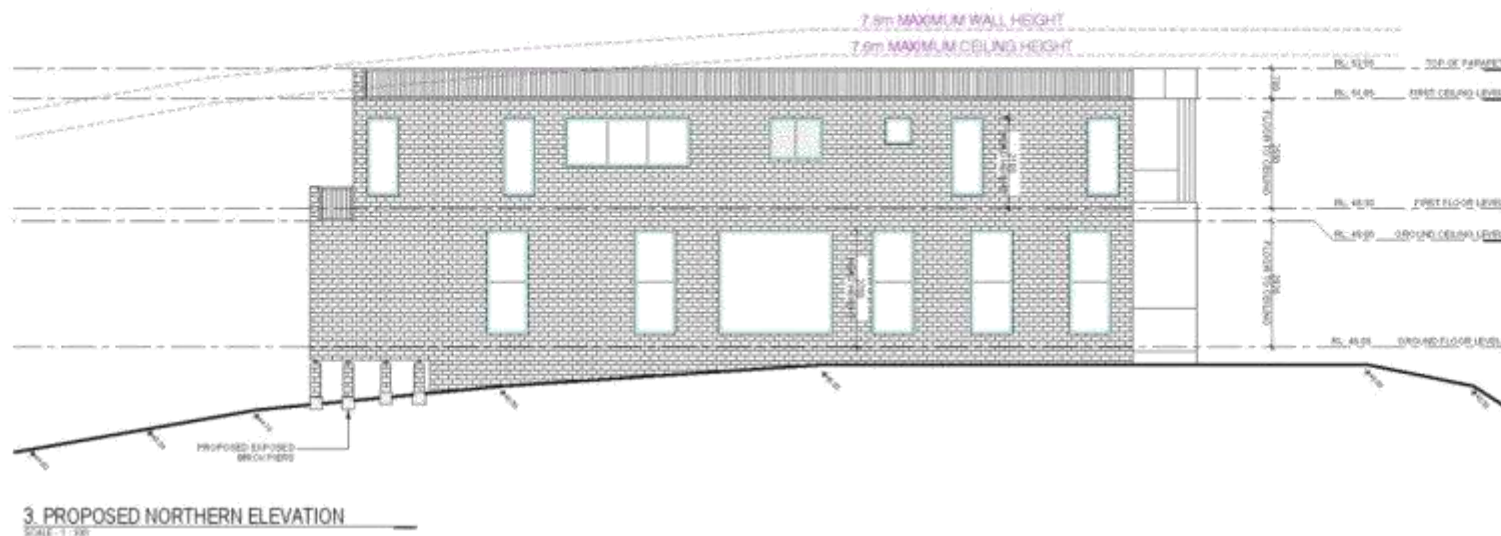
## ATTACHMENTS

Attachment [1](#)  Site Plan and Elevations









**FEMME BUILD**  
 NEW CONSTRUCTION  
 REMODELS  
 ADDITIONS  
 RENOVATIONS  
 0401 521 116  
 info@femmegroup.com.au

When used in accordance with the terms and conditions of the contract, the drawings are the property of the architect and shall not be used for any other purpose without the written consent of the architect. The architect is not responsible for the accuracy of the information provided by the client. The drawings are prepared on the basis of the information provided by the client and the architect does not warrant the accuracy of the information. The drawings are prepared on the basis of the information provided by the client and the architect does not warrant the accuracy of the information.

NO	DESCRIPTION	DATE
01	PRELIMINARY DRAWING	11/11/20
02	PRELIMINARY DRAWING	11/11/20
03	PRELIMINARY DRAWING	11/11/20
04	PRELIMINARY DRAWING	11/11/20

**DEVELOPMENT APP.**

9 MARINE DRIVE,  
 OATLEY NSW 2223  
 SAL GROUP PROJECTS

**PROPOSED  
 ELEVATIONS 3 & 4**

DATE: 03/03/21  
 DRAWN: FB  
 CHECKED: FB  
 DATE: 03/03/21

DATE: 03/03/21  
 SCALE: 1:100  
 SHEET: A3

DATE: 03/03/21  
 SCALE: 1:100  
 SHEET: A3

DATE: 03/03/21  
 SCALE: 1:100  
 SHEET: A3

DATE: 03/03/21  
 SCALE: 1:100  
 SHEET: A3

DATE: 03/03/21  
 SCALE: 1:100  
 SHEET: A3

# REPORT TO GEORGES RIVER COUNCIL LPP MEETING OF THURSDAY, 22 APRIL 2021

LPP007-21

<b>LPP Report No</b>	<b>LPP007-21</b>	<b>Development Application No</b>	<b>149D2020/0048</b>
<b>Site Address &amp; Ward Locality</b>	16 Lesley Crescent Mortdale Mortdale Ward		
<b>Proposed Development</b>	Building Information Certificate Application seeking to regularise unauthorised works including a sliding door and hinged door on the north western elevation, new timber deck at the rear and side of the existing dwelling and timber stairs, the installation of two (2) air conditioning units to the side south western elevation of the existing dwelling		
<b>Owners</b>	Krste & Vera Mijoski		
<b>Applicant</b>	Krste & Vera Mijoski		
<b>Planner/Architect</b>	Akitex		
<b>Date Of Lodgement</b>	10/09/2020		
<b>Submissions</b>	Four Submissions		
<b>Cost of Works</b>	\$40,000.00		
<b>Local Planning Panel Criteria</b>	Staff Referral under General Manager Delegation		
<b>List of all relevant s.4.15 matters (formerly s79C(1)(a))</b>	State Environmental Planning Policy No 55 - Remediation of Land, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, State Environmental Planning Policy – Infrastructure, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, Deemed SEPP – Georges River Catchment, Draft Environment SEPP, Draft Remediation of Land SEPP, Hurstville Local Environment Plan, Hurstville Development Control Plan, GRC Interim Policy, Development Contributions Plan, and Building Code of Australia		
<b>List all documents submitted with this report for the Panel's consideration</b>	Acoustic Certificate (D20/259404), Survey Report/Indent Report (D21/41888)		
<b>Report prepared by</b>	Building Surveyor		

<b>Recommendation</b>	Building Information Certificate <b>149D2020/0048</b> be approved and issued.
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<b>Summary of matters for consideration under Section 4.15</b> Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	<b>Yes</b>
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<b>Legislative clauses requiring consent authority satisfaction</b> Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?	Yes
<b>Clause 4.6 Exceptions to development standards</b> If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Not Applicable
<b>Special Infrastructure Contributions</b> Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	Not Applicable – BIC application
<b>Conditions</b> Have draft conditions been provided to the applicant for comment?	Not Applicable – BIC application

### Site Plan



### Report in Full Proposal

1. This application seeks the issuance of a Building Information Certificate on land at Lot 8, DP211276, 16 Lesley Crescent, Mortdale to regularise the unauthorised works including a sliding door and hinged door on the north western elevation, new timber deck at the rear and side of the existing dwelling and timber stairs, the installation of two (2) air conditioning units to the side south western elevation of the existing dwelling.

## The Site and Locality

2. The subject site is known as Lot 8, DP211276, 16 Lesley Crescent, Mortdale.
3. The site has a street frontage of 16m and a maximum depth of 28.18m to the northern most corner. The site is a rectangular shape and has a total area of 458m<sup>2</sup>.
4. A large portion of rear boundary to the north-west of the site adjoins Penshurst West Public School with a small south-west portion of the site sharing boundary with a residential property known as No. 24 Treloar Avenue, Mortdale.
5. Both northern and southern side boundaries of the site adjoin residential developments.

## Legislative Framework

6. Building Information Certificate applications are lodged and processed pursuant to Division 6.7 of the Environmental Planning and Assessment Act 1979 (EPAA).
7. The Georges River Council Local Planning Panel has the power to consider a Building Information Certificate under the delegated authority issued by the General Manager dated 3 February 2020.
8. In general, Building Information Certificates are requested from Council when work is undertaken without the appropriate approvals being issued by Council or a registered certifier. A building certificate states that Council will not take any action for a period of 7 years to Order, or take proceedings for an Order, to have the building covered by the certificate to be demolished, altered, added to or rebuilt or resolve any encroachment by the building onto land under the control of Council.
9. The legislative framework for the consideration of Building Information Certificates for the regularization of unauthorized development varies considerably from that of a Development Application which seeks approval prior to undertaking works.
10. Of relevance to the consideration of the matter, s6.24 and s6.25 of the EPAA provides a test threshold for the Council to consider with respect to the issuance of a Building Information Certificate. This is outlined as follows:

### ***“6.24 Issue of building information certificates***

- (1) *A council is (subject to this Division) required to issue a building information certificate as soon as practicable after an application for the certificate is made to the council.*

...

### ***6.25 Issue, nature and effect of building information certificate***

- (1) *A building information certificate is to be issued by a council only if it appears that—*
  - (a) *there is no matter discernible by the exercise of reasonable care and skill that would entitle the council, under this Act or the [Local Government Act 1993](#)—*
    - (i) *to order the building to be repaired, demolished, altered, added to or rebuilt, or*
    - (ii) *to take proceedings for an order or injunction requiring the building to be demolished, altered, added to or rebuilt, or*

- (iii) *to take proceedings in relation to any encroachment by the building onto land vested in or under the control of the council, or*
- (b) *there is such a matter but, in the circumstances, the council does not propose to make any such order or take any such proceedings.*

...”

11. To assist the determining authority in identifying whether in the circumstances, the Council would propose to make any such order or take any such proceedings a technical consideration of the merits of the works is undertaken below.

### Application History

12. Development Consent DA2015/0356 for a two-storey addition to front of existing dwelling was determined on 30 June 2016.
13. MOD2016/0116 being a Modification to Development Consent No DA2015/0356 was subsequently issued in relation to stormwater conditions on 21 February 2017.
14. In relation to Development Consent DA2015/0356 (as subsequently modified) Construction Certificate CC2016/0197 was issued by the Certifying Authority (Georges River Council) on 12 October 2017.
15. 149D2019/0028 application for a Building Information Certificate was received by Council on 5 June 2019 in relation to the installed air-conditioning units on the south west elevation. This Building Information Certificate was refused on 5 December 2019 due to insufficient information.
16. On 10 September 2020 the application subject to this assessment (149D2020/0048) was lodged for consideration and determination with Council.

### Works Subject of this Application

17. This application seeks the issuance of a Building Information Certificate on land at Lot 8, DP211276, 16 Lesley Crescent, Mortdale to regularise the unauthorised works including a sliding door and hinged door on the north western elevation, new timber deck at the rear and side of the existing dwelling and timber stairs, the installation of two (2) air conditioning units to the side south western elevation of the existing dwelling.
18. Specific details of the works seeking approvals are as follows:
- Sliding door (ground floor) – north-western elevation, non-structural changes included replacing an old door for new
  - Hinged door on the north western elevation (first floor) – first floor balcony door, non-structural changes replaced old door for new
  - New timber deck at the rear and side of the existing dwelling - Timber Deck mostly comprises of the same footprint of the existing approved pergola and the pre-existing concrete within the side setback of the northern boundary. However, the timber deck also extends from the covered timber deck to the north boundary.
  - Timber stairs - stairs lead from the main dwelling to the deck

- The installation of two air conditioning units to the side south western elevation of the existing dwelling. – southern elevation of the dwelling.

## PHOTOS OF WORKS AS EXECUTED

- Sliding door (ground floor) – north-western elevation, non-structural changes included replacing an old door for new



- Hinged door on the north western elevation (first floor) – first floor balcony door, non-structural changes replaced old door for new

No Photo available

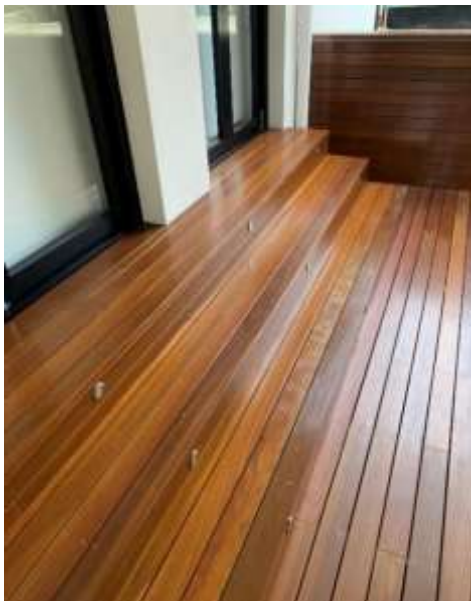
- New timber deck at the rear and side of the existing dwelling - Timber Deck mostly comprises of the same footprint of the existing approved pergola and the pre-existing concrete within the side setback of the northern boundary. However, the timber deck also extends from the covered timber deck to the north boundary.







- Timber stairs - stairs lead from the main dwelling to the deck



- The installation of two air conditioning units to the side south western elevation of the existing dwelling. – southern elevation of the dwelling.



## Consideration of Works undertaken

<p><u>Sliding door (ground floor)</u> – north-western elevation, non-structural changes included replacing an old door for new</p>	<p><b><i>Minor Building Alterations</i></b></p> <p><u><i>Building Assessment</i></u> The new door to the north-western elevation appears to meet the Deemed to Satisfy provisions of the Building Code of Australia.</p> <p><u><i>Planning Consideration</i></u> The works undertaken are determined to be “Exempt Development” pursuant to Part 2 &gt;Division 1&gt; Subdivision 27 (<i>Minor Building Alterations external</i>) of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.</p> <p>Accordingly, as the works are considered to be compliant with the BCA and meet exempt development criterion, no further consideration will be provided in relation to this matter.</p>
<p><u>Hinged door on the north western elevation (first floor)</u> – first floor balcony door, non-structural changes replaced old door for new</p>	<p><b><i>Minor Building Alterations</i></b></p> <p><u><i>Building Assessment</i></u> The first floor balcony door and non-structural changes replaced an old door for new. The works undertaken appears to meet the Deemed to Satisfy provisions of the Building Code of Australia.</p> <p><u><i>Planning Consideration</i></u> The works undertaken are determined to be “Exempt Development” pursuant to Part 2 &gt;Division 1&gt; Subdivision 27 (<i>Minor Building Alterations external</i>) of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.</p> <p>Accordingly, as the works are considered to be compliant with the BCA and meet exempt development criterion, no further consideration will be provided in relation to this matter.</p>
<p><u>New timber deck at the rear and side of the existing dwelling - Timber Deck</u> mostly comprises of the same footprint of the existing approved pergola and the pre-existing concrete within the side setback of the northern boundary. However, the timber deck also extends from the covered timber deck to the north boundary.</p>	<p><u><i>Building Assessment</i></u> Timber deck footprint comparison as shown on approved Construction certificate drawings by Akitex P/L dated 28.9.2015, The majority of the timber decking to the rear of the dwelling matches the previous existing paving/tile area. (D17/179476)</p>



	<p><b><u>Planning Consideration</u></b></p> <p>Timber Deck mostly comprises of the same footprint of the existing approved pergola and the pre-existing concrete within the side setback of the northern boundary. However, the timber deck also extends from the covered timber deck to the north boundary. The only concern with the decking is its positioning. Upon receiving the Final Indent Survey it was found that parts of the timber deck overhang the neighbouring lots to the rear and side by up to 0.08 (8cm) and 0.04 (4cm) as shown on the report by C&amp;A surveyors date drawn 24.2.2021, Ref 16540-21 CM9 Ref (D2141888). The Building Information Certificate cannot endorse any structure that encroaches beyond the boundaries of the subject site.</p>
<p><u>Timber stairs</u> - stairs lead from the main dwelling to the deck</p>	<p><b><u>Minor Building Alterations</u></b></p> <p><b><u>Building Assessment</u></b></p> <p>The stairs lead from the main dwelling to the deck. The works undertaken appears to meet the Deemed to Satisfy provisions of the Building Code of Australia.</p> <p><b><u>Planning Consideration</u></b></p> <p>The works undertaken are determined to be “Exempt Development” pursuant to Part 2 &gt; Division 1 &gt; Subdivision 37A Stairway of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.</p> <p>Accordingly, as the works are considered to be compliant with the BCA and meet exempt development criterion, no further consideration will be provided in relation to this matter.</p>
<p><u>The installation of two air conditioning units to the side south western elevation of the existing dwelling.</u> – southern elevation of the dwelling.</p>	<p><b><u>Building Assessment</u></b></p> <p>The Airconditioning Units do not meet the development standards of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 Part 2 &gt; Div1 &gt; Subdiv 3. section 2.6 (d) be not higher than 1.8m at its highest point above ground level (existing)</p> <p><b><u>Planning Consideration</u></b></p> <p>Hurstville DCP No.1 (Amendment No.7)- Effective 10 October 2018 do not restrict residential flat buildings or set development requirements for air conditioning units.</p>

Environmental Health Officer Referral – the acoustic report by AEC Acoustic Engineering Consultants was referred for the review of Council's Environmental Health Officer. The Council officer concurs with the acoustic report achieving industry standards compliance and raises no objection to the air-conditioning units as installed.

## Planning Regime

19. To assist the determining authority in identifying whether in the circumstances, the Council would propose to make any such order or take any such proceedings a technical consideration of the merits of the works is undertaken below.
20. Consideration has been given to all State Environmental Planning Policies, all Regional Environmental Planning Policies, Local Environment Plans and Development Control Plans as applicable to the Georges River Council Local Government Area. The following are considered relevant to the consideration of this matter:
  - State Environmental Planning Policy No 55 - Remediation of Land
  - State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
  - State Environmental Planning Policy – Infrastructure
  - State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
  - Deemed SEPP – Georges River Catchment
  - Draft Environment SEPP
  - Draft Remediation of Land SEPP
  - Hurstville Local Environment Plan
  - Hurstville Development Control Plan
  - GRC Interim Policy
  - Development Contributions Plan
  - Building Code of Australia

### State Environmental Planning Policies

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

The site has been in continued use for residential purposes for a considerable time and therefore unlikely to be contaminated.

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

A BASIX Certificate is not applicable to the application as the application is not for a development application or an application for a complying development certificate or construction certificate – see Clause 6).

#### SEPP (Vegetation in Non-Rural Areas) 2017

The proposal does not involve tree removal.

#### State Environmental Planning Policy – Infrastructure

Not applicable.

#### Deemed SEPP – Georges River Catchment

The proposed development does not impact on the drainage system and satisfies the relevant provisions of the Deemed State Environmental Planning Policy – Georges River Catchment.

**Draft Environment SEPP**

The proposed development does not impact on the provisions of this Draft Instrument.

**Draft Remediation of Land SEPP**

The proposed development does not impact on the provisions of this Draft Instrument.

**HURSTVILLE LOCAL ENVIRONMENTAL PLAN 2012**

The subject site is zoned R2 under the provisions of the Hurstville Local Environmental Plan 2012. The proposed development is for a dwelling house and ancillary development which are permissible land uses in the zone.

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

Clause	Standard	Proposal	Complies
2.2 Zoning	R2 Low Density Zone	The development type proposed comprises of a dwelling house and ancillary development.	Yes
2.3 Zone objectives	Objectives of the R2 Zone.	The density and height of the proposal and design generally satisfies the zone objectives.	Yes
2.6 Subdivision	Permissible subject to Council's consent	Subdivision is not proposed.	N/A
4.1 Minimum Subdivision Lot Size	Land identified as "G" on lot size map which prescribes a minimum allotment size of 450sqm The objectives of Clause 4.1 are; (a) to retain the pattern of subdivision in residential zones while allowing infill development of smaller lots in some areas, (b) to ensure lots have a minimum size that would be sufficient to provide useable area for building and landscaping, to require larger lots in the foreshore area or where the topography or other natural features of the site	Subdivision is not proposed as apart of the application	N/A

	<p>limit its subdivision potential.</p> <p>Subclause (3A) states that if a lot is a battle-axe lot or other lot with an access handle, the area of the access handle and any right of carriageway is not to be included in calculating the lot size.</p>		
4.3 – Height of Buildings	9m as identified on Height of Buildings Map	6.2m.	Yes
4.4 – Floor Space Ratio	<p>0.6:1 as identified on Floor Space Ratio Map</p> <p>(An assessment under Clause 6.5 – Gross floor area of Dwelling Houses in Residential Zones is referenced later in this table)</p>	No variation to GFA	N/A
4.5 – Calculation of floor space ratio and site area	FSR and site area calculated in accordance with CI4.5(b)	No variation to GFA	N/A
Clause 4.6 Exceptions to development Standards	Clause 4.6 Variation to any of the development standards is required.	No development standard variation is proposed.	N/A
5.1 Bushfire	Bush fire hazard reduction work authorised by the Rural Fires Act 1997 may be carried out on any land without development consent.	The site is not bushfire prone.	N/A
5.1 Heritage conservation	Heritage Assessment Provisions	The site is not heritage listed or located in a conservation zone.	N/A
6.1 Acid Sulphate Soils	The Clause states that development consent is required for works within land classified as being Class 1, 2, 3, 4 or 5.	The site does not contain acid sulfate soils. The proposal therefore is not affected by the provisions of Clause 6.1.	N/A

6.2 – Riparian Land and watercourses	The objectives of this clause are to maintain water quality within watercourses, maintain the stability of the bed and banks of watercourses and their aquatic and riparian habitats.	The subject site is not affected by Riparian Land and watercourses.	N/A
6.3 – Limited development on the Foreshore Area	The objective of this Clause is to “ <i>ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area</i> ”. Development is to be restricted within the foreshore area. A foreshore building line of 140m is applicable to the subject site. Development needs to be setback a minimum of 140m from the foreshore.	The site is not located within a Foreshore Area.	N/A
6.4 – Foreshore Scenic Protection Area (FSPA)	The objectives of clause are to protect significant views to and from the Georges River and reinforce the dominance of the landscape over built form.	The proposal is not within the FSPA.	N/A
6.5 – Gross Floor Area of Dwellings in residential zones	Gross floor area calculation	No variation to GFA	N/A
6.7 – Essential Services	Development consent must not be granted to development unless services that are essential for the development are available	Essential services are currently available to the site and can be extended to service the development; conditions could be imposed if the application was to be supported.	Yes

## Draft Georges River Local Environmental Plan 2020

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.”

## DEVELOPMENT CONTROL PLANS

The proposed development is subject to the provisions of the Hurstville Development Control Plan. The following comments are made with respect to the proposal considering the objectives and controls contained within both DCPs.

Applicable DCP Controls	DCP Provisions	Development Provisions	Complies
Neighbourhood character	<p>DS1.1 The development application is supported by a Statement of Environmental Effects that:</p> <p>a. includes a satisfactory neighbourhood and site description, including the identification of the key features of the neighbourhood and site</p> <p>b. shows how the siting and design response derives from and responds to the key features identified in the neighbourhood and site description</p> <p>c. demonstrates that the residential development proposal respects the existing or preferred neighbourhood character and satisfies objectives of the zone in the LEP</p>	A Statement of Environmental Effects is not required for a BC application, however, the works undertaken are consistent with the neighbourhood character and demonstrates and responds to the site.	Yes



Building Height	DS2.1. Maximum building height is in accordance with the LEP	The works undertaken comply with the building height control.	Yes
Setbacks	<p>DS3.1. The minimum front setback to a primary street is:</p> <p>a. 5.5m to the main face of the dwelling or</p> <p>b. 4.5m to the main face of the dwelling where located on a corner site and 5.5m to the garage</p> <p>DS3.2. For properties greater than 15m in width, the minimum setback to a secondary street boundary is 2.0m to the wall of the dwelling</p> <p>DS3.3. For properties 15m or less in width, the minimum setback to a secondary street boundary is in accordance with the side boundary setback requirements.</p> <p>DS3.5. The minimum side setback inside the FSPA is 900mm (ground floor) and 1.5m (first floor).</p> <p>DS3.6. Minimum rear boundary setbacks are:</p> <p>a. 3m for any basement and ground floor level solid wall</p> <p>b. 6m for first</p>	The works related to the Building information certificate are limited to the rear of the main dwelling	N/A

	<p>floor level solid walls</p> <p>c. where a first floor balcony is proposed at the rear, 6m from the balustrade</p> <p>DS3.7. For battle-axe lots, minimum side boundary setbacks apply to all boundaries.</p>		
Facades	<p>DS4.1. The dwelling house has a front door or window to a habitable room facing the primary street frontage.</p> <p>DS4.2. The dwelling house incorporates at least two of the following building elements facing any street frontage:</p> <ol style="list-style-type: none"> <li>entry feature or portico</li> <li>awnings or other features over windows</li> <li>eaves and sun shading</li> <li>window planter box treatment</li> <li>bay windows or similar features</li> <li>wall offsets, balconies, verandas, pergolas or the like</li> </ol> <p>DS4.3. Garage doors are not wider than 6m</p>	The works related to the Building information certificate are limited to the rear of the main dwelling	N/A
Solar Access	<p>DS6.1. Development allows for at least 3 hours of sunlight on the windows of main living areas and adjoining principal private open space</p>	Adjoining properties will continue to receive greater than 3 hours during mid-winter.	Yes

	<p>of adjacent dwellings between 9.00 am and 3.00 pm on 22 June.</p> <p>DS6.2. Development complies with the Energy Efficiency section in Appendix 1 of this DCP and BASIX requirements.</p> <p>DS6.3. Buildings are encouraged to incorporate window shading devices where necessary to minimise exposure to direct summer sun. Alternatively, windows may be shaded by the planting of large trees, including deciduous species.</p>	<p>Not applicable.</p> <p>Not applicable</p>	<p>NA</p> <p>NA</p>
Visual Privacy	<p>DS7.1. Windows of proposed dwelling must be offset from neighbouring windows by 1m, especially windows of high-use rooms.</p> <p>DS7.2. Windows for primary living rooms must be designed so that they maintain privacy of adjoining site's principal private open space.</p> <p>DS7.3. Development applications are accompanied by a survey plan or site analysis plan (to AHD) of the proposed dwelling showing the location</p>	The works related to the Building information certificate do not include changes to windows	N/A

	of adjoining property windows, floors levels, window sill levels and ridge and gutter line levels.		
Noise	<p>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, screened to reduce noise or acoustically enclosed.</p> <p>DS8.2. For sites in proximity to a busy road or railway line, development is to comply with the provisions of State Environmental Planning Policy (Infrastructure) 2007 and the NSW Government's Development Near Rail Corridors and Busy Roads - Interim Guideline</p>	<p>No excessive noise above the development Standards set out in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 Part 2 &gt; Div1 &gt; Subdiv 3. section 2.6 (f1) be designed so as not to operate—</p> <p>(i) during peak time—at a noise level that exceeds 5 dB(A) above the ambient background noise level measured at any property boundary, or</p> <p>(ii) during off peak time—at a noise level that is audible in habitable rooms of adjoining residences</p> <p>Not applicable</p>	NA
Vehicle access, parking and manoeuvring	<p>DS9.1. Car parking is provided on site in accordance with the following minimum rates:</p> <p>a. for 1 and 2 bedroom dwellings, 1 car parking space</p> <p>b. for 3 or more bedroom dwellings, 2 car parking spaces</p> <p>DS9.2. For all new</p>	The works related to the Building information certificate do not include changes to current car parking spaces	N/A

	<p>dwelling, at least 1 car space must be located behind the front building setback</p> <p>DS9.3. Enclosed or roofed car accommodation, including garages and carports, are located at least 1m behind the main setback. Note: Carports forward of the front setback may be considered where no vehicular access behind the front building alignment is available.</p> <p>DS9.4. The maximum width of a garage opening is 6m.</p> <p>DS9.9. Driveway gradients must be constructed in accordance with Australian Standard 2890.1(2004).</p>		
Landscaped areas and private open space	<p>DS10.1. Where located outside the FSPA, a minimum of 20% of site area is landscaped open space.</p> <p>DS10.2. Where located in the FSPA, a minimum of 25% of the site area is landscaped open space.</p> <p>DS10.3. The minimum dimension of landscaped open space is 2m in any direction.</p>	21.54% Declared on (D20/299708)	

	<p>DS10.4. A minimum of 15sqm of the landscaped open space is provided between the front setback and the street boundary in the form of a front yard.</p> <p>DS10.5. An area of Principal Private Open Space is to be provided which:</p> <ol style="list-style-type: none"> <li>has a minimum area of 30m<sup>2</sup></li> <li>has a minimum dimension of 5m</li> <li>is located at ground level and behind the front wall of the dwelling</li> <li>is directly accessible from a main living area</li> </ol>		
Stormwater	<p>DS11.1. Diversion of flows from one drainage sub-catchment to another is not encouraged.</p> <p>DS11.2. Stormwater drainage is to occur by:</p> <ol style="list-style-type: none"> <li>drainage by gravity to the adjacent road kerb and Council's drainage system or</li> </ol> <p>DS11.3. Where drainage by gravity is involved this must not cause ponding/backwater effects on upstream properties.</p> <p>DS11.5. On-site</p>	The works related to the Building information certificate do not include Diversion of flows of storm water drainage.	N/A



	<p>retention of roof run-off using rainwater tanks or detention tanks for storage and re-use are encouraged. Overflow from storage facilities must be connected to an appropriate stormwater system as detailed in DS11.2.</p> <p>DS11.7. Development is not to concentrate overland flow of stormwater onto an adjoining property.</p>		
Balconies	<p>DS14.1. Access to balconies and terraces is direct from a habitable room at the same floor level. Note: a level difference of one step may be considered for the purpose of rain water protection.</p> <p>DS14.2. Balconies and terraces include fixed planter boxes and / or privacy screens.</p> <p>DS14.3. Fixed planter boxes are at least 1m wide.</p> <p>DS14.4. Privacy screens are between 1.5m and 1.8 m high</p> <p>DS14.5. Terraces are not visible from the street.</p> <p>DS14.6. Roof top terraces are not</p>	The balcony has not changed as part of the Building information certificate	

	<p>provided.</p> <p>DS14.7. Development applications for terraces and balconies must provide sight line diagrams that demonstrate how privacy issues to neighbouring properties are proposed to be addressed.</p>		
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### Interim Policy Georges River Development Control Plan 2020

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 Hurstville DCP. 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.

Control	Standard	Proposed	Complies
<b>Dwelling houses</b>			
Front Setbacks	<p>Minimum setback from the primary street boundary is:</p> <p>a) 4.5m to the main building face</p> <p>b) 5.5m to the front wall of garage, carport roof or onsite parking space or</p> <p>a) Within 20% of the average setback of dwellings on adjoining lots.</p>	The works related to the Building information certificate are limited to the rear of the main dwelling	No change
Rear Setbacks	<p>a) Buildings are to have a minimum rear setback of 15% of the average site length, or 6m, whichever is greater.</p> <p>b) Where the existing pattern of development displays an</p>	The majority of the timber decking to the rear of the dwelling matches the previous existing construction certificate plans. approved Construction certificate drawings by Akitex P/L dated	N/A

	established rear setback, development should recognise and respond to site features and cross views of neighbouring properties.	28.9.2015, (D17/179476)	
Side Setbacks	a) The minimum side setback outside the FSPA is 900mm (ground floor) and 1.2m (first floor).	Main dwelling set back not changed.	N/A
Landscaping	<input type="checkbox"/> Where located outside the FSPA, a minimum of 20% of site area is landscaped open space  <input type="checkbox"/> Where located inside the FSPA, a minimum of 25% of the site area is landscaped open space <input type="checkbox"/> The minimum dimension of landscaped open space is 2m, designed in a useable configuration  <input type="checkbox"/> 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.	21.54% Declared on (D20/299708)	Complies
Private Open Space	An area of Principal Private Open Space is to be provided which: a) has a minimum area of 30m <sup>2</sup> b) has a minimum dimension of 5m, designed in a useable configuration c) is located at ground level and behind the front wall of the dwelling d) is directly accessible from a main living area.	The Decking acts as Private open space the works have not reduced existing area.	

Basement	<p>Basements are permitted where Council's height controls are not exceeded, and it is demonstrated that there will be no adverse environmental impacts (e.g. affectation of watercourses and geological structure).</p> <p>□ Basements for low grade sites (ie &lt; 12.5% Grade front to rear):</p> <p>a) Basements on land where the average grade is less than 12.5% are permitted only where they are not considered a storey (<i>see definition below</i>) and the overall development presents as 2 storeys to the street.</p> <p>b) A basement is not considered a storey if it is:</p> <p>situated partly below the finished ground and the underside of the ceiling is not more than 1m above the natural ground at the external wall for a maximum of 12m in length, with the exception of the façade in which the garage door is located.</p>	No Basements at the subject matter address	N/A
Swimming Pools	In-ground swimming pools shall be built so that the top of the swimming pool is as close to the existing ground level as possible. On sloping sites this will often mean excavation of the site on the high side to obtain the minimum out of ground	No Swimming pool at the subject matter address	N/A

	exposure of the swimming pool at the low side.		
	Provided one point on the swimming pool or one side of the swimming pool is at or below existing ground level, then one other point or one other side may be up to 500 mm above existing ground level.	No Swimming pool at the subject matter address	N/A
	When consent is granted for a swimming pool having a height above natural ground level in excess of 500mm, any landscaping treatment must be completed before the swimming pool is filled with water.	No Swimming pool at the subject matter address	N/A
	On steeply sloping sites, Council may consider allowing the top of the swimming pool at one point or along one side to extend up to 1000mm above natural ground level, provided that the exposed face of the swimming pool wall is treated to minimise impact. The materials and design of the retaining wall should be integrated with, and compliment, the style of the swimming pool.	No Swimming pool at the subject matter address	N/A
	Filling is not permitted between the swimming pool and the property boundary.	No Swimming pool at the subject matter address	N/A
	The drainage of spill water from a swimming pool shall be designed so that it does not affect the natural environment of the subject site or	No Swimming pool at the subject matter address	N/A

adjoining properties.		
Swimming pools are to be constructed so that the top of the bond beam is as close to ground level as possible	No Swimming pool at the subject matter address	N/A
Spas and swimming pools proposed to be constructed between the dwelling and the street will be considered by Council if the amenity of the area is not adversely impacted and the other requirements in this DCP are met.	No Swimming pool at the subject matter address	N/A
Swimming pools are permitted on land affected by a foreshore building line subject to their design complementing the surrounding area and minimising visual impact from waterways.	No Swimming pool at the subject matter address	N/A
The swimming pool edge must be at least 1.5 metres from side and rear property boundaries.	No Swimming pool at the subject matter address	N/A
The position of the swimming pool in relation to neighbours and other residents must be considered to reduce noise associated with activities carried out in the swimming pool or from associated the swimming pool equipment, such as cleaning equipment.	No Swimming pool at the subject matter address	N/A
Council may require mechanical equipment to be suitable acoustically treated so	No Swimming pool at the subject matter address	N/A

that noise to adjoining properties is reduced.		
The construction, location and use of the swimming pool are to be such that no nuisance is caused to any neighbouring residents by reason of noise, drainage, illumination or for any other reason.	No Swimming pool at the subject matter address	N/A
Heated swimming pools must utilise energy for heating from renewable energy sources, such as solar heating, heat pumps and gas heating. Swimming pool covers should be used when the swimming pool is not in use.	No Swimming pool at the subject matter address	N/A
Tree and shrub planting is to be provided along the adjoining property boundary lines to achieve a reasonable level of privacy. Refer to Appendix 1 for recommended species to use.	No Swimming pool at the subject matter address	N/A
Paved and other impervious areas are to be minimised and designed to provide stormwater and swimming pool overflow infiltration.	No Swimming pool at the subject matter address	N/A
Swimming pools are to be designed to ensure the retention of existing trees.	No Swimming pool at the subject matter address	N/A
Where a swimming pool is located close to an existing tree, elevated decks are preferred as the swimming pool coping to ensure minimal root damage.	No Swimming pool at the subject matter address	N/A



	Swimming pool water discharges must not in any circumstances be directed through bushland areas located on private or public land.	No Swimming pool at the subject matter address	N/A
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## SUBMISSIONS AND THE PUBLIC INTEREST

21. The application was neighbour notified between 21 September 2020 and 8 October 2020.
22. Combined, 4 individual submissions have been received.
23. A summary of the issues raised by all the submissions received by Council are provided below:

If submissions received, matters raised include: Visual Privacy, Noise, Unlawful Works	
Received 12 September 2020 - (D20/224367) Nature: Bifold doors, windows, Glass door Grassed area wooden deck.	No adverse impact on the amenity of adjoining properties.
Received 8 October 2020 – (D20/246741) Nature: Visual Privacy to properties in Treloar Ave, Timber Deck, Sliding Doors, Air-conditioning.	No adverse impact on the amenity of adjoining properties.
Received 12 October 2020 - (D20/248379) Nature: Air-conditioning	Compliant to EPA Guidelines. No detrimental effect upon neighbouring properties.
Received 25 November 2020 - (D20/289525) Nature: Air-conditioning	Compliant to EPA Guidelines. No detrimental effect upon neighbouring properties.

## Conclusion

24. The application has been assessed having regard to the Matters of Consideration under Part 6 Division 6.7 of the Environmental Planning and Assessment Act 1979, the provisions of applicable the LEP and DCP.
25. The Environmental Planning and Assessment Act outlines reasons as to why a Building Information Certificate should be issued:

(1) *A building information certificate is to be issued by a council only if it appears that—*

- (a) *there is no matter discernible by the exercise of reasonable care and skill that would entitle the council, under this Act or the Local Government Act 1993—*
  - (i) *to order the building to be repaired, demolished, altered, added to or rebuilt, or*
  - (ii) *to take proceedings for an order or injunction requiring the building to be demolished, altered, added to or rebuilt, or*

*(iii) to take proceedings in relation to any encroachment by the building onto land vested in or under the control of the council, or*

*(b) there is such a matter but, in the circumstances, the council does not propose to make any such order or take any such proceedings.*

26. There is no matter discernible by the exercise of reasonable care to refuse approval to the Building Certificate
27. Following a detailed assessment it is considered that approval of Building Information Certificate **149D2020/0048** be granted.
28. The Building Information Certificate does not endorse any portion of structures that encroach beyond the boundaries of the subject site.
29. Upon determination, the matter be referred to Council's Development Compliance Section for investigation including consideration of enforcement action.

# REPORT TO GEORGES RIVER COUNCIL LPP MEETING OF THURSDAY, 22 APRIL 2021

LPP008-21

<b>LPP Report No</b>	<b>LPP008-21</b>	<b>Development Application No</b>	<b>DA2020/0366</b>
<b>Site Address &amp; Ward Locality</b>	2-8 James Street, Blakehurst Blakehurst Ward		
<b>Proposed Development</b>	Demolition works and the construction of residential flat building. The application is integrated development under the Water Management Act 2000.		
<b>Owners</b>	Mr Chak Yin Chiang & Mrs Jie Hong		
<b>Applicant</b>	J Maroun		
<b>Planner/Architect</b>	PBD Architects; GAT & Associates		
<b>Date Of Lodgement</b>	23/09/2020		
<b>Submissions</b>	Round 1: Two (2); Round 2: One (1)		
<b>Cost of Works</b>	\$14,355,451.00		
<b>Local Planning Panel Criteria</b>	The application seeks consent for development to which the State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development applies.		
<b>List of all relevant s.4.15 matters (formerly s79C(1)(a))</b>	State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment, State Environmental Planning Policy No.55 – Remediation of Land, State Environmental Planning Policy (Infrastructure) 2007, Draft Environmental State Environmental Planning Policy, Draft State Environmental Planning Policy – Remediation of Land, Kogarah Local Environmental Plan 2012, Kogarah Development Control Plan 2013, Draft Georges River Local Environmental Plan 2020.		
<b>List all documents submitted with this report for the Panel's consideration</b>	Architectural Plans, Landscape Plan, Stormwater Plans Statement of Environmental Effects, Clause 4.6 Variation Request, Submissions		
<b>Report prepared by</b>	Senior Development Assessment Planner		

<b>Recommendation</b>	That the application be approved subject to conditions.
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<b>Summary of matters for consideration under Section 4.15</b> Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	<b>Yes</b>
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<b>Legislative clauses requiring consent authority satisfaction</b>  Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?	Yes
<b>Clause 4.6 Exceptions to development standards</b>  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?	Yes - Clause 4.3 Height of buildings
<b>Special Infrastructure Contributions</b>  Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	Not Applicable
<b>Conditions</b>  Have draft conditions been provided to the applicant for comment?	No, standard conditions have been attached with no design changes

### Site Plan



### Executive Summary Proposal

1. This development application (DA) seeks consent for the demolition of existing structures across four sites, lot consolidation and the construction of a five (5) storey Residential Flat Building (RFB) comprising a total of 42 apartments including two (2) levels of basement car parking catering for a total of 70 car parking spaces, landscaping and site works.

2. The proposal has two (2) basement car parking levels accommodating 70 residential car parking spaces including 8 residential visitor spaces. Vehicle access is provided via a two-way driveway from Stuart Lane.
3. The proposed development complies with the maximum floor space ratio (FSR), however the development exceeds the height control with the non-compliance relating only to the lift overrun. A Clause 4.6 Statement has been submitted which has been assessed in detail later in this report, however it is considered to be well founded and in this individual case is recommended for supported given the nature and degree of variation that has been applied for.

### **Site and Locality**

4. The development site is located on the northern side of James Street, and between Vaughan Street and Stuart Lane. It consists of four existing allotments known as 2, 4, 6 and 8 James Street, Blakehurst. These sites are legally identified as Lots 17, 18, 19 and 20 in DP 15830.
5. The consolidated site is irregular in shape. It has a total frontage to James Street of 62.43m, 35.35m to Vaughan Street and 38.71m to Stuart Lane, having a total site area of 2,246sqm. The land falls gently from Vaughan Street to Stuart Lane.
6. Presently situated on the site are four dwelling houses with ancillary structures including detached garages, sheds, garden beds and an in-ground swimming pools.
7. Land to the north is zoned R3 Medium Density Residential and an application for a residential flat building is currently awaiting a decision by the Land and Environment Court.
8. Land on the south-western side of Vaughan Street is zoned R2 Low Density Residential. Land between Stuart Lane and Princes Highway is zoned B2 Local Centre. A newly completed mixed use development is located opposite the site on the corner of James Street and Princes Highway.

### **Zoning and Permissibility**

9. The subject site is zoned R3 Medium Density Residential under the provisions of Kogarah Local Environmental Plan 2012 (KLEP 2012). The proposal involves the construction of a residential flat building which is a permissible use in the zone with development consent.

### **Submissions**

10. The DA was publicly notified to neighbours for a period of fourteen (14) days in accordance with the Kogarah Development Control Plan 2013 (KDCP 2013). Two submissions were received raising concerns with the vehicular access point to the basement from Stuart Lane and parking on the street during construction. This is discussed in greater detail in the body of this report. Amended plans were submitted to Council in February 2021. Communal open space is proposed on the roof as part of the amended plans and so re-notification of the plans took place for a further 14 days. One (1) submission was received in round two raising concern with the driveway from Stuart Lane.

**Reason for Referral to the Local Planning Panel**

11. This application is referred to the Georges River Local Planning Panel for determination as the proposal relates to a Residential Flat Building and the provisions of the State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development apply.

**Planning and Design Issues**

12. The proposal is an appropriate response to the site when considered against the Design Quality Principles of State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development. Its bulk and scale is consistent with the desired future character of the area as established by the Kogarah Local Environment Plan 2012 (KLEP) development standards for FSR and height.
13. The proposal exceeds the building height development standard of 15m that applies to the site under Kogarah Local Environment Plan 2012 with the top of the lift overrun encroaching the height limit by a maximum of 4m over the 15m height limit. The applicant has submitted a Clause 4.6 Statement which has been assessed in detail as part of this report and is considered to be well founded and is recommended that the height breach be supported.
14. The proposal is fully compliant with the maximum FSR development standard that applies to the site under Kogarah Local Environment Plan 2012. The proposal is therefore consistent with the desired future building density for the site.

**Conclusion**

15. The application has been assessed having regard to the Matters for Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, the provisions of the relevant State Environmental Planning Policies, Local Environmental Plans and Development Control Plans. The proposal is an appropriate response to the up-zoning of the land in an area that is undergoing a transition to medium density housing including Residential Flat Buildings (RFB). The bulk and scale of the building has satisfactorily been resolved via good articulation, appropriate building setbacks and a mix of materiality and textures. As a result the application is recommended for approval subject to conditions of consent.

**Report in Full****DESCRIPTION OF THE PROPOSAL**

16. The proposal seeks consent for the demolition of all existing structures and the construction of a five (5) storey Residential Flat Building (RFB) containing 42 apartments over two (2) levels of basement car parking for 70 vehicles, landscaping and site works.





**Figure 1: Proposed development**

17. A detailed description of the proposal is as follows:
  - Basement 2 contains 37 parking spaces, including two accessible parking spaces, motorbike parking, residential storage cages, two lift cores and two fire stairs, plus a plant room.
  - Basement 1 contains 33 parking spaces, including 25 residential spaces and 8 visitor spaces, residential storage cages, 19 bicycle spaces, two waste rooms, pump room, switch room, a bulky waste store room, two lift cores and two fire stairs.
  - Ground Floor – 9 apartments (3 x 1B, 5 x 2B and 1 x 3B units), communal open space, vehicular access from Stuart Lane, communal pedestrian access to each building from James Street, and direct pedestrian access to seven of the nine apartments from either Vaughan Street, James Street or Stuart Lane.
  - Levels 1, 2 and 3: 9 apartments (2 x 1B, 6 x 2B and 1 x 3B units).
  - Level 4: 6 apartments (4 x 2B units and 2 x 3B units).
  - Rooftop: communal open space is proposed on the rooftop of each building.
18. The proposal involves the removal of the 16 trees from the site and the retention of two trees on site and one street tree. Landscaping works are proposed as part of the proposal which includes three new trees and a number of new shrubs and other plantings.

## **DESCRIPTION OF THE SITE AND LOCALITY**

19. The development site is located on the northern side of James Street, and between Vaughan Street and Stuart Lane. It consists of four existing allotments known as 2, 4, 6 and 8 James Street, Blakehurst. These sites are legally identified as Lots 17, 18, 19 and 20 in DP 15830.
20. The consolidated site is irregular in shape. It has a total frontage to James Street of 62.43m, 35.35m to Vaughan Street and 38.71m to Stuart Lane, having a total site area of 2,246sqm. The land falls gently from Vaughan Street to Stuart Lane.

21. Presently situated on the site are four dwelling houses with ancillary structures including detached garages, sheds, garden beds and an in-ground swimming pools.
22. Land to the north is zoned R3 Medium Density Residential and an application for a residential flat building was recently refused by the Land and Environment Court.
23. Land on the south-western side of Vaughan Street is zoned R2 Low Density Residential. Land between Stuart Lane and Princes Highway is zoned B2 Local Centre. A newly completed mixed use development is located opposite the site on the corner of James Street and Princes Highway.

#### **State Environmental Planning Policies (SEPPs)**

24. Compliance with the relevant State Environmental Planning Policies is summarised in the following table and discussed in further detail below it.

#### **Compliance with State Planning Policies**

<b>SEPP Title</b>	<b>Complies</b>
Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment	Yes
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Yes
State Environmental Planning Policy No 55 - Remediation of Land	Yes
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017	Yes
State Environmental Planning Policy (Infrastructure) 2007	Yes
State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development	Yes

#### **Deemed State Environmental Planning Policy – Georges River Catchment**

25. All stormwater from the proposed development can be treated in accordance with Council's Water Management Policy and will satisfy the relevant provisions of the Deemed State Environmental Planning Policy – Georges River Catchment subject to conditions.

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

26. A BASIX Certificate has been issued for the proposed development and the commitments required under the certificate have been satisfied. Conditions of consent imposed.

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

27. State Environmental Planning Policies 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.
28. 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.

29. The site has a history of residential uses and as such, site contamination is not suspected. A Preliminary Site Investigation (PSI) was prepared by Trace Environmental dated 26 August 2020 and a “Detailed Site Investigation” was prepared by ei Australia dated 11 September 2020. This DSI indicates that all contaminants reported were below the adopted human health criteria and a Remediation Action Plan is not required.
30. Based on the information provided, a contingency condition has been included in the recommended conditions detailing what is required to take place should unexpected contamination be found during demolition, excavation and construction.

### **State Environmental Planning Policy (Infrastructure) 2007**

31. The aim of the Infrastructure State Environmental Planning Policy is to facilitate the effective delivery of infrastructure across the State. The Infrastructure State Environmental Planning Policies also examines and ensures that the acoustic performance of buildings adjoining the rail corridor or busy arterial roads is acceptable and internal amenity within apartments is reasonable given the impacts of adjoining infrastructure.
32. Clause 102 of the State Environmental Planning Policy, “Impact of road noise or vibration on non-road development”, is relevant to this DA on the basis that the proposal involves the construction of residential accommodation on land that is generally adjacent to the road corridor of Princes Highway (having an annual average daily traffic volume exceeding 20,000 vehicles) and is likely to be adversely affected by road noise or vibration. As a result, the following provisions of Clause 102 of the State Environmental Planning Policy are relevant:
  - (3) *If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:*
    - (a) *in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,*
    - (b) *anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*
33. An Acoustic Report (Traffic and Environmental Noise Assessment) was submitted with the DA, dated 4 August 2020 and prepared by Acoustic Noise and Vibration Solutions P/L. The report addresses the provisions of the Policy with respect to achieving acoustic compliance. Council’s Environmental Health Officer has reviewed the report and provided conditions of consent.
34. The DA was also referred to Ausgrid in accordance with Clause 45 of State Environmental Planning Policy (Infrastructure) 2007. No objection to the proposal was raised by Ausgrid and no conditions recommended.
35. The provisions and requirements of the Infrastructure State Environmental Planning Policy have been addressed and satisfied by the proposal.

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

36. The Vegetation State Environmental Planning Policy aims to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.
37. The Vegetation State Environmental Planning Policy 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).*
38. The Vegetation State Environmental Planning Policy repeals clauses 5.9 and 5.9AA of the Standard Instrument - Principal Local Environmental Plan with regulation of the clearing of vegetation (including native vegetation) below the BOS threshold through any applicable Development Control Plan.
39. The proposal involves the removal of 16 trees from the site and the retention of two trees on the site and one street tree. Council's Consultant Arborist has reviewed the proposed tree removal and raised no objection to approval of the Landscape Plan submitted with the DA, plus the planting of three (3) street trees on Stuart Lane. These new trees will satisfactorily offset the loss of the existing trees with quality native replacement plantings.
40. On this basis, the proposal is consistent with relevant provisions of the Vegetation State Environmental Planning Policy.

**Draft State Environmental Planning Policies****Draft Environment State Environmental Planning Policy**

41. The Draft Environment State Environmental Planning Policy was exhibited from 31 October 2017 to 31 January 2018.
42. This consolidated State Environmental Planning Policy 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 State Environmental Planning Policies:
  - 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.
43. The proposal is not inconsistent with the provisions of this Draft Instrument.

**Draft Remediation of Land State Environmental Planning Policy**

44. The Department of Planning and Environment has announced a Draft Remediation of Land State Environmental Planning Policy, which will repeal and replace the current State Environmental Planning Policy No 55—Remediation of Land.
45. The main changes proposed include the expansion of categories of remediation work which requires development consent, a greater involvement of principal certifying authorities particularly in relation to remediation works that can be carried out without development consent, more comprehensive guidelines for Councils and certifiers and the clarification of the contamination information to be included on Section 149 Planning Certificates.
46. Whilst the proposed State Environmental Planning Policy will retain the key operational framework of State Environmental Planning Policy 55, it will adopt a more modern approach to the management of contaminated land.
47. The site has a history of residential uses and as such, site contamination is not suspected. A Preliminary Site Investigation (PSI) was prepared by Trace Environmental dated 26 August 2020 and a “Detailed Site Investigation” was prepared by ei Australia dated 11 September 2020. This DSI indicates that all contaminants reported were below the adopted human health criteria and a Remediation Action Plan is not required.
48. Based on the information provided, a contingency condition has been included in the recommended conditions detailing what is required to take place should unexpected contamination be found during demolition, excavation and construction.

**Draft Design and Plan State Environmental Planning Policy**

49. The Draft Design and Plan State Environmental Planning Policy will repeal and replace State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development and State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004. The explanation of intended effect of the draft State Environmental Planning Policy was publicly exhibited in February/March 2021. Following submissions of the EIE the draft State Environmental Planning Policy will be on public exhibition in late 2021.

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

50. State Environmental Planning Policy No.65 – Design Quality of Residential Flat Buildings (SEPP 65) was gazetted on 26 July 2002 and applies to the assessment of DAs for RFBs of three or more storeys in height (excluding car parking levels) and containing at least four dwellings. Amendment 3 to State Environmental Planning Policy 65 commenced on 17 July 2015 and implemented various changes including the introduction of the Apartment Design Guide (ADG) to replace the Residential Flat Design Code. Given the nature of the development proposed, State Environmental Planning Policy 65 applies.
51. The proposal involves the erection of a new 5 storey RFB (excluding basement car parking) containing 42 apartments and is therefore affected by the State Environmental Planning Policy.
52. In determining DAs to which State Environmental Planning Policy 65 relates, Clause 28(2) of the State Environmental Planning Policy requires that the consent authority take into consideration:

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

53. The proposal was considered by an external urban design consultant in December 2020. The consultant assessed the merits of the development against each of the nine (9) Design Quality Principles and the provisions of the Apartment Design Guide (ADG). The comments are included and addressed within the table below, along with further comment from Council's Planner.
54. The amended design has responded to the comments raised by the consultant and referral back to the consultant of the amended plans was not considered necessary.
55. In addition to satisfying the Design Quality Principles, the proposal satisfies relevant requirements of the ADG pertaining to design quality and amenity of the apartments. The proposal satisfies the amenity, internal layout and design requirements of the ADG. The Panels comments are summarised and addressed in the table below.

#### Application of State Environmental Planning Policy 65

Clause	Standard	Proposal	Complies
3 - Definitions	Complies with definition of "Residential Apartment Development" (RAD)	Complies with definition	Yes
4 - Application of Policy	Development involves the erection of a new RFB, substantial redevelopment or refurbishment of a RFB or conversion of an existing building into a RFB. The definition of an RFB in the SEPP includes mixed use developments.	The erection of an RFB satisfies the SEPP's definition of this residential land use.	Yes
Design Verification	Design verification statement provided by qualified designer Registered Architect Name and Registration No.	Design Verification Statement provided by Registered Architect: Paul Buljevic (Registration No.7768)	Yes

#### Part 2 Design Quality Principles under the State Environmental Planning Policy

SEPP 65 – Design Quality of Residential Flat Buildings	Urban Design Consultant Comment	Planners comment
<b>Context and Neighbouring Character</b> Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes	<b>Streetscape –</b> <i>The proposed pedestrian access ramp within the landscaped setback zone along James Street appears to be a dominant/non-contributory element to the residential streetscape character. It limits the opportunity for deep soil</i>	The ramps have been deleted from the James Street façade and platform lifts proposed in the amended plans. Additional landscaping is now proposed.

social, economic, health and environmental conditions. Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.

Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.

*planting and further consideration should be given to minimise the extent of the paved ramp areas and accommodate it behind the setback line if possible.*

*The proposed development has a number of fire egresses located within the landscaped front setback zone and close to the private open spaces on the ground level. It does not present a good design outcome. It is recommended to integrate these fire egresses into the main building envelope design and locate them behind the main building alignment. This will assist in mitigating potential visual impact to the streetscape character and the concealment issue as well as the potential amenity impact on the ground level units.*

**Vehicle access and pedestrian entry –**

*The exposed basement driveway (approx. 18-19m in length) is a concern. It will create visual impact on the surrounding context and streetscape character as well as potential noise issues to the neighbouring residential properties. It is recommended to encapsulate it within the main built form design to mitigate its visual prominence and the associated amenity impacts.*

*The proposed residential lobby entries are deeply inset away from the street frontage (approx. 11.5m) and narrow in width (approx. 1.6m wide), which could be a safety concern. In addition, the 2 residential lobby areas from James Street are 0.99 - 1.47m lower than the street level,*

The fire stairs to Vaughan Street have been setback further into the site and landscaping is proposed in the setback to the street.

Stuart Lane is the preferred location of vehicular access for development in the area and is not out of character with the existing development on the eastern side of the lane which fronts Princes Highway. A pergola and planter box have been introduced to somewhat enclose the ramp.

The lobbies have been widened to address this concern.



	<p><i>which will limit a clear sightline and passive surveillance to and from the lobby area.</i></p> <p><i>Further amendments should be considered to increase the visibility and legibility of the residential entry/lobby area from the street.</i></p>	
<p><b>Built Form and Scale</b></p> <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p><b>Building height -</b>  <i>The proposed development has part of the lift overruns exceeding the 15m height limit by up to 1.25m. We understand that the proposal manages to contain the main building envelope within the height limit through reduced floor-to-floor height and lowered ground levels.</i></p> <p><i>The proposed floor to floor height is 3.05m, which may be considered acceptable if it can ensure that the proposed floor to ceiling height achieves a min 2.7m as required by the ADG.</i></p> <p><i>It is noted that the proposed ground levels are lower than the existing street level which results in some subterranean units that may experience overlooking and visual privacy issues from the public domain. Further consideration is recommended to limit the subterranean units if possible.</i></p> <p><i>It appears that the proposed development has balconies encroached into the 3m upper-level setback above the 4th storey. The Development Control Plan setback control requires it to be accommodated behind the setback line.</i></p>	<p>The amended design relocated the communal open space to the rooftop which in turn increased the height of the lift overruns. This issue is addressed in the Local Environmental Plan section of this report and the variation is supported.</p> <p>The applicant has demonstrated the 2.7m ceiling height can be achieved – refer to Drawing 305 in the plan set.</p> <p>The landscaping, fencing and courtyards of the ground level units assist in limiting views from the street into the units.</p> <p>The Level 4 balconies have been setback to align with the building line and comply with the Development Control Plan control.</p>

<p><b>Density</b> Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	No concerns raised.	The proposal complies with the maximum 1.5:1 FSR for the site.
<p><b>Sustainability</b> Good design combines positive environmental, social and economic outcomes.  Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</p>	No concerns raised.	<p>The proposal provides 22% of the site as deep soil area.</p> <p>The proposal is BASIX compliant.</p>
<p><b>Landscape</b> Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape</p>	No concerns raised.	The landscape plan for the development has been reviewed by council's Arborist who supported the scheme. No significant trees are to be removed, two site and one street tree are to be retained, and three new trees are proposed, plus a number of other shrubs and plantings.

<p>and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</p>		
<p><b>Amenity</b></p> <p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well-being.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	<p><b>Communal open space –</b>  <i>DA570 claims that the proposal provides 27.1% of the communal open space on the ground level including the landscaped setback areas to James and Vaughan Streets. However, we question if these areas can be considered as part of the communal open space as they are not usable areas for the residents' outdoor recreational uses. Hence, we consider that the proposed development may not be able to meet the min COS requirement (25%) set by the ADG and additional communal open space will be required either on the ground level or on the rooftop area.</i></p> <p><b>Other issues –</b></p> <ul style="list-style-type: none"> <li><i>Unit B.G05 with its balcony and main outlook orientated towards the open vehicle ramp is a concern. It will receive poor amenity given its location and orientation.</i></li> </ul>	<p>The amended proposal provides communal open space on the rooftop of each building and increases the total area of COS over the site to 30% of the site area.</p> <p>A landscaped planter an awning have been included over the ramp to improve the outlook from this unit.</p>

	<p><i>The bedroom window opens to the pedestrian pathway and doesn't achieve a good design outcome. It may lead to potential overlooking, visual privacy and acoustic issues.</i></p> <ul style="list-style-type: none"> <li><i>Bedroom 2 of Units B105-305 with its main outlook facing a blank wall façade is a concern and should be reconsidered.</i></li> <li><i>Appropriate landscaped buffers are required between the ground level units and the communal open space to prevent potential overlooking and safety issues.</i></li> <li><i>The open corridor design (breezeway) may lead to wet floors outside the lift in wet weather which could be a safety issue and is recommended to be reconsidered.</i></li> <li><i>Wherever possible, it is recommended to orient the main balcony outlook towards the streets to provide desired passive surveillance to the public domain.</i></li> </ul>	<p>The distance to the balcony wall has been increased to provide additional visual relief.</p> <p>Suitable landscaping has been provided between private and communal open space on the ground floor.</p> <p>Increased planter landscaping has been proposed to reduce infiltration of rain.</p> <p>The majority of balconies overlook James Street, Stuart Lane or Vaughan Street.</p>
<p><b>Safety</b> Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety. A positive relationship between public and private spaces is achieved through</p>	No concerns raised.	There are no concerns raised with the design in terms of safety.

clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.		
<b>Housing Diversity and Social Interaction</b> Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.  Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.  Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.	No concerns raised.	The proposal provides a suitable mix of 1, 2 and 3 bedroom apartments and communal open space areas.
<b>Aesthetics</b> Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.  The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.	No concerns raised.	The built form of the proposal is well considered and will contribute positively to the street and context of the site.

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56. The amended plans have addressed the urban design comments and the development is considered to be a suitable and acceptable design response for the site.

57. Clause 28 of State Environmental Planning Policy 65 requires the consent authority to take into consideration the provisions of the Apartment Design Guide. The table below assesses the proposal against these provisions.

### Part 3 and Part 4 – Compliance with the ADG

Clause	Standard	Proposal	Complies
3D - Communal open space	1. Communal open space has a minimum area equal to 25% of the site. Minimum 561.5sqm	The calculations indicate the total area of communal open space (ground level) amounts to 688sqm (30% of the site).	Yes
	2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)	Well over 50% of the area of communal open space will achieve in excess of 2 hours of solar access during midwinter as it is located on the northern side of the building at ground level and on the rooftop of each building.	Yes
3E – Deep Soil zones	1. Deep soil zones are to meet the following minimum requirements: Min deep soil area of 7% (157.22sqm)	Deep Soil Zone (DSZ) calculation = 507qm (22%)	Yes
	Minimum dimension of 6m	337qm (15%)	Yes
3F- Visual Privacy	Separation between windows and balconies is provided to ensure visual privacy is achieved.	To northern site boundary:  G to L3: Min. 8m to balcony edge/living room window	Yes
	Minimum required separation distances from buildings to the side and rear boundaries are as follows:  <u>Up to 12m (4 storeys)</u> Habitable - 6m Non-habitable – 3m  <u>Up to 25m (5-8 storeys)</u> Habitable – 9m Non-habitable – 4.5m	L4: Min. Min. 9m	Yes

3G – Pedestrian Access and entries	<p>Building entries and pedestrian access connects to and addresses the public domain.</p> <p>Multiple entries (including communal building entries and individual ground floor entries) should be provided to activate the street edge</p>	<p>The building entries are clearly identifiable from James Street.</p> <p>Separate front entries to all ground floor apartments from James St, Vaughan St or Stuart Lane.</p>	<p>Yes</p> <p>Yes</p>
3H-Vehicle Access	<p>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes</p>	<p>The dual driveway access to the basement has been provided off Stuart Lane.</p> <p>The size and location of the driveway is considered satisfactory and no conflicts are anticipated with adjoining development.</p>	<p>Yes</p>
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; or</li> <li>- On land zoned and sites within 400m of land zoned B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre</li> </ul> <p>The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p>	<p>The subject site is not within an “accessible location, pursuant to the ADG and as such compliance with the parking provisions of Part B4 of the Kogarah Development Control Plan 2013 (KDCP) are applicable in this assessment. See below.</p>	<p>N/A</p>



B4 Parking and Traffic Controls of Kogarah Development Control Plan 2013	<u>Residential parking:</u> 9 x 1 bedroom units @ 1 space per unit = <b>9 spaces</b> required  27 x 2 bedroom units @ 1.5 spaces per unit = <b>40.5 spaces</b> required.  6 x 3 bedroom units @ 2 spaces per unit = <b>12 spaces</b> required  Total required resident parking = <b>62 spaces</b>	62 resident spaces are proposed. 5 of which are accessible.	Yes
	<u>Visitor parking:</u> 42 total units @ 1 space per 5 units = <b>8.4 spaces</b> required	8 visitor spaces are provided with one space doubling up as a car wash bay.	Yes
	<u>Car wash bay:</u> 1 bay, which can also function as a visitor space	1 car wash bay is provided which doubles as a visitor space, nominated as space V1.	Yes
	<u>Bicycle Parking:</u> 1 space per 3 dwellings = 14  1 space per 10 dwellings for visitors = 4.2 spaces  Total = 18.2 spaces required	19 residential bicycle parking spaces are provided in Basement No 1.	Yes
4A- Solar and daylight access	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter in the Sydney Metropolitan Area.  A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm in midwinter	73% (31 apartments) achieve a minimum of 2 hours sunlight in midwinter.  9.5% (4 apartments) receive no sunlight due to their location on the southern side of the building.	Yes  Yes

4B- Natural Ventilation	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.	86% (36 apartments) are cross ventilated.	Yes
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line	The development has been designed to comply with the ADG in that the depth of cross over apartments does not exceed 18m and the design has sensitively considered the location.	Yes
	The building should include dual aspect apartments, cross through apartments and corner apartments and limit apartment depths	The development provides dual aspect apartments, cross through and corner apartments.	Yes
4C-Ceiling Heights	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <p>Habitable rooms = 2.7m</p> <p>Non-habitable rooms = 2.4m</p>	The floor to floor heights at each level are min. 3m in order to cater for slabs, servicing and ducting, however, floor to ceiling heights of 2.7m can be achieved at each level.	Yes
4D-1 Apartment size and layout	<p>Apartments are required to have the following minimum internal areas:</p> <p>1 bedroom = 50sqm 2 bedroom = 70sqm 3 bedroom = 90sqm</p>	<p>The internal floor areas of each apartment satisfy the requirements of the ADG.</p> <p>1 bedroom = Min. 50sqm 2 bedroom = Min. 75sqm 3 bedroom = Min. 95sqm</p>	Yes
	The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each	Calculated accordingly.	Yes
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms	Given that the building satisfies the minimum separation distance required window openings are generous and standard sizes which are greater than 10% of the floor area of the room.	Yes

4D-2 Apartment size and layout	Habitable room depths are limited to a maximum of 2.5 x the ceiling height	Within prescribed range.	Yes
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	Within prescribed range.	Yes
	Master bedrooms have a minimum area of 10sqm and other bedrooms 9sqm (excluding wardrobe space)	All master bedrooms have internal areas with a minimum of 10sqm.	Yes
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	A minimum dimension of 3m is achieved.	Yes
	Living rooms or combined living/dining rooms have a minimum width of: -3.6m for studio and 1 bedroom - 4m for 2 and 3 bedroom apartments	Living spaces have a minimum width of 4m.	Yes
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	The minimum width of 4m has been achieved.	Yes
4E- Private Open space and balconies	All apartments are required to have primary balconies as follows: - 1 bedroom = 8sqm/2m depth	1 bedroom apartments have minimum areas for their balconies of 8sqm depth criterion met.	Yes
	- 2 bedroom = 10sqm/2m depth	2 bedroom apartments have minimum balcony areas of 10sqm depth criterion met.	Yes
	- 3+ bedroom =	3 bedroom apartments have	Yes

	<p>12sqm/2.4m</p> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p> <p>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15sqm and a minimum depth of 3m</p>	<p>minimum balcony areas of 12sqm depth criterion met.</p> <p>All balconies exceed 1m in the area calculated.</p> <p>Ground floor apartments comply with minimum area and dimensions.</p>	<p>Yes</p> <p>Yes</p>
4F- Common circulation areas	The maximum number of apartments off a circulation core on a single level is eight	Two (2) lifts service each floor as the floor plates are split. The maximum number of apartments serviced by one lift is five (5).	Yes
4G- Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <p>1 bedroom = 6m<sup>3</sup> 2 bedroom – 8m<sup>3</sup> 3 bedroom – 10m<sup>3</sup></p> <p>At least 50% of storage is to be located within the apartment.</p>	<p>The basement has been designed to provide for individual storage spaces for apartments. Every apartment includes additional storage areas above the provision of wardrobes in bedrooms.</p> <p>1 bedroom = Minimum 6m<sup>3</sup> 2 bedroom = Minimum 8m<sup>3</sup> 3 bedroom = Minimum 10m<sup>3</sup></p>	Yes - Storage areas are indicated on the floor plans for each apartment which are at least 50% of the total storage provided.
4H- Acoustic Privacy	<p>Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses. Window and door openings are generally orientated away from noise sources</p> <p>Noisy areas within buildings including building entries and corridors should be located next to or above</p>	<p>Adequate separation is provided to neighbouring sites.</p> <p>Achieved</p>	<p>Yes</p> <p>Yes</p>

	<p>each other and quieter areas next to or above quieter areas</p> <p>Storage, circulation areas and non-habitable rooms should be located to buffer noise from external sources</p>	Generally acceptable	Yes
4J – Noise and Pollution	<p>To minimise impacts the following design solutions may be used:</p> <ul style="list-style-type: none"> <li>• physical separation between buildings and the noise or pollution source</li> <li>• residential uses are located perpendicular to the noise source and where possible buffered by other uses</li> <li>• buildings should respond to both solar access and noise. Where solar access is away from the noise source, non-habitable rooms can provide a buffer</li> <li>• landscape design reduces the perception of noise and acts as a filter for air pollution generated by traffic and industry</li> </ul>	The design solutions within the ADG which seeks to minimise noise and acoustic impacts have been considered through the design and layout of apartments.	Yes
4K – Apartment Mix	<p>A range of apartment types and sizes is provided to cater for different household types now and into the future.</p> <p>The apartment mix is distributed to suitable locations within the building</p>	<p>The development offers a mix of 1, 2, and 3 bedroom apartments in the following manner:</p> <p>9 x 1 bedroom apartments = 21.4%</p> <p>27 x 2 bedroom apartments = 64.3%</p> <p>6 x 3 bedroom apartments = 14.3%</p>	Yes
4L – Ground Floor Apartments	Street frontage activity is maximised where ground floor apartments are located.	All ground floor apartments directly address the street and have been designed to provide casual surveillance of the street and privacy for residents.	Yes

	Design of ground floor apartments delivers amenity and safety for residents.		
4M - Facades	<p>Facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale.</p>	<p>The facades of the building are well resolved with an appropriate level of articulation including to the street. The proposal adequately addresses Objective 4M-1 of the ADG, which states <i>“Building Facades provide visual interest along the street while respecting the character of the local area.”</i> There is an appropriate degree of expression of vertical scale and modulation within the facades to respect and respond to the existing and future desired streetscape character.</p>	Yes
4N – roof design	<p>Roof treatments are integrated into the building design and positively respond to the street.</p> <p>Opportunities to use roof space for residential accommodation and open space are maximised. Incorporates sustainability features.</p>	<p>The roof design is a standard flat roof form which is consistent with the general character and form of the building.</p> <p>Communal open space has been located on the ground floor with a northern aspect and provides separation to the neighbouring property.</p>	Yes
4O – Landscape Design	<p>Landscape design is viable and sustainable, contributes to the streetscape and amenity</p>	<p>The concept is considered to be well designed with an integrated landscape plan which will improve landscaping across the site and will improve the visual appearance of the development and general nature of the streetscapes that the development adjoins.</p>	Yes
4P- Planting on Structures	<p>Planting on structures – appropriate soil profiles are provided, plant growth is optimised with appropriate selection and maintenance, contributes to the quality</p>	<p>The design includes a series of planter boxes on structures at the upper levels on all facades. This will enhance the elevations by introducing green walls to the built form.</p>	Yes

	and amenity of communal and public open spaces		
4Q – Universal Design	Universal design – design of apartments allow for flexible housing, adaptable designs, accommodate a range of lifestyle needs	Satisfactory – the design offers a wide variety of apartment styles and forms many of which can be integrated and amalgamated in the future where necessary. 5 adaptable apartments are proposed.	Yes
4R – Adaptive reuse	Adaptive reuse as apartment of existing buildings - new additions are contemporary and complementary, provide residential amenity while not precluding future adaptive reuse.	Not applicable	NA
4U – Energy Efficiency	Development incorporates passive environmental design, passive solar design to optimise heat storage in winter and reduce heat transfer in summer, natural ventilation minimises need for mechanical ventilation	A compliant BASIX Certificate accompanies the application.	Yes
4V – Water management and conservation	Water management and conservation – potable water use is minimised, stormwater is treated on site before being discharged, flood management systems are integrated into the site design	The stormwater and drainage design is considered to be satisfactory and compliant subject to conditions.	Yes
4W – Waste Management	Waste management – storage facilities are appropriately designed, domestic waste is minimised by convenient source separation and recycling	The waste management arrangement is satisfactory. The design relies on two (2) separate garbage areas within the basement. The Waste Management Plan outlines the disposal of waste during construction and for when the development is occupied. Waste bins will be taken out onto James Street for collection.	Yes

4X – Building Maintenance	Building design provides protection from weathering Enables ease of maintenance, material selection reduces ongoing maintenance cost	Suitable materials have been selected for the building finishes.	Yes
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### **Environmental Planning Instruments**

#### **Kogarah Local Environmental Plan 2012 (KLEP 2012)**

#### **Zoning**

58. The subject site is zoned Zone R3 Medium Density Residential under the provisions of the Kogarah Local Environmental Plan 2012 (KLEP2012). Refer to zoning map below. The proposed development is defined as a Residential Flat Building which is a permissible land use in the zone.



**Figure 2:** Zoning map the site is outlined in red

59. The objectives of the zone are as follows:
- *To provide for the housing needs of the community within a medium density residential environment.*
  - *To provide a variety of housing types within a medium density residential environment.*
  - *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
60. The proposal satisfies the objectives of the R3 Zone as it will provide for a variety of residential apartments in a medium density residential environment.
61. The extent to which the proposal complies with the relevant standards of Kogarah Local Environmental Plan 2012 (KLEP2012) is outlined in Table 5 below.



**Kogarah Local Environmental Plan 2012 Compliance Table**

<b>Clause</b>	<b>Standard</b>	<b>Proposed</b>	<b>Complies</b>
2.2 Zone	R3 Medium Density Residential	The proposal is defined as a Residential Flat Building (RFB) which is a permissible use within the zone.	Yes
2.3 Objectives	Objectives of the Zone	Consistent with zone objectives.	Yes
4.1A Minimum lot sizes for Residential Flat Buildings	Clause 4.1A requires a minimum site area of 1,000sqm for the purpose of RFB's in the R3 zone	The total site area is 2,246sqm.	Yes
4.3 – Height of Buildings	15m as identified on Height of Buildings Map	The building exceeds the 15m height limit. The encroachment includes only the lift overrun and rooftop communal open space which reaches a maximum height of 19.1m.  A Clause 4.6 Statement has been submitted and is addressed in detail later in this report.	No
4.4 – Floor Space Ratio	1.5:1 as identified on Floor Space Ratio Map	1.5:1	Yes
4.5 – Calculation of floor space ratio and site area	FSR and site area calculated in accordance with Cl.4.5	The GFA has been calculated correctly.	Yes
4.6 – Exceptions to Development Standards	The objectives of this clause are as follows: - <i>to provide an appropriate degree of flexibility in applying certain development standards to particular development,</i> - <i>to achieve better outcomes for and from development by allowing flexibility in particular circumstances.</i>	The proposal exceeds the height control pursuant to Clause 4.3 of the Kogarah Local Environmental Plan and therefore a Clause 4.6 Statement was submitted to justify the non-compliance with the control.	No - A Clause 4.6 Statement has been submitted for the height variation. See the assessment below.

6.1 Acid Sulphate Soils (ASS)	The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage	The site is Class 5 Acid Sulfate Soils under Kogarah Local Environmental Plan 2012.  The excavation is unlikely to disturb acid sulfate soils in this location.	Yes
6.2 Earthworks	To ensure that earthworks do not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land	The proposed development includes excavation and associated earthworks to accommodate two (2) levels of basement car parking.	Yes subject to conditions.

### Exception to Development Standards

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

62. The objectives of Clause 4.6 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.*
63. The proposed development seeks a variation to the development standard relating to height (Clause 4.3). The Kogarah Local Environmental Plan 2012 (KLEP) identifies a maximum height of 15m for the site (refer to Figure 3 below) and the proposed development will exceed the height by 4m which comprises the lift overrun and communal open space (Figure 4 and 5). This amounts to a 26% variation to the control. This extent of non-compliance occurs at the lift overruns centrally located within the buildings and the communal open space on each rooftop. The remainder of the building is below the 15m height limit.
64. Any variation to a statutory control can only be considered under Clause 4.6 – Exceptions to Development Standards of the Kogarah Local Environmental Plan. An assessment of the proposed height against the survey plan levels was conducted to indicate the Applicant's calculations are generally accurate.

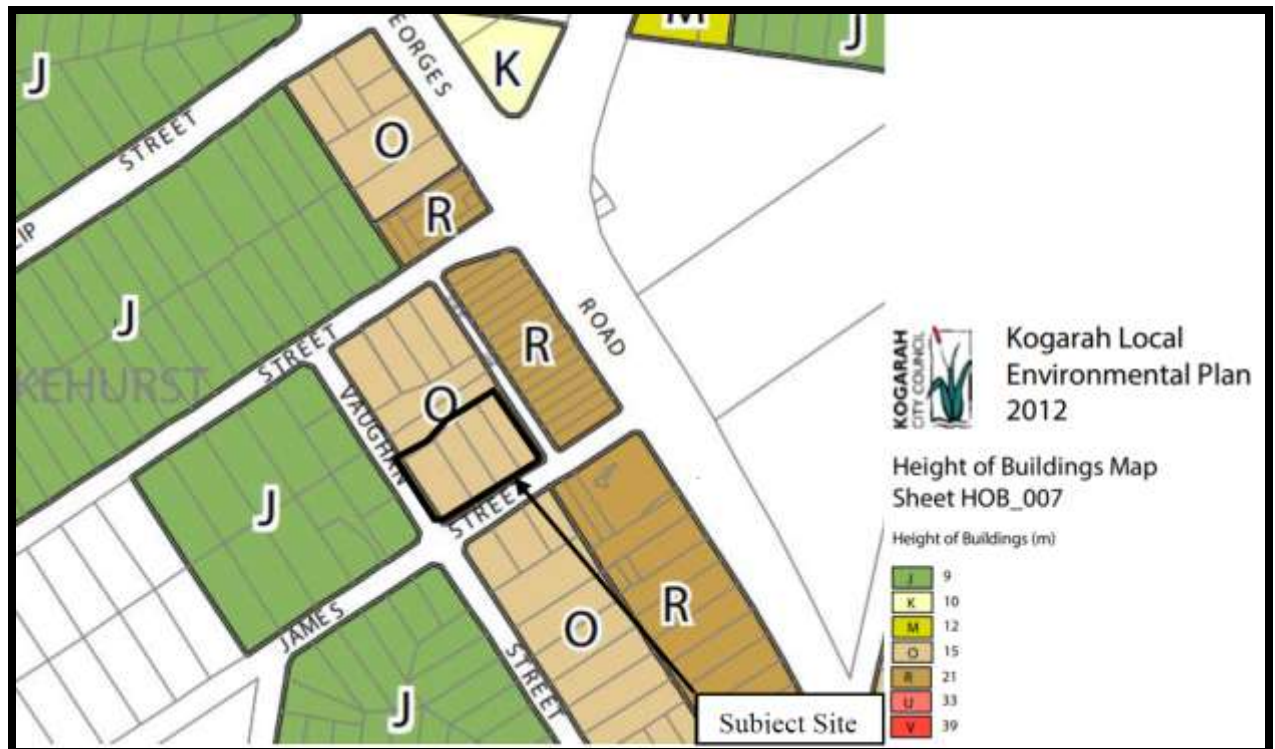


Figure 3: Height of buildings map the site is outlined in blue

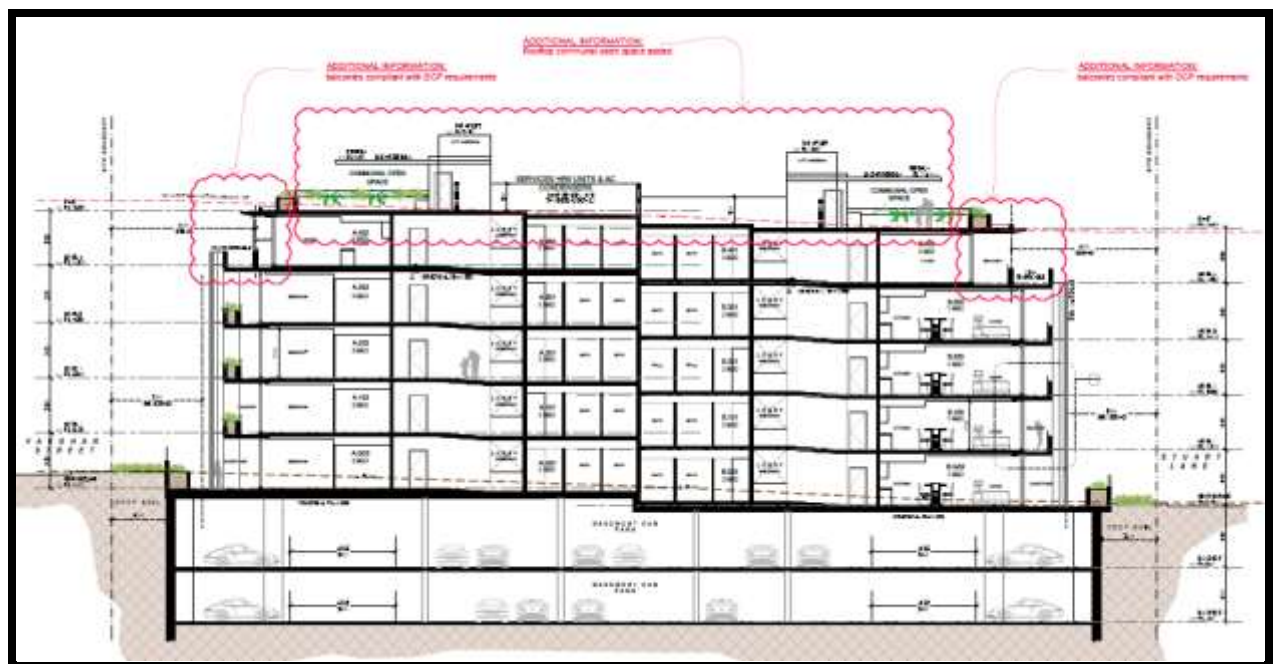
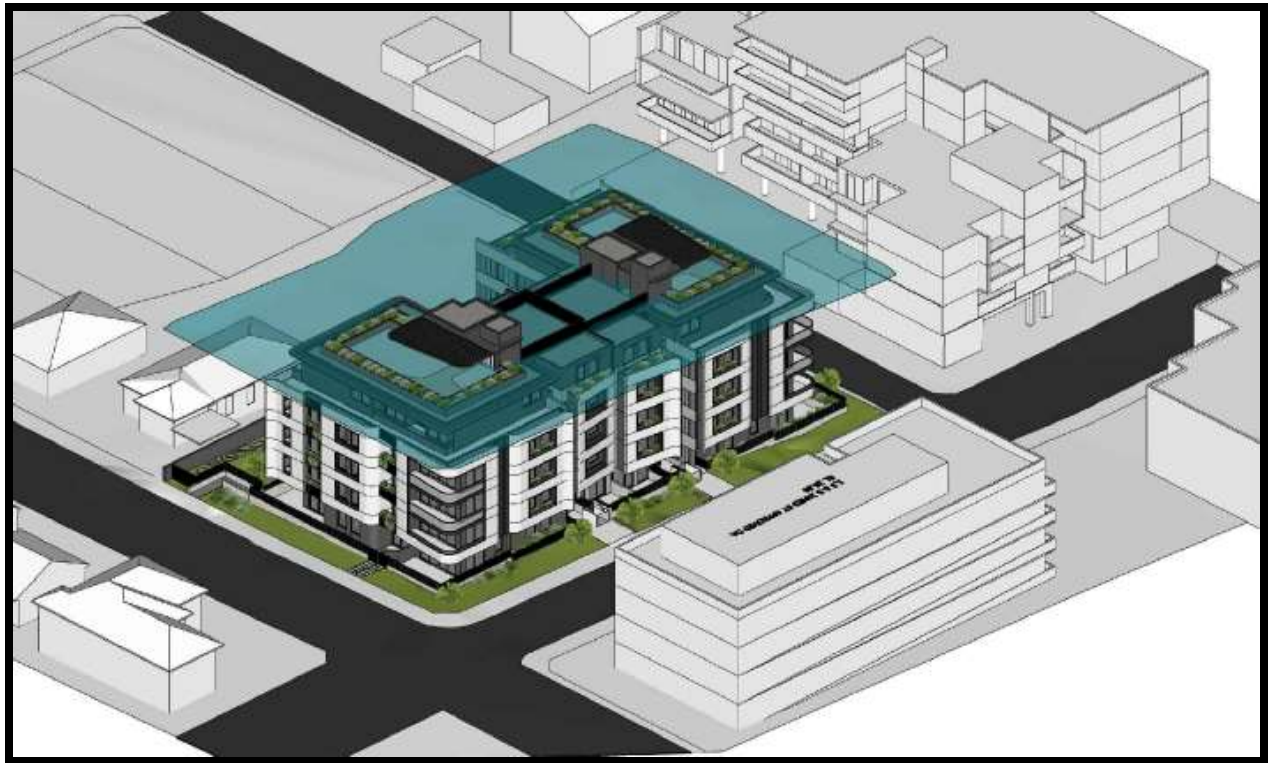


Figure 4: Section showing height non-compliance



**Figure 5:** Height blanket diagram

65. Clause 4.6(3) states that:  
*“Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - *that there are sufficient environmental planning grounds to justify contravening the development standard”*
66. To support the non-compliance, the applicant has provided a request for a variation to Clause 4.3 in accordance with Clause 4.6 of Kogarah Local Environmental Plan. The Clause 4.6 request for variation is assessed as follows.

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

67. Height of Buildings control under Clause 4.3 of the Kogarah Local Environmental Plan 2012 is a development standard. The maximum permissible height is 15m.

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

68. The objectives of Height of Buildings standard under Clause 4.3 of Kogarah Local Environmental Plan 2012 are:
- (a) *to establish the maximum height for buildings,*
  - (b) *to minimise the impact of overshadowing, visual impact and loss of privacy on adjoining properties and open space areas,*
  - (c) *to provide appropriate scale and intensity of development through height controls.*

***Compliance is unreasonable or unnecessary in the circumstances of the case (clause 4.6(3)(a))***

69. There have been several Court cases that have established provisions to assist in the assessment of Clause 4.6 statements to ensure they are well founded and address the provisions of Clause 4.6. In *Wehbe V Pittwater Council* (2007) NSW LEC 827 Preston CJ set out ways of establishing that compliance with a development standard is unreasonable or unnecessary.
70. Preston CJ in the judgement then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy, as follows (with emphasis placed on number 1 for the purposes of this Clause 4.6 variation:
1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;
  2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
  3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
  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;
  5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.
71. The Clause 4.6 Statement was prepared in consideration of the recent court cases and their judgements.
72. Applicants comment:
73. Section of the submitted 4.6 are reproduced on the following pages. The complete submission and supporting diagrams have also been provided to Panel separately.

**5. Is Compliance with the Development Standard Unreasonable or Unnecessary in the Circumstances of the Case?**

The proposed variation from the development standard is assessed against the required tests in Clause 4.6. In addition, in addressing the requirements of Clause 4.6(3), the accepted five possible approaches for determining whether compliances are unnecessary or unreasonable established by the NSW Land and Environment Court in *Wehbe vs Pittwater Council* (2007) LEC 827 are considered.



In the matter of Four2Five, the Commissioner stated within the judgement the following, in reference to a variation:

*"...the case law developed in relation to the application of SEPP 1 may be of assistance in applying Clause 4.6. While Wehbe concerned an objection under SEPP 1, in my view the analysis is equally applicable to a variation under Clause 4.6 where Clause 4.6 (3)(a) uses the same language as Clause 6 of SEPP 1."*

In the decision of *Wehbe vs Pittwater Council (2007) LEC 827*, Preston CJ summarised the five (5) different ways in which an objection under SEPP 1 has been well founded and that approval of the objection may be consistent with the aims of the policy. The five possible ways are as set out below:

<b>First</b>	<i>The most commonly invoked way is to establish that compliance with the development standards is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.</i>  <i>The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. If the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary and unreasonable.</i>
<b>Second</b>	<i>A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary. (not applicable)</i>
<b>Third</b>	<i>A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable. (not applicable)</i>
<b>Fourth</b>	<i>A fourth way is to establish that 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. (not applicable)</i>
<b>Fifth</b>	<i>A fifth way is to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary. (not applicable)</i>

In respect of the building height standard, the first method is invoked.

The objectives supporting the maximum building height control identified in Clause 4.3 are discussed below. Consistency with the objectives and the absence of any environmental impacts would demonstrate that strict compliance with the standards would be both unreasonable and unnecessary in this instance.

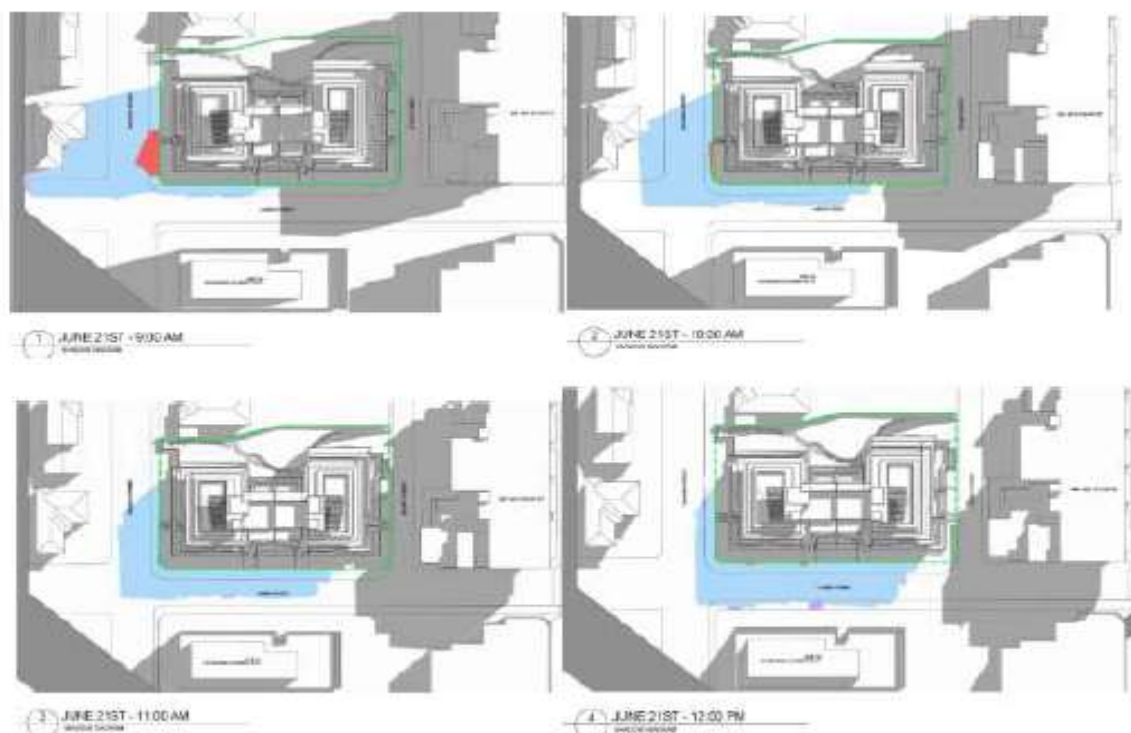
The discussion provided below demonstrates how the proposal is consistent with the objectives of Clause 4.3.

*"(1) The objectives of this clause are as follows:  
(a) to establish the maximum height of buildings,*

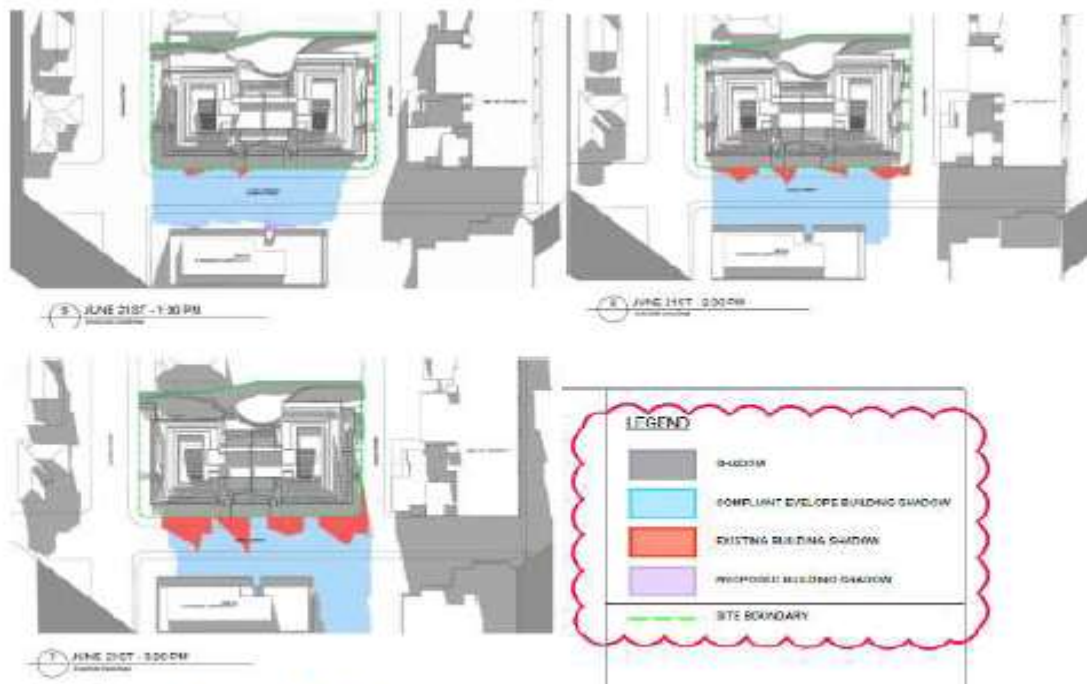
- (b) to minimise the impact of overshadowing, visual impact and loss of privacy on adjoining properties and open space areas,
- (c) to provide appropriate scale and intensity of development through height controls."

With respect to objective (a), the subject site is prescribed a maximum height of buildings of 15m. All habitable gross floor area has been located below this maximum height. Rather, the sole area of gross floor area exceeding the building height is an ambulant toilet servicing the Lift A communal open space. While elements do encroach over the building height standard, the habitable floor has been contained within the desired maximum height. Therefore, the proposed development has responded to the height of buildings standard and is generally compliant.

On objective (b), the proposal achieves the objective in that the variation does not have a notable impact of overshadowing, visual impact and or privacy to adjoining properties or open space areas. Refer to Figures 7 below which is an extract of an overshadowing analysis of the existing overshadowing, a compliant with height development with height and the proposed development overshadowing including height variations.







**Figure 7 – Shadow Analysis Extract**

The site is located at the southern end of its block. As the analysis demonstrates, the additional overshadowing impact created by the height of buildings variation falls only on the street until 1pm where it hits the front setback of the approved but not yet constructed residential flat building at 1-5 James Street to the south. From 1:30pm, the lift overruns begin to cast a shadow on some of the windows, and at 2pm and 3pm there is an impact to the windows of the ground floor and first floor as demonstrated in the sun-eye diagrams (Drawing Nos. 602-603). However, all windows receive 3 hours at a minimum solar access from 10am to 1pm, greatly exceeding the 2 hour minimum requirements in the ADG and at the minimum achieving the 3 hours required in the Kogarah DCP. The level of impact by the elements encroaching into height control is therefore minimal.

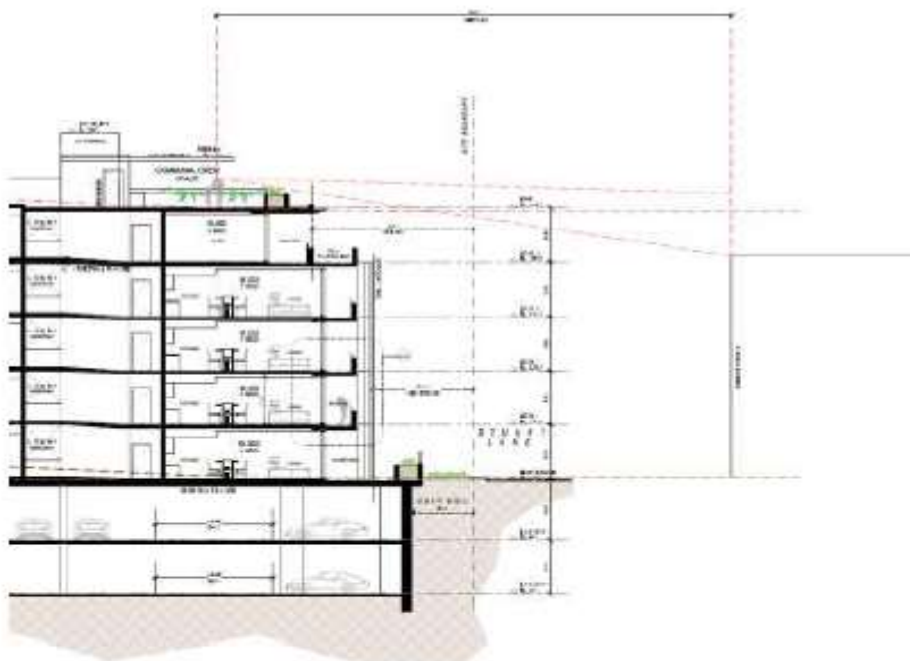
In terms of the visual impact, the variations are centred on their respectively roofs areas. The main elements contributing to the height variation are the lift overruns and pergolas, neither of which will be substantially visible from the public domain except from distant views. It is not deemed that the encroachments have generated any notable visual impacts.

In terms of privacy and sightlines from the communal open space, the trafficable elements over the height standard, refer to the section extracts below in Figures 8 and 9. The communal open spaces are sited centrally over the roofs, away from the perimeter of the roof slab. Further, the communal open spaces are provided with landscape planter boxes around the perimeter of the trafficable area to restrict sightlines. The sightlines available from the communal open spaces are over the existing dwellings along Vaughan Street (Figure 8) and to the roof slab of the adjoining four storey component of the mixed use building over Stuart Lane (Figure 9). The separation distances both exceed 25m, well over ADG separation. No privacy impacts are deemed to be created by the provision of areas above the height standard. Objective (b) is therefore achieved.





**Figure 8 – Section with Sightline Diagram Extract 1**



**Figure 9 – Section with Sightline Diagram Extract 2**

Regarding objective (c), the scale and intensity of development has been managed within the proposal through the height control, but also through the FSR development standard to which the proposal is compliant. While minor setback encroachments are proposed (400mm to the rear for two balconies and on Level 4 that utilise some the roof slab of the levels below for private open space), the bulk and scale of the development is within the parameters

established by the ADG and DCP controls. A suitable balance of built form, deep soil and general landscaping is proposed.

Further, an appropriate transition is occurring from the property to the east along Princes Highway in a higher height limit zone to the site and to the property to the west which is in a lower density zone. The height controls inherently achieve this and the variations to the roof slab and lift overruns do not overwhelm the streetscape or interfere with the transition in building height occurring. Consequently, it is considered that the development is of an appropriate scale and intensity and it has satisfied the objective.

The draft Georges River Local Environmental Plan 2020 will alter the objectives to Clause 4.3 Height of Buildings. These new objectives, as of the most recent draft at time of writing, are:

- “(a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,*
- (b) to minimise the impact of overshadowing, visual impact, disruption of views and loss of privacy on adjoining properties and open space areas,*
- (c) to ensure that developments provide appropriate height transition to adjoining land use zones,*
- (d) to ensure that developments provide appropriate height transition to items and areas of heritage significance.”*

In response, the following comments are made.

For objective (a), the development application has demonstrated that the bulk and scale as defined by the height of buildings, floor space ratio and setbacks is consistent with the existing and desired future character of the locality.

Objective (b) is fundamentally the same as objective (b) in the KLEP12 except for the inclusion of disruption of views. The proposal does not disrupt any view corridors.

Objective (c) is fundamentally the same as objective (c) in the KLEP12, except for the reference to adjoining land uses. The site occupies the full width of the current R3 Medium Density Residential and future R4 High Density Residential zone block sandwiched by a B4 Mixed Use zone to the east and R2 Low Density Residential zone to the west. Despite the height variation proposed, the height standards have created a transition from the high density development adjoining Princes Highway in the east and the lower density residential zones to the west. The encroachments into the height add minimal additional bulk and scale to the built form which does not impact on this inherent transition provided by the height standards.

Lastly, objective (d) refers to heritage items and conservation areas. The site is not an item, proximate to any items, nor is it within a heritage conservation area. The objective is not relevant.

The development consequently aligns with the existing height of building objectives and those in the draft LEP.

It is considered that this submission provides sufficient environmental planning grounds to justify contravening the standard.

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

74. Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, it is considered that there is an absence of any negative impacts of the proposed non-compliance on the environmental quality of the locality and amenity of adjoining properties in terms of overshadowing, overlooking or view loss.

75. Applicants Comment:

## 6. Are there Sufficient Environmental Planning Grounds?

The assessment above demonstrates that the resultant environmental impacts of the proposal will be satisfactory.

As required by Clause 4.6 (3)(b), it must be demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard.

The aspects of the development that contravenes the building height are the lift overrun, fire stairs, ambulant toilet lightweight pergola, the rooftop communal open space planters and part of the roof slab. The lift overruns are the source of the greatest variation but are centrally located over their portion of the roof.

The proposal addresses the site constraints, streetscape and relevant objectives of both the standards and the zone. The proposal will not result in any unreasonable amenity or environmental impacts.

We respectfully submit that the proposal will result in a better planning outcome as the proposal seeks to provide a new residential flat building development in an area zoned to

permit such development that achieves an excellent level of amenity to the development itself without compromising that of adjoining properties. It is noted that the amenity of the site, its surrounds and solar access patterns are not negatively impacted by the height breach, nor do any privacy impacts arise.

The provision of the rooftop communal open space is a net positive outcome for the residents of the development and their guests, as the space ensures ongoing ample solar access to a communal recreation area and heightened amenity through the options and flexibility the ground and rooftop spaces provide. The provision of a pergola encroaching in the height limits in both cores provides shading to ensure viable year round usage. The lift overrun and fire stairs ensures ease of access to the spaces.

The proposal has ensured all habitable floor area are provided within the maximum building height despite the breach to the standard. The proposed variation is only sought to allow for the proposed rooftop communal open space and associated privacy, safety and amenity measures (i.e. pergola for shading, landscape planter box perimeter and accessible access and toilet).

Due to the relatively central location of the lift overruns, fire stairs and pergolas, the breach will not result in any notable amenity impacts on adjoining or adjacent development as they have been set in from the edges of the building envelope. This minimises the visibility of the breach, as well as visual and acoustic impacts and overshadowing.

In this case, strict compliance with the development standard for height of buildings development standard of the KLEP12 is unnecessary and unreasonable.

***Clause 4.6(4)(a)(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***



76. Clause 4.6(4) states that:

*“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*
- (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,”*

77. Applicants Comment:

#### **7. Is the Variation in the Public Interest?**

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Clause 4.6 states that the development consent must not be granted for development that contravenes a development standard unless 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 to be carried out.

It is considered that this submission provides sufficient environmental planning grounds to justify contravening the development standard under Part 4.

The development as proposed will be in the public interest as it is consistent with the objectives of Clause 4.3.

The building contextually has regard to its surrounding properties and provides an excellent balance of built form and landscaping to mitigate the increasing density on the site.

Furthermore, it is important to also consider the objectives of the R3 Medium Density Residential zone in relation to the development, which are as follows:

#### ***R3 Medium Density Residential – Objectives of zone***

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*

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

The following comments are made with regard to the objectives:

- The proposal will provide for new residential accommodation of a medium density capacity within a medium density environment. The breach to the height limit of parts of the roof slab, rooftop planters, pergolas, ambulant toilet, fire stairs and the lift overruns does not alter the development from the appropriate density level, with all habitable floor area contained below the height limit.
- The proposal seeks a diverse mix of unit types within the residential flat building, including one, two and three bedroom units, with both one and three bedroom units designed as adaptable units. The residential flat building use is consistent with the permissibility of the zone and contributes to a variety of housing within the zone and broader Blakehurst area.
- There are no other land uses proposed as part of this development.

None of the listed objectives directly relate to the height control. Notwithstanding this, the variation does not inhibit or compromise consistency with the objectives of the zone.

Given the above comments, the proposal and the proposed height meets the objectives of the zone.

It is noted the site has been identified in the draft Georges River Local Environmental Plan 2020 as being rezoned to R4 High Density Residential. While no change to the height of buildings or FSR standards are indicated, the development remains compatible with the zone objectives once rezoned to High Density Residential, in that the development remains compatible with its desired future character and surrounding environment.

It is considered that this submission provides sufficient environmental planning grounds to justify contravening the development standards, noting the development will be in the public interest.

#### **8. Public Benefit of Maintaining the Standard**

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It is considered that there is no benefit to the public or the community in maintaining the development standard. The proposed development will allow for the creation of a high quality residential flat building development which as stated above meets the desired objectives of the standard.

Given the site's orientation, location and context, it is considered that the site is well suited for the development. The site is located within an area of redevelopment with recent residential flat buildings approved within the immediate vicinity of the site.

The proposal provides for additional residential accommodation at a scale envisioned by the relevant planning instruments, notwithstanding the provision of rooftop communal open space and relevant amenities, including shading, safety, a bathroom and access from fire stairs and lift overruns. The development is generally consistent with the current planning controls.

Further, the development has been designed with an appropriate balance of built form and landscaped area and will be a positive example of redevelopment in the street.

It is not considered that the variation sought raises any matter of significance for State or regional environmental planning.

The departure from the height of buildings control within the KLEP12 allows for the orderly and economic use of the site in a manner which achieves the outcomes and objectives of the relevant planning controls.

#### 9. Is the Variation Well Founded?

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It is considered that this has been adequately addressed in Parts 4 and 5 of this submission. In summary, this Clause 4.6 Variation is well founded as required by Clause 4.6 of the KLEP12 in that:

- ❑ Compliance with the development standards would be unreasonable and unnecessary in the circumstances of the development;
- ❑ There are sufficient environmental planning grounds to justify the departure from the standards;
- ❑ The development meets the objectives of the standard to be varied (height of buildings) and objectives of the R3 Medium Density Residential zoning of the land;
- ❑ The proposed development is in the public interest and there is no public benefit in maintaining the standard;
- ❑ The breach does not raise any matter of State or Regional Significance.

Based on the above, the variation is considered to be well founded.

#### 10. General

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Clause 4.6 also states that:

*“(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:*

- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

**Note.** When this Plan was made it did not include Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation or Zone E3 Environmental Management.

- (7) *After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).*
- (8) *This clause does not allow development consent to be granted for development that would contravene any of the following:*
- (a) *a development standard for complying development,*
  - (b) *a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
  - (c) *clause 5.4."*

This variation does not relate to the subdivision of land. The variation sought is thus not contrary to subclause (6).

Should the exception to the development standard sought under this submission be supported by Council, the Council must retain a record of the assessment of this submission.

The development proposed is not complying development.

A BASIX certificate was provided for the development.

Clause 5.4 of the KLEP12 does not apply to the proposal.

## 11. Conclusion

The proposal does not strictly comply with the maximum building height control as prescribed by Clause 4.3 of the KLEP12. Having evaluated the likely affects arising from this non-compliance, we are satisfied that the objectives of Clause 4.6 of the KLEP12 are satisfied as the breach to the controls does not create any adverse environmental impacts.

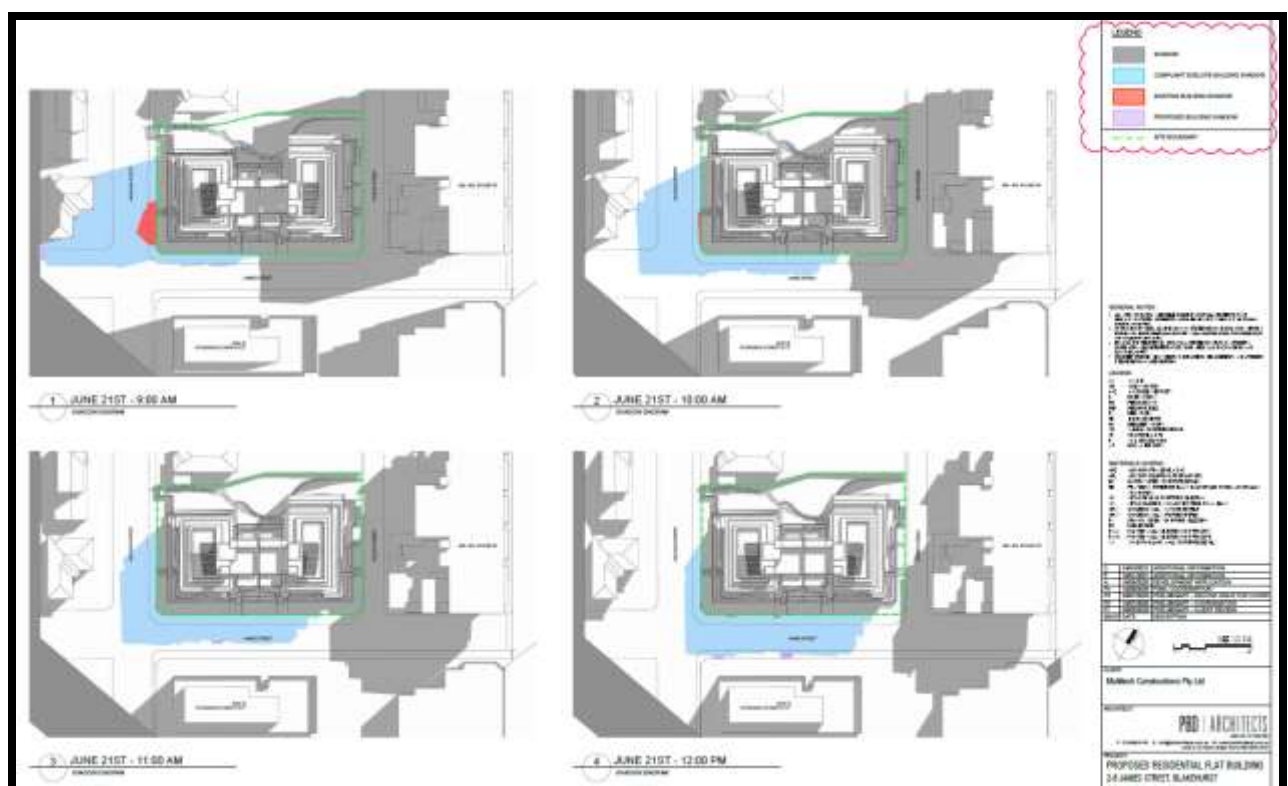
Consequently, strict compliance with this development standard is unreasonable and unnecessary in this particular instance and that the use of Clause 4.6 of the KLEP12 to vary this development controls appropriate in this instance.

Based on the above, it is sensible to conclude that strict compliance with the maximum building height control is not necessary and that a better outcome is achieved for this development by allowing flexibility in the application.

- (a) to establish the maximum height for buildings,
78. Officer Comment: The site and its immediately adjoining properties have been recently up scaled to allow for medium to larger scaled development. In part this is due to the location of the sites in close proximity to a busy roadway as these conditions cater for larger scaled developments.
- (b) to minimise the impact of overshadowing, visual impact and loss of privacy on adjoining *properties and open space areas,*
79. Officer Comment: This objective relates to considering the amenity impacts associated with the non-compliance. In terms of visual impact the structures are centrally located which reduces their visual appearance from the immediately adjoining streetscapes.



80. The objective seeks to “minimise” the visual impact, it is not requiring it to be eliminated or totally negated, and as such seeing the structure is not a reason for refusal, it’s the impact of the visual interference of this structure that is to be controlled. It can be said that in this case they are ancillary structures which will not be highly visible or an intrusive element given the scale and proportions of the building. They will not be visible from immediately lower scale adjoining properties and streetscapes given that they are centrally located.
81. The applicant has provided comparative shadow diagrams with the 4.6 variation request to demonstrate the difference between a compliant form and the proposed form. These diagrams are reproduced below and provided to the Panel separately. The diagrams indicate no significance difference between a compliant and the proposed overshadowing.



**Figure 6:** Comparative shadow diagrams 9.00am – 12.00pm



**Figure 7:** Comparative shadow diagrams 12.00pm – 3.00pm

82. The roof top terrace area is predominantly located within the height limit, with minor intrusions of some of the planter boxes over the height limit, so the use of that area is within the height control. The distance between the trafficable rooftop open space from the Stuart Lane boundary is 10.4m.
83. The applicant has submitted a sightline section plan (with excerpts included in the 4.6 submission) to demonstrate the distance between adjoining properties and limited potential for overlooking. There will be no adverse impacts in terms of overshadowing or overlooking to adjoining properties from the encroaching element.
- (c) to provide appropriate scale and intensity of development through height controls.
84. Officer Comment: New developments of a similar nature have been approved along Princes Highway and have established a precedent for development in the street and immediate precinct. The proposed development is consistent with the pattern of development that is slowly being established in the up-zoned precinct.
85. The proposed encroachment on the maximum height of the building which relates primarily to the lift overruns can be catered for in this location given the siting, orientation and the fact the buildings comply with the anticipated building envelope which is compliant with the ADG and Kogarah Development Control Plan in terms of the separation distances, landscaped area requirements, front setback control etc. The proposed development is considered to satisfy the objectives of the development standard.

86. Officers comment: The exceedance of the control generally satisfies the objectives of the zone for the following reasons:
- *To provide for the housing needs of the community within a medium density residential environment.*
87. The development is providing for the housing needs within a medium density residential environment with a mix of apartment choices and layouts.
- *To provide a variety of housing types within a medium density residential environment.*
88. The development incorporates a diversity of apartment types (offering 1, 2, and 3 bedroom apartments, including adaptable and liveable apartments).
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
89. The development is residential in nature and does not include any additional land uses. This objective is offering some greater flexibility in the provision of land uses within this zone and is not a mandatory requirement.
90. The area of non-compliance is considered to be reasonable and will not establish an undesirable precedent. It will not have any adverse effect on the surrounding locality, which is emerging to be characterised by residential and mixed use development of comparable character. The proposal promotes the economic use and development of the land consistent with its zone and purpose. The Panel is requested to invoke its powers under Clause 4.6 to permit the variation proposed.
91. The public benefit of the variation is that it will appropriately facilitate the provision of medium density housing on a R3 zoned site and provide for a range of housing stock. It is noted that in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ clarified what items a Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a "better" planning outcome resulting from the non-compliance.
92. The second matter was in cl 4.6(3)(b), where the Commissioner applied the wrong test in considering this matter by requiring that the development, which contravened the height development standard, result in a "better environmental planning outcome for the site" relative to a development that complies with the height development standard (in [141] and [142] of the judgment). Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard.
93. The roof top area and its associated ancillary structures could be deleted and the building largely compliant however this space will add value and provide greater functionality and amenity for the future occupants. The ADG encourages the use of rooftop spaces.
94. The shadow diagrams submitted with the architectural plans demonstrate the non-compliance does not result in any additional shadow beyond a compliant built form due to the central location of the lift overrun and the shadow being cast from the topmost wall on the south eastern and south western elevations of the building.

95. In this case the proposal seeks to establish the preferred and appropriate design and built form outcome for this site with the building complying in large with the height standard. There will be no adverse amenity or visual impacts generated by the variation and the proposal satisfies the objectives of the zone and the development standard. In this case the justification to vary the height control is considered to be a reasonable and well-founded request.

**Clause 4.6(b) the concurrence of the Secretary has been obtained.**

96. Concurrence from the Secretary has been obtained and can be assumed in this case.
97. It is considered that the Clause 4.6 Statement lodged with the application addresses all the information required pursuant to Clause 4.6 and the statement is considered to be well founded as there are sufficient environmental planning grounds to justify contravening the standard given that in this case the proposal satisfies the objectives of the zone and development standard (Clause 4.3, building height control).

**Draft Georges River Local Environmental Plan 2020**

98. The Local Planning Panel considered the report on the outcomes of the Public Exhibition and Finalisation of Georges River Local Environmental Plan 2020 (DLEP2020) on 25 and 26 June 2020. In relation to this development site height and floor space ratio remain unchanged. The land is proposed to be rezoned R4 High Density Residential.
99. Consideration is given to the provisions of Draft Georges River Local Environmental Plan 2020 in the assessment this application.
100. In this regard, the provisions have no determining weight as a result of proposed operation of Clause “1.8A Savings provisions relating to development applications” of the Draft Plan which provides “If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.”

**Development Control Plans**

**KOGARAH DEVELOPMENT CONTROL PLAN NO 2013 (KDCP)**

101. The following compliance table is an assessment of the proposal against the Chapter B controls.

<b>Kogarah Development Control Plan 2013 Compliance Table</b>		
<b>PART B – GENERAL CONTROLS</b>		
<b>Required</b>	<b>Proposed</b>	<b>Complies</b>
<b>B2 Tree Management and Greenweb</b>		
Compliance with provisions of Clause 5.9 Preservation of Trees or Vegetation of Kogarah Local Environmental Plan 2012 must be achieved.	The proposal meets the requirements of SEPP (Vegetation in non-rural areas) 2017.	Yes
<b>B3 – Development near busy roads and rail corridors</b>		
Acoustic assessment for noise sensitive development may be required if located in the vicinity of a rail corridor or busy roads	An Acoustic report was prepared and assessed the development against the provisions of Clause 102 of the Infrastructure SEPP.	Yes

	The acoustic report provided a series of recommendations in the form of implementing construction techniques and materials that will assist in ameliorating acoustic impacts on the internal areas of the building. Council's EHO has provided conditions of consent.	
<b>B4 Parking and Traffic</b>		
<u>Residential parking:</u> 9 x 1 bedroom units @ 1 space per unit = <b>9 spaces</b> required  27 x 2 bedroom units @ 1.5 spaces per unit = <b>40.5 spaces</b> required.  6 x 3 bedroom units @ 2 spaces per unit = <b>12 spaces</b> required  Total required resident parking = <b>62 spaces</b>	62 resident spaces are proposed. 5 of which are accessible.	Yes
<u>Visitor parking:</u> 42 total units @ 1 space per 5 units = <b>8.4 spaces</b> required	8 visitor spaces are provided with one space doubling up as a car wash bay.	Yes
<u>Car wash bay:</u> 1 bay, which can also function as a visitor space	1 car wash bay is provided which doubles as a visitor space.	Yes
<u>Bicycle Parking:</u> 1 space per 3 dwellings = 14  1 space per 10 dwellings for visitors = 4.2 spaces  Total = 18.2 spaces required	19 residential bicycle parking spaces are provided in Basement No 1.	Yes
Car park access and layout to comply with relevant Australian Standards	Ramps, parking, aisle widths and parking spaces satisfy the provisions of AS2890.	Yes
<b>B5 – Waste Management and Minimisation</b>		
Submit Waste Management Plan (WMP) Provide a dedicated caged area within the bin room for the storage of discarded bulky items.	WMP was submitted with the DA.  The buildings contain a waste chute, two bin store rooms and a bulky waste store area in Basement Level 1.	Yes
<b>B6 – Water Management</b>		
All developments require consideration of Council's Water Management Policy	The proposed method of stormwater management is considered satisfactory subject to conditions.	Yes
<b>B7 – Environmental Management</b>		
Building to be designed to improve solar efficiency and are to use sustainable building materials	Design, materials, siting and orientation generally optimise solar efficiency, with a high proportion of	Yes

and techniques	north facing window openings. The development is BASIX-compliant.	
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102. The following compliance table is an assessment of the proposal against the current C2 controls that came into effect in June 2020.

<b>Part C2- Medium Density Housing – Kogarah Development Control Plan 2013</b>		
<b>Part 1 Residential Flat Buildings</b>		
<b>Required</b>	<b>Proposed</b>	<b>Complies</b>
<b>1. Minimum site requirements</b>		
1000sqm minimum lot size	2,246sqm	Yes
24m minimum frontage	54.86m to James St	Yes
<b>2. Site isolation and amalgamation</b>		
Adjoining sites not to be left isolated.	The proposal does not cause any site isolation.	Yes
Site amalgamation requirements apply for specific sites.	The site is not subject to any amalgamation requirement.	N/A
<b>3. Building Setbacks</b>		
<u>Front setbacks</u> Up to four (4) storeys – 5m Above four (4) storeys – 8m (increased setback may be required if street is <20m wide)	Minimum - 5m Minimum - 8m	Yes Yes
<u>Side boundary setbacks</u> Up to four (4) storeys – 6m Above four (4) storeys – 9m	NA – street frontages	NA
<u>Rear boundary setbacks</u> Up to four (4) storeys – 6m Above four (4) storeys – 12m	Minimum - 8m Minimum - 9m	Yes No – refer to discussion below
<b>Discussion on rear setback:</b>		
Despite the numerical non-compliance of the rear setback, the proposal is supported on merit as it meets the objectives of the control in that amenity to the adjoining property will be maintained with 9m being sufficient separation from the site boundary for privacy to be achieved, solar access is not impacted as the neighbour is north of the site, and the ADG permits separation between buildings at this level of 9m.		
<u>Encroachments into boundary setbacks:</u> Ground floor private open space may encroach up to 2m into the 5m front setback leaving a min 3m of landscaped area to the street.  Ground floor private open space may encroach up to 3m into the side setback leaving a min 3m of landscaped area to the street.	Not proposed.  Minimum of 3m of landscaped area.	Yes  Yes
Setbacks are to be landscaped	All setbacks are landscaped.	Yes
Powerlines to be underground	Standard condition imposed.	Yes

Sub-stations, fire booster valves and waste bin storage structures need to be integrated into the development and identified at the DA stage.	Indicated on the plans in a suitable location.	Yes
<b>4. Basement Setbacks</b>		
3m from site boundaries	3m	Yes
South	3m	Yes
West	3m	Yes
North	3m	Yes
East	Min. 7m excluding ramp	Yes
Basement setback areas are to be deep soil areas as defined in the ADG	The basement setback areas provided are deep soil.	Yes
Driveways and crossings are to be located a minimum of 1.5m from a side boundary	1.5m	Yes
<b>5. Façade Treatment and Street Corners</b>		
Building facades to be clearly articulated with high quality materials and finishes.	Satisfactory – a mix of rendered masonry, face brick, metal, timber look cladding and glass.	Yes
Modulation and articulation in the building form to be explored.	Satisfactory – the facades are well articulated through different finishes, balconies and setbacks.	Yes
Large areas of blank, minimally or poorly articulated walls are not acceptable. Façade treatments such as wall cladding and green walls should be considered as alternatives.	Satisfactory - a mix of materials and finishes are proposed.	Yes
Clear glazing balustrades to be avoided where they are visible from the public domain.	Satisfactory – a mix of glass and metal balustrades are proposed.	Yes
<b>6. Landscaped area and Private Open Space</b>		
A minimum 10% of the site is to be landscaped area that is not impeded by buildings or structures above or below ground level with a minimum dimension of 2m on two axes.	22% and compliant widths achieved.	Yes
Private open space to be adjacent to and visible from the main living area/dining rooms and be accessible	Provided for each apartment.	Yes
Private open space and balconies must comply with Part 4E of the ADG	All apartments comply.	Yes



**7. Common Open space**

Common Open Space to be a minimum of 25% of the site area with a minimum dimension of 5m.	Communal open space provided is 608sqm (27%) with a minimum 5m dimension.	Yes
A maximum of 50% of common open space may be provided above ground level.	No COS is provided on the rooftop.	Yes
At least 50% of the required common open space area is to receive 2 hours of direct sunlight between 9am and 3pm on 21 June.	Greater than 50% of the communal area will receive more than 2 hours direct sunlight during midwinter.	Yes
A minimum of 50% of the total area of common open space provided at ground level is to comprise unpaved landscape area.	Complies as this area is deep soil landscaping.	Yes
The useable and trafficable area of any rooftop common open space is to be setback a minimum of 2.5m from the edge of the roof of the floor below with landscape planters to prevent overlooking.	NA	NA
Roof top open space areas should include equitable access.	Equitable access via lifts and ramps have been provided throughout the development.	Yes
Ancillary structures such as lift overruns and staircases should be centralised to reduce their visual dominance.	Fire stairs and lift over runs are centrally located.	Yes

**8. Solar Access**

Where the neighbouring properties are affected by overshadowing, at least 50% of the neighbouring existing primary private open space or windows to main living areas must receive a minimum of 3 hours sunlight between 9am–3pm on the winter solstice (21 June)	The minimum solar access is achieved.	Yes
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**9. Vehicular access, parking and circulation**

Car parking to be provided in accordance with Part B4 unless objective 3J-1 of the ADG applies.	The development complies with the Kogarah Development Control Plan numerical parking requirements.	Yes
Car parking layout and vehicular access complies with AS2890.1-2004	Complies – will be reinforced via conditions of consent.	Yes
All residential flat buildings to provide car wash bay	A visitor car wash bay has been provided (car space 1). The Kogarah Development Control Plan allows for a visitor space to double as a car wash bay.	Yes

<b>10. Views and view sharing</b>		
Provide for reasonable sharing of views	The location does not have significant views. The development generally complies with height requirements and is reasonable in terms of view sharing.	Yes
<b>11. Dwelling Mix</b>		
Dwellings that propose more than 10 dwellings are to provide a mix of dwellings as follows: Studio apartments and 1 bed apartments - 20% min 2 bed apartments – 30% max 3 bed apartments – 15% min	<p>The proposal includes the following apartments mix: 9 x 1 bedroom apartments = 22% 27 x 2 bedroom apartments = 64% 6 x 3 bedroom apartments = 14%</p> <p>The unit mix is suitable as the proposed mix meets the objectives:</p> <p>a) Ensure development contains a suitable mix of dwellings that encourages social diversity within the development and addresses the needs for future residents and households.</p> <p>(b) Ensure residential development contains a mix of residential types (based on the number of bedrooms) to encourage a diverse population and achieve social diversity.</p> <p>(c) Encourage applicants to consider the varying needs of families and to design apartments accordingly.</p>	<p>Yes No No</p> <p>Objective met.</p> <p>A mix of layouts for each unit type is proposed.</p> <p>A mix of unit layouts is proposed.</p>
<b>12. Adaptable and accessible housing</b>		
41-50 units: 5 dwellings	42 apartments are proposed which requires that 5 adaptable apartments are provided.	Yes
Every adaptable unit needs to have an accessible car space.	5 adaptable apartments are proposed with provision for accessible parking.	Yes

### Interim Policy – Georges River Development Control Plan 2020

103. Council at its Environment and Planning Committee Meeting dated 11 June 2019 resolved to adopt the Georges River Interim Policy Development Control Plan.

104. The Interim Policy is a public policy that is to be used as a guide to set a consistent approach for the assessment of residential development within the LGA. It is a supplementary document, meaning that current Development Control Plan controls will prevail if they are considered best practice. The Interim Policy has no statutory recognition in the assessment of DAs pursuant to the Environmental Planning and Assessment Act, 1979 (EP&A Act).
105. An assessment of the proposal has been carried out against the provisions of the Interim Policy as set out in the following table.

<b>Interim Policy – Georges River Development Control Plan 2020</b>		
<b>Standard</b>	<b>Proposed</b>	<b>Complies</b>
<b>Site Frontage</b>		
20m	54.86m to James Street.	Yes
<b>Building Height</b>		
The relevant Local Environmental Plan controls relating to building height will prevail over Development Control Plan controls that relate to height in storeys	The proposal exceeds the height control but is supported by the provision of a Clause 4.6 Statement. This statement is considered to be well founded as discussed in detail earlier in this report.	Yes
<b>Private Open Space</b>		
The ADG requirements prevail over the Development Control Plan controls for private open space	The proposal is fully compliant with the ADG's private open space requirements. Refer to "4E – Private Open Space and Balconies" within the ADG Compliance Table above.	Yes
<b>Communal Open Space</b>		
The ADG requirements prevail over the Development Control Plan controls for COS	The proposal is considered to comply with the requirements of the ADG with respect to COS.  Refer to "3D – Communal Open Space" within the ADG Compliance Table above.	Yes
<b>Parking</b>		
In accordance with 'A Plan for Growing Sydney' (Department of Planning and Environment): <ul style="list-style-type: none"> <li>If located in a strategic centre (ie Kogarah CBD and Hurstville CBD) and within 800m of a Railway, the "Metropolitan Regional Centre (CBD)" rates apply.</li> <li>If located within 800m of a railway and outside the strategic centres the "Metropolitan Subregional</li> </ul>	The Kogarah Development Control Plan parking requirements need to be satisfied as the site is not located near a railway station or close to a commercial centre in accordance with the ADG provisions.	The proposal satisfies the numerical requirements of the Kogarah Development Control Plan.

Centre” rates apply. • If located outside of 800m of a Railway, the relevant Development Control Plan applies.		
<b>Solar Access</b>		
The ADG requirements prevail over the Development Control Plan controls for solar access	The proposal is acceptable on merit as the development meets the ADG Solar Access requirements as detailed within the ADG Compliance Table above. Refer to “4A – Solar and Daylight Access” within the ADG Compliance Table.	Yes

## DEVELOPER CONTRIBUTIONS

106. The proposed development would require payment of developer contributions under Section 7.11 of the Environmental Planning and Assessment Act 1979. If the development consent is granted a condition outlining the required contributions will be imposed.
107. The table below shows the contributions which are applicable for this development. A condition is imposed if consent is issued that reflects the contributions as stated.

Kogarah Section 94 Contribution Plan No.1 – Road and Traffic Management – Residential	\$818.30
Kogarah Section 94 Contribution Plan No.5 – Open Space	\$404,940.44
Kogarah Section 94 Contribution Plan No.9 – Kogarah Libraries – Books	\$6617.29
Kogarah Section 94 Contribution Plan No.9 – Kogarah Libraries – Building	\$9,281.04
<b>Total Development Contributions payable</b>	<b>\$421,657.07</b>

## IMPACTS

### **Natural Environment**

108. The proposed development will not adversely affect the natural environment subject to the site being planted with replacement trees as shown on the approved landscape plan. The removal of existing trees has been reviewed by Council’s Consultant Arborist and is deemed acceptable subject to conditions.

109. The proposal includes excavation that has been assessed as being reasonable in the context of the site and consistent with the extent of excavation expected in an R3 Medium area that has seen uplift in building height and FSR to permit the construction of basement car parking. Excavation impacts will be managed through standard conditions of consent that have been imposed to protect the environment with respect to contamination and impact onto adjoining allotments and the public domain.

### **Built Environment**

110. The proposal represents an appropriate planning outcome for the site with respect to its bulk, scale and density, façade articulation and expression and is an appropriate response to the context of the site and its R3 Medium Density Residential zoning.

111. The buildings four (4) storey podium with recessed upper level will also ensure that it has an appropriate relationship with the lower scaled R2 zoned residential properties on the opposite side of Vaughan Street, and will provide a reasonable transition between those R2 zoned properties and the land fronting Princes Highway to the east of the site, which has a 21m height limit.

### ***Social Impact***

112. No adverse social impacts have been identified as part of the assessment. The proposed development, in principle, will cater for a cross-section of the community and will assist with providing for additional housing in the area. The construction of residential apartments on the site is consistent with the residential zoning of the land.

### ***Economic Impact***

113. There is no apparent adverse economic impact that is likely to result within the locality due to the construction of additional apartments. The construction of these apartments was to be reasonably expected as a result of the New City Plan's gazettal. The impact of new development on nearby property values is not a matter for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979. It is likely there will be a small positive economic impact as a result of the construction of the development.

### ***Suitability of the site***

114. The site is zoned R3 – Medium Density Residential. The proposal is a permissible form of development in this zone and has been designed to reflect the context of the area as it evolves and as it exists. This immediate precinct is going through a process of change and transition and the proposal is in line with the intentions of Council's recent up-zoning of these sites.

## **SUBMISSIONS AND THE PUBLIC INTEREST**

115. The application was neighbour notified in accordance with Kogarah Development Control Plan 2013 for a period of fourteen (14) days. Two submissions were received. Amended plans were received in February 2020 however the changes did not warrant re-notification as outlined in the Development Control Plan. In summary the following issues and concerns were raised.

### Vehicular access from Stuart Lane is unsafe

116. Officer Comment: Council's Traffic Engineer has reviewed the DA and raises no concern with the design of the driveway from Stuart Lane. Vehicular access to and from the site meets the relevant Australian Standards.

### Adverse impact on street parking and council car park during construction

117. Officer Comment: Parking on the street and in the council car park will continue to be monitored by council Rangers. Any illegal parking should be referred to council.

## **REFERRALS**

### **Council Referrals**

#### Development Engineer

118. The application was referred to Council's Development Engineers for comment, they are satisfied with the stormwater drainage arrangement subject to the imposition of conditions of consent should the application be approved.

### Traffic Engineer

119. The application was referred to Council's Traffic Engineer for comment. The proposed car parking and access arrangements are considered to be compliant with Council's controls and are satisfactory. Standard conditions are recommended to ensure compliance will be achieved with Australian Standards during and after construction should the application be approved.

### Environmental Health Officer

120. Council's Environmental Health Officer has raised no objection to the proposal subject to conditions of consent should the application be approved.

### Consultant Arborist

121. Council's Consultant Arborist has raised no objection subject to conditions of consent.

### **External Referrals**

#### Ausgrid

122. The application was referred to Ausgrid in accordance with Clause 45 of State Environmental Planning Policy (Infrastructure) 2007. Ausgrid did not raise any objection to the proposal, no conditions recommended.

#### Transport for NSW

123. The application was referred to Transport for NSW. A formal response was provided and concurrence was obtained.

### **CONCLUSION**

124. The proposal has been assessed using the matters for consideration listed in Section 4.15 of the Environmental Planning and Assessment Act 1979. The proposal is considered to be a reasonable development form given the intensification of site and the proposed additional scale, bulk and height is considered to be an acceptable planning and design outcome for this site and will be consistent with the desired future character of development in the R3 zoned land in this location and immediate locality.

125. The proposal has been assessed against the provisions of the Kogarah Local Environmental Plan 2012 and Kogarah Development Control Plan 2013. The proposal satisfies the key planning controls in the Kogarah Local Environmental Plan apart from exceeding the height limit for the lift overrun only. A Clause 4.6 Statement has been submitted with the application justifying the variation in this case.

126. The proposed development design satisfies the objectives of both the height control and the zone and the Clause 4.6 Statement is considered to be well founded as there will not be any direct or adverse environmental impacts generated, the proposal satisfies the requirements of Clause 4.6 of the Kogarah Local Environmental Plan 2012.

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

#### Statement of Reasons

127. The reasons for this recommendation are:

- The proposal is an appropriate response to the "up-zoning" of the site (including increased Floor Space Ratio and height limits) afforded by the Kogarah "New City Plan". The building will provide an effective transition between development on Princes Highway and the R2 Low Density Zone to the west.

- The proposed development generally complies with the requirements of the relevant environmental planning instruments and development control plan except with the building height of the development which is considered acceptable having regard to the justification provided in the report above.
- In this case the Clause 4.6 Statement is considered to be well founded and the non-compliance with the height control is reasonable in the circumstances of the case.
- The proposal achieves satisfactory compliance with the Apartment Design Guide with respect to both internal and external amenity.
- The proposed design has been sensitively considered to be consistent with the anticipated desired future character for development in this area.
- The proposal has effective façade modulation and wall articulation that will serve to provide visual interest and reduce the bulk of the building.
- The proposal aims to provide a high-quality building that will establish a positive urban design outcome, setting the architectural and planning precedent in the area.

#### Determination

128. 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 DA2020/0366 for site consolidation, tree removal demolition of existing structures and construction of a Residential Flat Building including landscaping and site works on Lots 17, 18, 19 and 20 in DP 15830 known as 2-8 James Street, Blakehurst, subject to the following conditions of consent:



## DEVELOPMENT DETAILS

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

Description	Reference No.	Date	Revision	Prepared by
Site Plan	DA005	19/1/2021	B	PBD Architects
Basement 2 Plan	DA100	19/1/2021	B	PBD Architects
Basement 1 Plan	DA101	19/1/2021	B	PBD Architects
Ground Floor Plan	DA102	19/1/2021	B	PBD Architects
Level 1	DA103	19/1/2021	B	PBD Architects
Level 2	DA104	19/1/2021	B	PBD Architects
Level 3	DA105	19/1/2021	B	PBD Architects
Level 4	DA106	19/1/2021	B	PBD Architects
Roof Plan	DA107	19/1/2021	B	PBD Architects
South Elevation	DA200	19/1/2021	B	PBD Architects
East Elevation	DA201	19/1/2021	B	PBD Architects
North Elevation	DA202	19/1/2021	B	PBD Architects
West Elevation	DA203	19/1/2021	B	PBD Architects
Section A	DA300	19/1/2021	B	PBD Architects
Section B	DA301	19/1/2021	B	PBD Architects
Landscape Plan	L/01 L/02 L/03 L/04 L/05	26/2/21	E	A total concept
Stormwater Drainage Design	Job No. 20067 Sheets 1 to 11	20/1/21	A	Scott Collis Consulting P/L
Stage 1 Contamination Report	99.75	26/9/20		Trace Environmental
Geotechnical Investigation Report	GR1109.1J	7/8/20		JC Geotechnics
Detailed Site Investigation	E24807.E02	11/9/20	Rev0	eiaustralia

## SEPARATE APPROVALS REQUIRED BY OTHER LEGISLATION

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

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

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

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

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

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

3. **Below ground anchors - Information to be submitted with S68 Application under LGA 1993 and S138 Application under Roads Act 1993** - In the event that the excavation associated with the basement carpark is to be supported by the use of below ground (cable) anchors that are constructed under Council or RMS roadways/footways, an application must be lodged with Council or RMS under Section 68 of the Local Government Act 1993 and the Roads Act 1993 for approval, prior to commencement of those works.

The following details must be submitted:

- (i) That cable anchors will be stressed released when the building extends above ground level to the satisfaction of Council;
- (ii) The applicant has indemnified council from all public liability claims arising from the proposed works, and provide adequate insurance cover to the satisfaction of Council.
- (iii) Documentary evidence of such insurance cover to the value of \$20 million;
- (iv) The applicant must register a non-terminating bank guarantee in favour of Council. An amount will be determined when the application is lodged;
- (v) The guarantee will be released when the cables are stress released. In this regard it will be necessary for a certificate to be submitted to Council from a structural engineer at that time verifying that the cables have been stress released.

- (vi) In the event of any works taking place on Council's roadways/footways adjoining the property while the anchors are still stressed, all costs associated with overcoming the difficulties caused by the presence of the 'live' anchors will be borne by the applicant.

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

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

- A site and location plan of the hoarding with detailed elevation, dimensions, setbacks, heights, entry and exit points to/from the site, vehicle access points, location of public utilities, electrical overhead wire protection, site management plan and builders sheds location; and
- Hoarding plan and details that are certified by an appropriately qualified engineer; and
- The payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges (available on our website) before the commencement of work; and
- A Public Risk Insurance Policy with a minimum cover of \$10 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained a copy provided to Council. The Policy is to note Council as an interested party; and

The application must be endorsement by the Roads & Maritime Services (RMS) as the hoarding is located within 100m of an intersection with traffic lights. For assistance you should contact the DA unit at RMS and speak to Hans on 88492076. Or email [hans.pilly.mootanah@rms.nsw.gov.au](mailto:hans.pilly.mootanah@rms.nsw.gov.au) to obtain concurrence for the hoarding structure.

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

- (a) Construct a 1.2m wide footpath for the full length of the frontage of the site in accordance with Council's Specifications applying at the time construction approval is sought.
- (b) The thickness and design of the driveway shall be in accordance with Council's Specifications applying at the time construction approval is sought.
- (c) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the applicant. The work shall be carried out in accordance with Council's specification, applying at the time construction approval is sought.

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

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

## **REQUIREMENTS OF CONCURRENCE, INTEGRATED AND OTHER GOVERNMENT AUTHORITIES**

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

8. **Notice of Requirements for a Section 73 Certificate** - A Notice of Requirements of what will eventually be required when issuing a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the 'Plumbing, building and developing' section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then refer to 'Providers' under 'Developing' or telephone 13 20 92 for assistance.

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

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

9. **Electricity Supply** - An application is required to be made to Ausgrid for a network connection. This may require the network to be extended or its capacity augmented. Evidence of this application being lodged with Ausgrid is required to be provided to the Certifying Authority prior to the issue of a Construction Certificate. For further details, you are advised to contact Ausgrid on 13 13 65 or [www.ausgrid.com.au](http://www.ausgrid.com.au) (Business and Commercial Services).
10. **Electricity Supply to Development** – The electricity supply to the development must be underground.

## **PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

11. **Fees to be paid** - The fees listed in the table below will 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 will 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 will 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 (footpaths and roadworks) (calculation based on \$1,236.00 per metre of street frontage)	\$168,701.64
Inspection Fee for Refund of Damage Deposit (minimum of two (2) inspections at \$371 per inspection)	\$742.00
<b>DEVELOPMENT CONTRIBUTIONS</b>	
Kogarah Section 94 Development Contributions Plan No.1 - Roads and Traffic Management - Residential	\$818.30
Kogarah Section 94 Development Contributions Plan No.5 – Open Space	\$40,494.44
Kogarah Section 94 Development Contributions Plan No.9 - Kogarah Libraries - Books	\$6,617.29
Kogarah Section 94 Development Contributions Plan No.9 – Kogarah Libraries – Building	\$9,281.04
<b>Total S94 Contribution</b>	<b>\$421,657.07</b>

### General Fees

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

### Development Contributions

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

#### Indexation

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

#### Timing of Payment

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

### Further Information

A copy of all current Development Contributions Plans may be inspected at Council's offices or viewed on Council's website [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au).

12. **Building services** - Prior to the issue of a Construction Certificate the applicant may be required, under Clause 144 of the Environmental Planning & Assessment Regulation, 2000 to seek written comment from Fire and Rescue (FR) NSW about the location of water storage tanks, construction of hydrant/booster pump and valve rooms, and any Fire Engineered Solution developed to meet the performance requirements under the Category 2 Fire Safety Provisions.

The applicant is also advised to seek written advice from FR NSW on the location and construction of the proposed Fire Control Centre Facility and location and installation of the sites Fire Indicator / mimic Panels.

13. **Above ground power lines** – Where practicable, all existing overhead power lines within or adjacent to the development site shall be relocated underground to Energy Australia standards and specifications. If not practicable to relocate the power line underground, arrangements shall be made with Energy Australia to place the conduit to carry those power lines underground so that they can be utilised at a later date by Energy Australia. In this regard all associated costs shall be borne by the applicant.

Written compliance with this condition is required to be provided prior to the issuing of the Construction Certificate.

14. **NBN Connection** - Prior to the issue of the Subdivision or Construction Certificate in connection with a development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:
- (i) the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose; and
  - (ii) the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

(Note real estate development project has the meanings given in section 372Q of the Telecommunications Act).

15. **Damage Deposit - Major Works** - In order to insure against damage to Council property the following is required:
- (a) Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development: **\$168,701.64**
  - (b) Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee (for two inspections) to enable assessment of any damage and repairs where required: **\$742.00**.



- (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.

16. **Use of Rooftop Open Space** - A Plan of Management (POM) for use of rooftop open space must be submitted for approval of Council prior to the issuing of the Construction Certificate. The POM must outline the following:
- (i) hours of use of the rooftop deck which shall be restricted from 8am until 10pm;
  - (ii) maximum number of users at any one time shall be specified (for this development a maximum of 25 at any one time is recommended) given the size of the space;
  - (iii) Outline provisions to maximise the safety (fire safety and general safety) for users of this area.
  - (iv) no amplified music to be played;
  - (v) identify other measures to ensure that the amenity and safety of persons within the development and in nearby existing and future development is maintained.
  - (vi) Location and type of signage to be installed in the building to notify residents and visitors in respect to the use of this space.
  - (vii) The approved POM shall be incorporated into the Owners Corporation by-laws in any future Strata subdivision and a sign in the front entry of the building shall be included to ensure the use of this space is monitored and understood by all occupants.

The POM shall be prepared and shall be to the satisfaction of Council's delegate.

17. **Parking and Layout** – The development shall comply with the following requirements:
- Parking spaces shall be clearly designated (sign posted and marked on ground) and line marked prior to the issuing of an Occupation Certificate. Signage, pavement symbols and line marking shall comply with *Australian Standards, AS1742, Manual of Uniform Traffic Control Devices* and *NSW Road Transport (Safety and Traffic Management) Regulations 1999*.
  - Driveway access to comply with figure 3.3-Minimum Sight Lines for Pedestrian Safety as per AS 2890.1:2004 of the Australian Standard for off-street car parking. Figure 3.3 specifies the minimum sight lines for pedestrian safety along a circulation driveway or domestic driveway.
  - Any wall or fence or solid object on either side of the driveway/vehicular crossing where it meets the Council's road reserve at the boundary must comply with sight distance requirements stipulated in the *Australian Standards AS2890.1*.
  - All vehicles shall enter and exit the premises in a forward direction.
  - No deliveries to the premises shall be made direct from a public place or street inclusive of footpaths, nature strip, roadway and car parks.
18. **Materials and finishes** - The proposed materials and finishes selected shall be non-reflective and shall be of the highest quality minimising the need for regular maintenance.



19. **Construction materials** - Any proposed cladding to the building shall be constructed of fire resistant materials which comply with the requirements of the National Construction Code (NCC) 2019 Volume (1) One Building Code of Australia (BCA). Details of the proposed materials and finishes are to be detailed on the construction certificate drawings and shall be to the satisfaction of the PCA.
20. **Mechanical ventilation** – Any proposed mechanical ventilation system will need to satisfy Council's requirements and those stipulated by the National Construction Code and AS1668.2-2002 and shall be in accordance with the plans and details lodged with the application and prepared by RMJ Engineering and dated 26 August 2019.
21. **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.
22. **Fire Safety Measures** - Prior to the issue of a Construction Certificate a list of the essential fire safety measures that are to be provided in relation to the land and any building on the land as a consequence of the building work must accompany an application for a construction certificate, which is required to be submitted to either Council or a PCA. Such list must also specify the minimum standard of performance for each essential fire safety measure included in the list. The Council or PCA will then issue a Fire Safety Schedule for the building.
23. **Construction Traffic Management Plan** - A Construction Traffic Management Plan detailing:
  - (a) construction vehicle routes;
  - (b) anticipated number of trucks per day;
  - (c) hours of construction activity;
  - (d) Access arrangements; and
  - (e) Proposed traffic measures to minimise impacts of construction vehicles must be submitted for the approval of Council's Engineers. Council's Engineers must specify in writing that they are satisfied with the Traffic Management Plan prior to the issue of the Construction Certificate.

The Construction Traffic Management Plan may require approval from RMS.

24. **Waste Storage - Residential and Mixed Use Developments** - The plans shall include details of the waste storage area. The waste storage area shall not be visible from the street. The waste storage area shall be located within the lot/building in accordance with the approved plans.

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

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

Residential Waste

The development will require the provision of the following waste and recycling facilities:

- 8 x 660L waste bins (serviceable) AND 22 x 660L recycling bins (serviceable), both serviced once weekly, OR
- 6 x 1100L waste bins (serviceable) AND 22 x 240L recycling bins (serviceable), both serviced once weekly.

NOTE: these bin numbers would need to be equally split across the two central bin storage rooms.

**The applicant must demonstrate that at least two days' worth of commingled recycling and general waste to be produced on each floor in 240L MGB's can be stored on each level of the development (i.e. recycling generated at 17.14L per unit, per day and general waste produced at 17.14L per unit, per day).**

**The development should be conditioned that green waste will be managed by private landscaped contractor and processed at a licensed waste management facility.**

**The applicant should make provisions for bin trolleys to assist with the manual labour associated with moving all the bins and the bulky waste from the basement to the kerbside.**

25. **Waste room design** - The waste room will contain the following to minimise odours, deter vermin, protect surrounding areas, and make it a user-friendly and safe area:

- waste room floor to be sealed;
- waste room walls and floor surface is flat and even;
- all walls painted with light colour and washable paint;
- equipment electric outlets to be installed 1700mm above floor levels;
- The bin storage rooms will be mechanically exhausted as required by AS 1668.2;
- light switch installed at height of 1.6m;
- waste rooms must be well lit (sensor lighting recommended);
- optional automatic odour and pest control system installed to eliminate all pest types and assist with odour reduction - this process generally takes place at building handover - building management make the decision to install;
- all personnel doors are hinged and self-closing;
- waste collection area must hold all bins - bin movements should be with ease of access;
- Conform to the Building Code of Australia, Australian Standards and local laws; and childproofing and public/operator safety shall be assessed and ensured.
- Occupational Health and Safety issues such as slippery floors in waste rooms and the weight of the waste and recycling receptacles will need to be monitored.
- Cleaners will monitor the bin storage area and all spills will be attended to immediately by cleaners.

This information shall be reflected on construction drawings submitted to the certifying authority.

## 26. **Stormwater Drainage Application**

The works on Council's stormwater system including but not limited to a connection, modification, extension or realignment have been approved in concept only. The applicant must lodge and gain written approval from Council's Infrastructure Department through the Stormwater Drainage Application process. This approval must be received prior to the issue of a Construction Certificate.

For further information regarding this process and what is required refer to Council's Stormwater Management Policy.

The applicant should note that an approval will not be issued until evidence is received showing that any required modifications to existing underground utilities are approved by the appropriate service authority.

## 27. **Plan of new Council Drainage easement**

A plan is to be prepared by a registered surveyor that fully defines the extents of the 3 metre wide easement to be created for access over and adjacent to the diversion alignment of the Council's stormwater pipe. The extent of this drainage easement is to be in accordance with the layout on the approved stormwater drawings and is to receive written approval by Council's Infrastructure section prior to the issue of a Construction Certificate.

## 28. **Required Design Changes**

- 1) The architectural, stormwater and landscape plans lodged for the construction Certificate are to clearly detail:
  - The extent of the new Council drainage easement to be created.
  - Design requirements and specifications as identified in the Overland Flow Report.
  - that no boundary walls or fences are to be installed adjacent to or within the new Council drainage easement to be created
- 2) The landscape plans are to include the extent and installation details of a physical root barriers to protect the new Council stormwater pipe from root intrusion from all existing and proposed trees in its vicinity.

## 29. **Overland Flow Report**

An Overland Flow Report is to be prepared by a stormwater engineer. The report is to provide additional details as to the approved overland flow path through the site as detailed on the approved stormwater plans. The additional details are to include:

- a) Required specifications for the gate at the Vaughan Street frontage across the overland flow path including the minimum ground clearance and style of gate to allow for the overland flow.
- b) Design requirements for the elevated timber path including extent of any support footings, the span length and minimum levels of the underside of the path structure.
- c) If the overland flow allows specifications of any proposed gates including at the Stuart Lane frontage across the overland flow path including the minimum ground clearance and style of gate to allow for the overland flow.

- d) Further design detail at the Stuart Lane frontage to allow for the overland flow path to spread across the driveway prior to existing the site to prevent a concentration of overland flow into the lane way.
- e) Amendment to the stormwater design drawings to clearly detail that the OSD walls and structure are to be built so as to not affect or block the overland flow path

30. **Support for Easement Pipes**

- (a) All footings within 2.0 metres of the drainage easement shall be designed in such a manner that they are supported by foundations set at a minimum of 300mm below pipe invert levels or founded on sound rock.
- (b) Alternatively, the footings of the building or any structure shall be designed not to affect the zone of influence taken from the invert of any pipe.
- (c) The walls of any dwelling, pool or structure adjoining the easement shall be designed to withstand all forces should the easement be excavated to existing pipe invert levels.
- (d) No building or other structure must be placed over the drainage easement or stormwater system or within the zone of influence taken from the invert of any pipe.

Evidence from an appropriately qualified person that this design requirement has been met shall accompany the application for the Construction Certificate.

- 31. **Dial before your dig** – The applicant shall contact “Dial Before You Dig on 1100” to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from “Dial Before You Dig” shall be forwarded to the Principal Certifying Authority (PCA) and Council for their records.
- 32. **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 with the construction certificate to the Certifier for approval prior to construction of the specified works.

A copy will be forwarded to Council where Council is not the Certifying Authority.

- 33. **Access for Persons with Disabilities** - Access for persons with disabilities must be provided to and within the site, including to all foyer areas, basement carpark, required communal areas including the sanitary and kitchen facilities and allocated balconies in accordance with the requirements of the Premises Standards, the Building Code of Australia and AS 1428.1. Details must be submitted with the Construction Certificate Application.

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

In the event that full compliance cannot be achieved the services of an accredited access consultant is to be obtained to determine alternative methods of compliance, such a report must be submitted to and endorsed by the Principal Certifying Authority prior to issue of the Construction Certificate.

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

35. **Access** - The recommendations of the Access Report prepared by Vista Access Architects Reference No. 18216 shall be implemented in the Construction Certificate Plans and Documents.
36. **BCA Assessment** - The recommendations in the Assessment of BCA Compliance Capability prepared by Certified Building Specialists and dated 26 November 2018 shall be incorporated within the Construction Certificate Plans and relevant documents.
37. **Contamination Report** - The recommendations of the Preliminary Site Investigation prepared by EI Australia dated 23 October 2019 shall be included within the Construction Certificate Plans and relevant documents.
38. **Acoustic Requirements** – The Construction Certificate plans shall demonstrate compliance with the Acoustic Assessment submitted to Council, titled the “*Acoustic Report – Traffic & Environmental Noise – for proposed development at No. 2-8 James Street, Blakehurst*” produced by Acoustic Noise & Vibration Solutions P/L Ref: 2020-097 and dated 4 August 2020. This means that a review of glazing design and mechanical plant must be undertaken to ensure that acoustic objectives will be met.

The Construction Certificate will not be issued until Council approves this validation.

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

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

The report must be submitted with the Construction Certificate application.

40. **Slip Resistance** - All pedestrian surfaces in areas such as foyers, public corridors/hallways, stairs and ramps as well as floor surfaces in the wet rooms in any commercial/retail/residential apartments will have slip resistance classifications, as determined using test methods in either wet or dry conditions, appropriate to their gradient and exposure to wetting. The classifications of the new pedestrian surface materials, in wet or dry conditions, will comply with AS4586:2013 - Slip Resistance Classifications of New Pedestrian Surface Materials and will be detailed on the plans lodged with the application for the Construction Certificate.
41. **Advice from Fire and Rescue (FR) NSW** - Prior to the issue of a Construction Certificate the applicant may be required, under Clause 144 of the Environmental Planning & Assessment Regulation, 2000 to seek written comment from FR NSW about the location of hydrant facilities and any Fire Engineered Solution developed to meet the performance requirements under the Category 2 Fire Safety Provisions.
42. **Site Management Plan** - A Site Management Plan must be submitted with the application for a Construction Certificate, and include the following:

- (a) location of protective site fencing;



- (b) location of site storage areas/sheds/equipment, not within the curtilage of the heritage item;
- (c) location of building materials for construction, e.g. stockpiles not within the curtilage of the heritage item
- (d) provisions for public safety;
- (e) dust control measures;
- (f) method used to provide site access location and materials used;
- (g) details of methods of disposal of any materials off site;
- (h) method used to provide protective measures for tree preservation;
- (i) provisions for temporary sanitary facilities;
- (j) location and size of waste containers/skip bins, not within the curtilage of the heritage item;
- (k) details of proposed sediment and erosion control measures;
- (l) method used to provide construction noise and vibration management;
- (m) traffic management details during construction.

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

43. **Car Wash Bay** – Plans and specifications of the car washing system approved by Sydney Water must be submitted with the application for the Construction Certificate. One visitor space shall be designated as a Car wash bay and this space shall be conveniently located in order to serve this purpose.

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

If alternative water management and disposal options are proposed (i.e. where water is recycled, minimised or reused on the site), detailed plans and specifications of the water recycling system must be submitted with the application for the Construction Certificate for approval by Council's Environmental Health Officers.

44. **State Environmental Planning Policy 65 Design Verification Statement** - A design verification statement, prepared by a qualified designer, must be submitted to the Certifier verifying that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out under Schedule 1 of State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development.
45. **Council Property Shoring** - Prior to the issue of the Construction Certificate, plans and specifications prepared by a professional engineer specialising in practising structural engineering will detail how Council's property will be supported at all times.

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

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

#### 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).  
Construction Traffic Management Plan [Large Developments only]

#### A Construction Traffic Management Plan detailing:

- (f) construction vehicle routes;
  - (g) anticipated number of trucks per day;
  - (h) hours of construction;
  - (i) Access arrangements; and
  - (j) Proposed traffic measures to minimise impacts of construction vehicles must be submitted for the approval of Council's Engineers. Council's Engineers must specify in writing that they are satisfied with the Traffic Management Plan prior to the issue of the Construction Certificate.
47. **BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No. 1123920M and dated 19 August 2020 must be implemented on the plans lodged with the application for the Construction Certificate.
48. **Acoustic requirements for timber flooring** - If timber flooring is installed within the development, then appropriate insulation between floors shall be implemented to exceed the minimum sound attenuation.



49. **Acoustic attenuation for apartments adjoining lift core** – Where bedrooms within apartments that adjoin the internal lift core appropriate noise attenuation measures are to be applied to prevent transmission of noise in accordance with the Building Code of Australia (BCA).

Landscape Plans - All landscape works shall be carried out in accordance with the approved landscape plans and specifications, drawn by ATC Landscape Architects, Rev E, L/01 - 04 and dated 26/02/21. The landscaping shall be maintained in accordance with the approved plans in perpetuity, subject to the following -

- a) The proposed tree and plant species, and quantities of plants shall be in accordance with the proposed plant schedule upon the landscape plan. If plant species and quantities cannot be sourced, Council shall be contacted for alternatives.
- b) The three (3) *Tristaniopsis laurina* trees to be planted fronting Stuart Lane must be of minimum 75 litre pot/ bag size
- c) All trees and plant species must be contract grown with a registered Nursery grower, early in the building process to ensure correct species and quantities are guaranteed at the landscape and planting phase of the project.
- d) All trees proposed upon the approved landscape plan shall comply with AS 2303 – 2018, *Tree Stock for Landscape use* and *NATSPEC Specifying Trees: a guide to assessment of tree quality (2003)*, and be planted and maintained in accordance with Councils standard specification;
- e) If the planted trees and plants are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species. If the trees are found dead before they reach a height where they are protected by Councils Tree Management Controls, they must be replaced with the same species and pot/bag size.

50. **Compliance with submitted Arborist Report** –

The recommendations outlined in the Arborist's Report titled Arboricultural Impact Appraisal and Method Statement, prepared by Naturally Trees, dated 14<sup>th</sup> August 2020 must be implemented throughout the relevant stages of site set up, demolition, excavation construction and landscaping. Details of tree protection measures to be implemented must be detailed and lodged with the Construction Certificate application for approval and shall be in accordance with Section 4 - Australian Standard AS 4970-2009: Protection of trees on development sites.

Tree Management Plan (TMP01) must be utilised throughout the entire project forming compliance

The tree/s to be retained and protected are listed in the table below.

<b>Tree Species</b>	<b>Location of Tree / Tree No.</b>	<b>Tree Protection Zone (metres) TPZ as per AS4970 - 2009 Fencing distance from trunk</b>
T3 – <i>Callistemon viminalis</i>	Councils street tree fronting Vaughan St	Trunk wrapping only as per AS4970 -2009, Section 4.5.2
T4 – <i>Ulmus parvifolia</i>	Within site, north west portion of the site	7.2 metres radially out from its trunk
T15 – <i>Murraya paniculata</i>	Within 4 Vaughan St side fence	2.0 metres
T16/17 – <i>Syzygium Spp</i>	Within 4 Vaughan St side fence	2.0 metres
T18 – <i>Callistemon Spp</i>	Within 4 Vaughan St side fence	2.0 metres
T19 – <i>Corymbia citriodora</i>	Within 4 Vaughan St side fence	8.4 metres radially out from its trunk
<p>As per the Tree Management Plan (TMP01) provided by Naturally Trees, trees 4, 15, 16, 17, 18 and 19 must be protected within the one collective Tree Protection Zone. Ground protection must be in accordance with Australian Standards 4970 -2009, Section 4, 4.5.3</p> <p>This area must be isolated by any construction impacts including site sheds, toilets, cranes, building materials, stockpiling and all activities as per Section 4, 4.2 within AS4970 -2009.</p>		

#### Tree Protection and Retention

The following trees shall be retained and protected:

<b>Tree Species</b>	<b>Location of Tree / Tree No.</b>	<b>Tree Protection Zone (metres) TPZ as per AS4970 - 2009</b>
T3 – <i>Callistemon viminalis</i>	Councils street tree fronting Vaughan St	Trunk wrapping only as per AS4970 -2009, Section 4.5.2
T4 – <i>Ulmus parvifolia</i>	Within site, north west portion of the site	7.2 metres fencing radially out from its trunk
T15 – <i>Murraya paniculata</i>	Within 4 Vaughan St side fence	2.0 metres
T16/17 – <i>Syzygium Spp</i>	Within 4 Vaughan St side fence	2.0 metres fencing radially out from its trunk
T18 – <i>Callistemon Spp</i>	Within 4 Vaughan St side fence	2.0 metres fencing radially out from its trunk
T19 – <i>Corymbia citriodora</i>	Within site, close to north boundary fence	8.4 metres radially out from its trunk fencing radially out from its trunk

T21- <i>Syzygium Spp</i>	Within 4 Vaughan St side fence	2.0 metres fencing radially out from its trunk
T25 – <i>Murraya paniculata</i>	Within 4 Vaughan St side fence	2.0 metres fencing radially out from its trunk
<p>As per the Tree Management Plan (TMP01) provided by Naturally Trees, trees 4, 15, 16, 17, 18 and 19 must be protected within the <b>one</b> collective Tree Protection Zone. Ground protection must be in accordance with Australian Standards 4970 -2009, Section 4, 4.5.3</p> <p>This area must be isolated from any construction impacts including site sheds, toilets, cranes, building materials, stockpiling and all activities as per Section 4, 4.2 within AS4970 -2009, prior to any works.</p>		

- f) 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 Australian Arboricultural Association or Affiliation, with a letter of engagement forwarded to the nominated PCA.
- g) A certificate of compliance letter from the AQF 5 Arborist must be forwarded to the PCA – Principal Certifying Authority, at a minimum three (3) stages being, before works, during works and once all building works have been completed, that tree protection measures have been installed and being maintained during the building process.

#### Tree Protection Measures

- h) The tree protection measures must be undertaken in accordance AS4970 -2009 *Protection of trees on development sites*.
- i) All trees on Council property, subject site and adjacent sites, to be retained must be protected before site set up and maintained during demolition, excavation and construction of the site.
- j) 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.
- k) 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.
- l) 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.
- m) 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.

- n) The tree protection fencing must be kept in place during demolition, excavation and 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.
- o) To preserve the Council's street tree, *Callistemon viminalis*, no work shall commence nor shall a Construction Certificate be issued (whichever occurs first) until the trunk/ branches are protected, in accordance with AS4970 - 2009, *Protection of trees on development sites*, by the wrapping of geo woven fabric around the trunk 4 / 5 times and the placement of two metre long, lengths of 50mm x 100mm timber battens vertically arranged around the trunk, with 100mm spacing's. The timber battens shall be secured by wire/ hoop straps but not secured into the tree itself. The trunk/ branch protection shall be maintained intact until the completion of all works upon the site.
- p) To preserve trees 3, 14 and 19 from basement excavations, exposed roots and protection from machinery, no work shall commence until the Tree Protection Zone shown upon the Tree Management Plan as "ground protection" by Naturally trees has been protected with 100mm of organic mulch laid, timber sleepers at 200mm x 100mm laid over the top and secured with metal framing bands as per AS4970 - 2009, clause 4.5.3 Ground protection, and signed off by the AQF 5 Arborist as compliant or not.
- q) The Tree Protection Zone of each tree, to be protected, shall be watered thoroughly and regularly to minimise the effects of construction works.
- r) No building products, preparation of building products, storage of materials, stockpiling, site sheds or services shall be installed within the TPZ of the trees to be retained.

#### Excavation works near tree to be retained

- s) Excavations around the trees to be retained on site, Council's street verge or the adjoining properties shall be supervised by the AQF 5 Project Arborist to ensure that the root system will not adversely be affected.
- t) 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.
- u) 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.
- v) 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).

#### Tree pruning required

No pruning to tree 14 and 19

- a) Any necessary pruning of overhanging branches relating to scaffolding or building encroachment into the canopy of tree 4 and or tree 19 must be conducted by a minimum AQF 3 Arborist and under the guidance of the AQF 5 Project Arborist and a letter of compliance that pruning has been completed as per AS4373 – 2007, *Pruning of amenity trees*, Pruning class – “S” – Selective pruning – clause 7.2.4.

## Tree Removal &amp; Replacement

- a) Tree removal

Permission is granted for the removal of the following trees:

Tree Species	Number of trees	Location
T1 – <i>Acer palmatum</i>	X1	Within site, north west corner
T2 - <i>Celtis sinensis</i>	X1	Within site, north west corner
T5 – <i>Lophostemon confertus</i>	X1	Middle of site
T6 – <i>Callistemon Spp</i>	X1	Middle of site
T7 - <i>Acer palmatum</i>	X1	Middle of site
T8 – <i>Cotoneaster Spp</i>	X1	Within site, west boundary
T9 – <i>Plumeria rubra</i>	X1	Within site, west boundary
T10 - <i>Acer palmatum</i>	X1	Within site, west boundary
T11 – <i>Hibiscus spp</i>	X1	Within site, south boundary
T12 – <i>Camellia Spp</i>	X1	Within site, south boundary
T13/14 – <i>Glochidion ferdinandi</i>	X2	Within site, south boundary & close to north portion of site
T20 – <i>Macrozamia Spp</i>	X1	Within site, north portion
T22 – <i>Yucca Spp</i>	X1	Within site, north east portion of site
T23/24 - <i>Yucca Spp</i>	X2	Within site, south portion of site

## General Tree Removal Requirements

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

51. **Pre-Construction Dilapidation Report – Private Land** - A professional engineer specialising in structural or geotechnical engineering shall prepare a Pre-Construction Dilapidation Report detailing the current structural condition of adjoining premises.

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

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

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

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

- (a) All stormwater shall drain by gravity to the upper level of Council's pit No. (1.05) located within the site as indicated on the drainage plan (SW02), 'Issue A' prepared by 'Scott Collis Consulting P/L' in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).
- (b) The drainage engineer shall prepare an amended drainage plan to demonstrate that the overland flow from the communal open space area drains to the street and shall not be blocked by a brick wall or similar, to the satisfaction of the PCA.
- (c) The drainage engineer shall prepare an amended drainage to show that the dimension of the sump pit of the pump in the basement is approximately 3.0mx2.0m to increase the volume to approximately 10.0m<sup>3</sup> in order to count the highlighted area in addition to the driveway and seepage.
- (d) The drainage engineer shall ensure that the building finish floor is provided with sufficient freeboard in accordance with Council's stormwater management policy to the satisfaction of the PCA.
- (e) The PCA shall ensure that the approved drainage design levels are to be surveyed during construction by a registered surveyor.
- (f) The PCA shall ensure that a drainage engineer shall supervise the construction of the OSD stormwater system on site and certify his supervision in writing and state his satisfaction of the constructed site stormwater system is built as intended in this consent.
- (g) The stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a professional engineer who specialises in Hydraulic Engineering in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (1987) and Council's Stormwater Drainage Guidelines, shall accompany the application for the Construction Certificate.

Design details and certifications shall be submitted for approval with the Construction Certificate application.

#### **Protection of basement from inundation of stormwater waters**

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

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

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

The on-site detention (OSD) facility is to be constructed with capacity as shown on the approved plan in this case dwg No. SW.201 Issue A, dated 21/01/2021 prepared by Scott Collis Consulting P/L

- (a) Provide at two grated access as shown on plan for sufficient ventilation to the OSD tank.
- (b) Provide at least two sealed access on the opposite ends of the OSD tank as shown on plan.
- (c) Provide a silt trap in a boundary pit prior to discharge the flow into the Council's easement running through the site.
- (d) The OSD system shall discharge by gravity to Council's stormwater pipe within the proposed easement and the surcharge from the OSD tank is to flow to the street.
- (e) The PCA shall ensure that a drainage engineer shall supervise the construction of the OSD stormwater system on site and certify his supervision in writing and state his satisfaction of the constructed site stormwater system is built as intended in this consent.

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

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

Full details shall accompany the application for the Construction Certificate

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

- (a) Longitudinal and cross sections, gradients, access onto the proposed lots, type of construction materials designed in accordance with Council's Subdivision standards and AS/NZS2890.1-2004.
- (b) Suitable underground provision for the supply of all relevant services to the proposed lots (proposed position of pipes and conduits).
- (c) The full length of the driveway designed with a minimum 150mm thick reinforced concrete and minimum of 2.7m wide pavement/kerb face to kerb face width, and a non-slip surface.



## PRIOR TO COMMENCEMENT OF WORKS

### 54. Tree Protection Measures

- (a) The tree protection measures must be undertaken in accordance AS4970 -2009 Protection of trees on development sites.
- (b) All trees on Council property, subject site and adjacent sites, to be retained must be protected before site set up and maintained during demolition, excavation and construction of the site.
- (c) Although trees may be on adjacent sites, the tree protection fencing must be placed on the nominated distances as per table above, out from the trees trunk, within the subject site to minimise impacts to neighbours trees and kept for the entirety of the project.
- (d) 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 fencing must be kept in place during demolition, excavation and 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.
- (h) To preserve the Councils street tree, *Callistemon viminalis*, no work shall commence nor shall a Construction Certificate be issued (whichever occurs first) until the trunk/ branches are protected, in accordance with AS4970 - 2009, Protection of trees on development sites, by the wrapping of geo woven fabric around the trunk 4 / 5 times and the placement of two metre long, lengths of 50mm x 100mm timber battens vertically arranged around the trunk, with 100mm spacing's. The timber battens shall be secured by wire/ hoop straps but not secured into the tree itself. The trunk/ branch protection shall be maintained intact until the completion of all works upon the site.
- (i) To preserve trees 3, 14 and 19 from basement excavations, exposed roots and protection from machinery, no work shall commence until the Tree Protection Zone shown upon the Tree Management Plan as "ground protection" by Naturally trees has been protected with 100mm of organic mulch laid, timber sleepers at 200mm x 100mm laid over the top and secured with metal framing bands as per AS4970 - 2009, clause 4.5.3 Ground protection, and signed off by the AQF 5 Arborist as compliant or not.

### 55. Erosion & Sedimentation Control - Erosion and sediment controls must be in place prior to commencement of any work on the site. These measures include:

- (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 excavation and construction 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 excavation) and will remain until works are completed and all exposed surfaces are landscaped/sealed.

56. **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).

57. **Demolition Notification Requirements** - The following notification requirements apply to this consent:
- (a) The developer /builder must notify adjoining residents five (5) working days prior to demolition. Such notification is to be a clearly written note giving the date demolition will commence, contact details of the developer/builder, licensed asbestos demolisher and the appropriate regulatory authority. Notification is to be placed in the letterbox of every premises (including every residential flat or apartments, if any) either side and immediately at the rear of the demolition site.
  - (b) Five (5) working days prior to demolition, the developer/builder is to provide written notification to Council advising of the demolition date, details of the SafeWork licensed asbestos demolisher and the list of residents advised of the demolition.

- (c) On demolition sites where buildings to be demolished contain asbestos, a standard commercially manufactured sign containing the words “DANGER ASBESTOS REMOVAL IN PROGRESS” measuring not less than 400mm x 300mm is to be erected in a prominent visible position (from street frontage) on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos material has been removed from the site to an approved waste facility.

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

A high risk work license may be required from SafeWork NSW (see [www.SafeWork.nsw.gov.au](http://www.SafeWork.nsw.gov.au)).

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

The report must include the following:

- (a) Photographs showing the existing condition of the road pavement fronting the site,
- (b) Photographs showing the existing condition of the kerb and gutter fronting the site,
- (c) Photographs showing the existing condition of the footpath pavement fronting the site,
- (d) Photographs showing the existing condition of any retaining walls within the footway or road, and
- (e) Closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site, and
- (f) The full name and signature of the structural engineer.

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

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

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

61. **Registered Surveyor's Report - During Development Work** - A report will be submitted to the Certifier at each of the following applicable stages of construction:
- (a) Set out before commencing excavation.
  - (b) Floor slabs or foundation wall, before formwork or commencing brickwork.

- (c) **Completion of Foundation Walls** - Before any construction of flooring, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans.
- (d) **Completion of Floor Slab Formwork** - Before pouring of concrete/walls construction, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans. In multi-storey buildings a further survey will be provided at each subsequent storey.
- (e) **Completion of any Roof Framing** - Before roof covered detailing eaves/gutter setback from boundaries.
- (f) **Completion of all Work** - Detailing the location of the structure (including eaves/gutters) relative to adjacent boundaries and its height relative to the datum shown on the approved plans. A final Check Survey will indicate the reduced level of the main ridge.

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

- 62. **Utility Arrangements** - Arrangements are to be made with utility authorities in respect to the services supplied by those authorities to the development. The cost associated with the provision or adjustment of services within the road and footway areas is to be at the applicant's expense.
- 63. **Structural Engineer's Details - Supporting Council road/footway** - Prior to the commencement of work in connection with the excavation of the site associated with the basement carpark, structural engineer's details relating to the method of supporting Council's roadways/footways and the Heritage Item on site will be submitted to the satisfaction of Council.
- 64. **Notification Requirements** - The following notification requirements apply to this consent:
  - (a) The developer/builder will notify adjoining residents five (5) working days prior to excavation. Such notification is to be a clearly written note giving the date works will commence, contact details of the developer/builder and the appropriate regulatory authority. Notification is to be placed in the letterbox of every premises (including every residential flat or apartment, if any) either side and immediately at the rear of the site.
  - (b) Five (5) working days prior to excavation, the developer/builder is to provide written notification to Council advising of the commencement date, and details of the list of residents advised of the works.
- 65. **Notice of Commencement** - The beneficiary of the development consent must give at least two (2) days' notice to the Council and the Principal Certifier of their intention to commence the erection of a building.
- 66. **Notification of Critical Stage Inspections** - No later than two (2) days before the building work commences, the Principal Certifier must notify:
  - (a) the consent authority and the Council (if not the consent authority) of his or her appointment; and
  - (b) the beneficiary of the development consent of the critical stage inspections and other inspections that are to be carried out with respect to the building work.

67. **Structural Engineer's Details - Supporting excavations and adjoining land** - Prior to the commencement of work in connection with the excavation of the site associated with the basement car park, structural engineer's details relating to the method of supporting the excavation will be submitted.

## DURING CONSTRUCTION

68. **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.

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

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

70. **Site Contamination – During Construction** - Any new information that identified during demolition, excavation or construction which has the potential to alter previous conclusions about site contamination and remediation, must be notified to the Principal Certifying Authority (and Council if Council is not the principal certifying authority) immediately.

All works must cease and a qualified Land Contamination Consultant, certified under the consultant certification schemes recognised by the NSW EPA, is engaged to assess and provide documentation on the management of the contamination in accordance with any relevant NSW EPA adopted guidelines.

Works on site must not recommence until such time as Council has reviewed the documentation and has accepted the contamination management in writing to the applicant.

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



72. **Site sign** - A clearly legible Site Management Sign is to be erected and maintained throughout the course of the works. The sign is to be centrally located on the main street frontage of the site and is to clearly state in legible lettering the following:
- a) The builder's name, builder's telephone contact number both during work hours and after hours.
  - b) That no works are to be carried out in Council's Road Reserve without prior application and approval of a Road Opening Permit from Council.
  - c) That a Road Opening Permit issued by Council must be obtained for any road openings or excavation within Council's Road Reserve associated with development of the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
  - d) That no skip bins or materials are to be stored on Council's Road Reserve.
  - e) That the contact number for Council for permits is 9970 1111.
73. **Soil & Erosion Control Measures** - Prior to the commencement of works (including excavation), a durable site sign, issued by Council in conjunction with this consent, will 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 will remain in a prominent location on site up until the completion of all site and building works.
74. **Physical Connection of Stormwater to Site** - No work is permitted to proceed above the ground floor slab level of the building until there is physical connection of the approved stormwater drainage system from the land the subject of this consent to Council's stormwater pipe within the easement as per the approved drainage plans in this consent.
75. **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.
76. **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.
77. **Hours of Construction and Building Work** - Any work activity or activity associated with the development consent that requires the use of any tools (including hand tools) or any power operated plant and machinery must not be performed, or permitted to be performed, except between the hours of 7.00am to 5.00pm, Monday to Saturday inclusive. No work or ancillary activity is permitted on Sundays, or Public Holidays.

78. **Hazardous or Intractable Waste – Removal and Disposal** – Hazardous or intractable waste arising from the excavation or construction process must be removed and disposed of in accordance with the requirements of SafeWork NSW and the NSW Environment Protection Authority and all applicable legislation.
79. **Structural Certificate During Construction** – The proposed building must be constructed in accordance with details designed and certified by the practising qualified structural engineer and endorsed by the Geotechnical Engineer. All structural works associated with the foundations, piers, footings and slabs for the proposed building must be inspected and structurally certified for compliance by an independent practising geotechnical and structural engineer. In addition, a Compliance or Structural Certificate, to the effect that the building works have been carried in accordance with the structural design; will be submitted to the Principal Certifying Authority at each stage of Construction.
80. **Redundant Driveway** - All existing vehicular crossings adjacent to the subject premises that have become redundant will be removed and the footway and kerb and gutter reinstated at the developer/applicant's expense.
81. **Damage within Road Reserve & Council Assets** - The owner will bear the cost of restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site. This may include works by Public Utility Authorities in the course of providing services to the site.
82. **Public Utility & Telecommunication Assets** - The owner will bear the cost of any relocation or modification required to any Public Utility Authority assets including telecommunication lines & cables and restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site.
83. **Works Zone** - The installation of a "Works Zone" for the site will require the approval from the Traffic Advisory Committee and/or RMS. As a result, the applicant will provide a formal request to Council's Traffic Section with the duration and exact location of the required "Works Zone" at least 6 weeks prior to its required installation date. All costs associated with the installation of a "Works Zone" will be at the applicant's expense.
84. **Waste Management Facility** - All materials removed from the site as a result of site clearing, site preparation and, or excavation will be disposed of at a suitable Waste Management Facility. No vegetation, article, building material, waste or the like will be ignited or burnt.

Copies of all receipts for the disposal, or processing of all such materials will be submitted to the Principal Certifier and Council, where Council is not the Principal Certifier.

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



**PRIOR TO ISSUE OF THE OCCUPATION CERTIFICATE**

86. **Section 73 Compliance Certificate** – A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be submitted to the Certifier prior to the issue of the Occupation Certificate.
87. **Completion of Landscape Works** - All landscape works and the planting of three (3) trees must be completed before the issue of the Final Occupation Certificate and to the satisfaction of Councils Tree Management Officers and in accordance with approved landscape plans and specifications, drawn by ATC Landscape Architects, Dwgs L/01 – 04.
- a) A certificate of compliance for the planting of all trees and shrubs proposed for the site. An AQF 5 Horticulturist shall be engaged and in writing certify that all trees have been planted as per landscape plan and specifications and forwarded to the PCA – Principal Certifying Authority.
88. **Maintenance of Landscaping**
- a) All trees and plants forming part of the landscaping must be maintained. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilising, pest and disease control, replacement of dead or dying plants and other operations required to maintain healthy trees, plants and turfed areas.
- Tree Protection Measures
- b) A final certificate of compliance letter, once all building and landscape works have been completed, from the engaged AQF 5 Consulting Arborist, that tree protection measures have been installed and maintained for the entirety of the project and report on the condition of the trees that as part of this Consent, were to be protected and retained.
- Tree Replacement within subject site
- c) If the replacement trees are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species. If the trees are found dead before they reach a height where they are protected by Councils Tree Management Controls, they must be replaced with the same species and pot/bag size.
- d) A copy of the Hurstville City Council's Tree Removal and Pruning Guidelines and Kogarah City Council, Street Tree Management Strategy, Masterplan, and Tree Management Policy 2019, can be downloaded from Council's website [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au).
89. **Consolidation of Site** - The site shall be consolidated into one allotment and by a Plan of Consolidation being prepared by a Registered Surveyor. This Plan shall be registered at the NSW Land and Property Information prior to the issue of an occupation certificate.
90. **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.

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

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

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

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

Traffic Control Devices - The internal road network, pedestrian facilities and parking facilities (including visitor parking and employee parking) shall be designated and line marked in accordance with Australian Standard - AS1742, Manual of Uniform Traffic Control Devices.

If an exit from car park utilises a pedestrian footpath, then a warning system such as flashing light and/or 'alarm sound' must be installed on the subject property to alert pedestrians of vehicles exiting the car park. The Alarm System must be designed and installed in accordance with AS2890.1 -2004.

92. **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. Only the Principal Certifier appointed for the building work can issue the Occupation Certificate.
93. **State Environmental Planning Policy 65 Design Verification Statement** - The Principal Certifier will not issue an Occupation Certificate to authorise a person to commence occupation of the residential flat development unless the he/she has received a design verification from a qualified designer, being a statement in which the qualified designer verifies that the residential flat development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No 65 Design Quality of Residential Flat Development.
94. **Requirements prior to the issue of the Occupation Certificate** - The following will be completed and or submitted to the PCA prior to the issue of the Occupation Certificate:
- (a) All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.

- (b) The internal driveway construction works, together with the provision for all services (conduits and pipes laid) shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
- (c) Construct any new vehicle crossings required.
- (d) Replace all redundant vehicle crossing laybacks with kerb and guttering, and replace redundant concrete with turf.
- (e) Work as Executed Plans prepared by a Chartered Professional Engineer or a Registered Surveyor when all the site engineering works are complete shall be submitted to the PCA prior to the issue of the Occupation Certificate.

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

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

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

95. **Vehicular Crossing and Frontage Work – Major development** – The following road frontage works shall be constructed in accordance with Council's Specification for Vehicular Crossings and Associated Works together with the Vehicular Crossing Approval issued by Council's Engineering Services Division:

- (a) Construct footpath for the full length of the frontage of the site in accordance with Council's Specifications for footpaths.
- (b) Construct the vehicular crossing in accordance with Council's Specifications for vehicular crossings.
- (c) Construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontage(s) of the site in accordance with Council's Specifications for kerb and guttering.
- (d) 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.

The above works shall be carried out at the expense of the applicant and in accordance with Council's Specification for Vehicular Crossings and Associated Works.

The driveway and road frontage works are to be completed before the issue of the Occupation Certificate.

96. **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.*

97. **Stormwater Drainage Works - Works As Executed** - Prior to the issue of the Occupation Certificate, storm water drainage works are to be certified by a professional engineer specialising in hydraulic engineering, with Works-As-Executed drawings supplied to Council detailing:
- (a) Compliance with conditions of development consent relating to stormwater;
  - (b) 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;
  - (c) Pipe invert levels and surface levels to Australian Height Datum.
98. **Fire Safety Certificate before Occupation or Use** - In accordance with Clause 153 of the Environmental Planning and Assessment Regulation 2000, on completion of building works and prior to the issue of an Occupation Certificate, the owner will cause the issue of a Final Fire Safety Certificate in accordance with Clause 170 of the aforesaid Regulation. The Fire Safety Certificate will be in the form or to the effect of Clause 174 of the Environmental Planning and Assessment Regulation, 2000. In addition, in relation to each essential fire or other safety measure implemented in the building or on the land on which the building is situated, such a Certificate is to state:
- (a) That the measure has been assessed by a person (chosen by the owner of the building) who is properly qualified to do so.
  - (b) That as at the date of the assessment the measure was found to be capable of functioning at a standard not less than that required by the attached Schedule.

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

99. **Registration of Drainage easement and a covenant for overland flow**  
The following are to be registered on the Land Title:

- a) A 3 metre wide drainage easement over the alignment of Council's new stormwater pipe.
- b) A Restriction on Use of Land and Positive Covenant over the full extent of the Overland Flow Path.

The extents and wording in the easements and covenant are to be to Council's requirements and approval.

The existing 1.525 metre wide drainage easement is to be extinguished.

All costs associated are to be borne by the applicant.



## 100. Development Engineering - Restriction on use of land for overland flow

An additional Restriction of Use of the Land is to be created using Section 88E of the Conveyancing Act 1919 over the subject property on which this development is to be carried out. This Restriction shall ensure that the stormwater overland flow-path, as determined by an Overland Flow Analysis commissioned by Council or as required from the Applicant, be maintained free from obstructions at all times and shall be worded as follows:

*In relation to the stormwater overland flow path, [inset description of land flow path] identified on the approved plans, for Development Application DA20.../....., the following Restrictions on The Use of The Land will apply”:*

- (a) *Property boundary fencing is not to obstruct the free flow of surface waters across the overland flow path in any way.*
- (b) *no building structures, walls, fences, trees, shrubs, grass or other vegetation shall be erected or planted within the site of the **overland flow path and/or easement to drain water** (where existing or proposed on site), except with the approval of Council.*
- (c) *The existing natural ground levels of the site shall not be raised or lowered or retaining walls constructed unless specified detailed plans are first submitted to and approved by Council.*
- (d) *The overland flow path must be kept clear of obstructions at all times and maintained to the satisfaction of Council.*

This Restriction shall benefit Georges River Council and Georges River Council is to be nominated as the Authority to release, vary or modify this Restriction. This Restriction on Use of Land shall be registered on the title of the land, prior to the issue of Any Occupation Certificate for the development (Interim or Final Occupation Certificate).

Documentary evidence of the registration of this Restriction on title is to be supplied to the Principal Certifying Authority when application for an occupation certificate is made.

## 101. Compliance with Overland Flow Report

The development shall be built to conform to the recommendations and conclusions of the Overland Flow Report lodged at the time of the Construction Certificate. This shall include, but not be limited to, any recommendations for the following:

- a) Minimum floor levels.
- b) Installation and type of fencing and gates.
- c) Overland flow path construction details including finished surface types and levels.
- d) Protection of the basement from inundation of surface waters.

A registered surveyor shall verify the levels, dimensions and features of the design runoff overland flow path and finished floor levels to Australian Height Datum.

A professional engineer that specialises in hydraulic engineering shall certify that all design requirements as detailed on the approved drawings and Overland Flow Report have been met shall be submitted with the Occupation Certificate application.

**OPERATIONAL CONDITIONS (ONGOING)**

102. **Intensity of car park lighting** – Prior to occupation, the intensity of lighting at the entrance to the basement carpark is to be designed to allow for progressive adjustment of light.
103. **Removal and collection** – Bins are to be taken to the kerbside for collection and garbage bins and recycling bins are to be collected on a weekly basis. They are to be collected from the kerbside and removed from the kerbside as soon as possible after collection.
104. **Acoustic Compliance – General Operation of Premises** - The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the [Protection of the Environment Operations Act 1997](#) (as amended) and [Regulations](#).

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

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

105. **Acoustic Certification** - Prior to the issue of any Occupation Certificate, a report prepared by a suitably qualified acoustic consultant must be submitted to the PCA certifying that the construction has incorporated the recommendations in the DA Acoustic Report titled *the "Acoustic Report – Traffic & Environmental Noise – for proposed development at No. 2-8 James Street, Blakehurst"* produced by Acoustic Noise & Vibration Solutions P/L Ref: 2020-097 and dated 4 August 2020.
106. **BASIX Certificate** - All energy efficiency measures as detailed in the approved BASIX Certificate in the plans approved with the Development Consent will be implemented before issue of any Occupation Certificate. A Compliance Certificate will be provided to the Principal Certifier regarding the implementation of all energy efficiency measures as detailed in the approved BASIX Certificate before any Occupation Certificate is issued.
107. **Allocation of Car Parking Spaces** – A total of 70 car parking spaces, and a minimum of thirty (30) bicycle parking spaces associated with the development is to be allocated as follows, sign posted and/or line marked accordingly:
- 62 residential spaces, including 5 accessible spaces.
  - 8 dedicated visitor spaces.
  - One (1) of the visitor spaces is to also be a shared as a wash bay.
  - 14 bicycle spaces for residents.
  - 5 bicycle spaces for visitors.
108. **Electricity Supply** - Evidence will be provided demonstrating that the development has been connected to the electricity network.



109. **Structural Certificates** - The proposed structure will be constructed in accordance with details designed and certified by the practising qualified structural and geotechnical engineer. In addition, Compliance or Structural Certificates, to the effect that the building works have been carried in accordance with the structural design; will be submitted to the PCA prior to the issue of the Occupation Certificate.
110. **Stormwater & Ancillary Works** - Applications under Section 138 of the Roads Act and/or Section 68 Local Government Act 1993, the applicant must obtain all necessary approvals. An approval for a new or modified vehicular crossing will contain the approved access and/or alignment levels which will be required to construct the crossing and/or footpath. Once approved, all work will be carried out by a private contractor in accordance with Council's specifications prior to the issue of an Occupation Certificate.

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

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

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

111. **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.
112. **Allocation of street addresses** – In order to comply with AS/NZS 4819:2011 Rural and Urban Addressing, the NSW Addressing User Manual (Geographical Names Board of NSW) and Georges River Council's requirements, the street address for the subject development is allocated as follows:

### **Primary Address**

<b>Description on DA plans</b>	<b>Proposed street address to comply with AS/NZS 4819:2011 and NSW Addressing Manual</b>
Building B	4 James Street, Blakehurst NSW 2221
Building A	6 James Street, Blakehurst NSW 2221

## Apartments Addresses

### Units summary:

6 James St	4 James St
406-408	401-403
306-309	301-305
206-209	201-205
106-109	101-105
G06-G09	G01-B05
Basement 1	
Basement 2	

### Unit Addresses at 4 & 6 James Street, Blakehurst NSW 2221

Unit numbers on DA Plans		Unit numbers and addresses allocated by Council				
Level	Unit No.	Unit No	Street No	Street Name	Suburb	COMPLETE ADDRESS
Basement 2		Basement CarPark 2 (B2)				
Basement 1	-	Basement Carpark 1 (B1)				
Ground Floor	B.G01	G01	4	James Street	Blakehurst NSW 2221	G01/4 James Street, Blakehurst NSW 2221
Ground Floor	B.G02	G02	4	James Street	Blakehurst NSW 2221	G02/4 James Street, Blakehurst NSW 2221
Ground Floor	B.G03	G03	4	James Street	Blakehurst NSW 2221	G03/4 James Street, Blakehurst NSW 2221
Ground Floor	B.G04	G04	4	James Street	Blakehurst NSW 2221	G04/4 James Street, Blakehurst NSW 2221
Ground Floor	B.G05	G05	4	James Street	Blakehurst NSW 2221	G05/4 James Street, Blakehurst NSW 2221
Ground Floor	A.G01	G06	6	James Street	Blakehurst NSW 2221	G06/6 James Street, Blakehurst NSW 2221
Ground Floor	A.G02	G07	6	James Street	Blakehurst NSW 2221	G07/6 James Street, Blakehurst NSW 2221
Ground Floor	A.G03	G08	6	James Street	Blakehurst NSW 2221	G08/6 James Street, Blakehurst NSW 2221
Ground Floor	A.G04	G09	6	James Street	Blakehurst NSW 2221	G09/6 James Street, Blakehurst NSW 2221
Level 1	B.101	101	4	James Street	Blakehurst NSW 2221	101/4 James Street, Blakehurst NSW 2221
Level 1	B.102	102	4	James Street	Blakehurst NSW 2221	102/4 James Street, Blakehurst NSW 2221
Level 1	B.103	103	4	James Street	Blakehurst NSW 2221	103/4 James Street, Blakehurst NSW 2221
Level 1	B.104	104	4	James Street	Blakehurst NSW 2221	104/4 James Street, Blakehurst NSW 2221
Level 1	B.105	105	4	James Street	Blakehurst NSW 2221	105/4 James Street, Blakehurst NSW 2221
Level 1	A.101	106	6	James Street	Blakehurst NSW 2221	106/6 James Street, Blakehurst NSW 2221
Level 1	A.102	107	6	James Street	Blakehurst NSW 2221	107/6 James Street, Blakehurst NSW 2221
Level 1	A.103	108	6	James Street	Blakehurst NSW 2221	108/6 James Street, Blakehurst NSW 2221
Level 1	A.104	109	6	James Street	Blakehurst NSW 2221	109/6 James Street, Blakehurst NSW 2221
Level 2	B.201	201	4	James Street	Blakehurst NSW 2221	201/4 James Street, Blakehurst NSW 2221
Level 2	B.202	202	4	James Street	Blakehurst NSW 2221	202/4 James Street, Blakehurst NSW 2221
Level 2	B.203	203	4	James Street	Blakehurst NSW 2221	203/4 James Street, Blakehurst NSW 2221
Level 2	B.204	204	4	James Street	Blakehurst NSW 2221	204/4 James Street, Blakehurst NSW 2221
Level 2	B.205	205	4	James Street	Blakehurst NSW 2221	205/4 James Street, Blakehurst NSW 2221
Level 2	A.201	206	6	James Street	Blakehurst NSW 2221	206/6 James Street, Blakehurst NSW 2221
Level 2	A.202	207	6	James Street	Blakehurst NSW 2221	207/6 James Street, Blakehurst NSW 2221
Level 2	A.203	208	6	James Street	Blakehurst NSW 2221	208/6 James Street, Blakehurst NSW 2221
Level 2	A.204	209	6	James Street	Blakehurst NSW 2221	209/6 James Street, Blakehurst NSW 2221
Level 3	B.301	301	4	James Street	Blakehurst NSW 2221	301/4 James Street, Blakehurst NSW 2221
Level 3	B.302	302	4	James Street	Blakehurst NSW 2221	302/4 James Street, Blakehurst NSW 2221
Level 3	B.303	303	4	James Street	Blakehurst NSW 2221	303/4 James Street, Blakehurst NSW 2221
Level 3	B.304	304	4	James Street	Blakehurst NSW 2221	304/4 James Street, Blakehurst NSW 2221
Level 3	B.305	305	4	James Street	Blakehurst NSW 2221	305/4 James Street, Blakehurst NSW 2221
Level 3	A.301	306	6	James Street	Blakehurst NSW 2221	306/6 James Street, Blakehurst NSW 2221
Level 3	A.302	307	6	James Street	Blakehurst NSW 2221	307/6 James Street, Blakehurst NSW 2221
Level 3	A.303	308	6	James Street	Blakehurst NSW 2221	308/6 James Street, Blakehurst NSW 2221
Level 3	A.304	309	6	James Street	Blakehurst NSW 2221	309/6 James Street, Blakehurst NSW 2221
Level 4	B.401	401	4	James Street	Blakehurst NSW 2221	401/4 James Street, Blakehurst NSW 2221
Level 4	B.402	402	4	James Street	Blakehurst NSW 2221	402/4 James Street, Blakehurst NSW 2221
Level 4	B.403	403	4	James Street	Blakehurst NSW 2221	403/4 James Street, Blakehurst NSW 2221
Level 4	A.401	406	6	James Street	Blakehurst NSW 2221	406/6 James Street, Blakehurst NSW 2221
Level 4	A.402	407	6	James Street	Blakehurst NSW 2221	407/6 James Street, Blakehurst NSW 2221
Level 4	A.403	408	6	James Street	Blakehurst NSW 2221	408/6 James Street, Blakehurst NSW 2221

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

### Additional comments

Please note that the allocated apartment addresses are different to what was on the plan.

If there are modifications or changes to the number of apartments during the DA process, please advise the GIS team before the final approval. The list is attached to the consent. Apartments Address Table is provided at the end of the set of conditions.

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

113. **Dilapidation Report on Public Land for Major Development Only** – Upon completion of works, a follow up dilapidation report must be prepared for the items of Council infrastructure adjoining the development site.  
The dilapidation report must be prepared by a professional engineer specialising in structural engineering, and include:

- a) Photographs showing the condition of the road pavement fronting the site
- b) Photographs showing the condition of the kerb and gutter fronting the site
- c) Photographs showing the condition of the footway including footpath pavement fronting the site
- d) Photographs showing the condition of retaining walls within the footway or road
- e) The full name and signature of the professional engineer.

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

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

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

114. **Lighting** - Any outdoor/security lighting must be located, designed, oriented and shielded in a manner that does not cause disturbance to surrounding premises and/or passing vehicular traffic. This requirement also applies to external lighting within the rooftop communal open space area.

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

Flashing, moving or intermittent lights or signs are prohibited.

115. **Activities and Storage of Goods Outside Buildings** - There will be no activities including storing or depositing of any goods or maintenance to any machinery external to the building with the exception of waste receptacles.
116. **Boundary fencing** - Any new boundary fencing erected along the side and rear boundaries shall not exceed a height of 1.8m unless specified by any other conditions.
117. **Disability Discrimination Act** – The applicant is responsible to ensure compliance with this and other anti-discrimination legislation.
118. **Electrical connection** - Any new electrical and telecommunication connections to the site are to be carried out using underground cabling.
119. **Finishes** - Any materials or surfaces addressing the public domain on the ground and first floor (where accessible by members of the public) shall utilise graffiti-resistant materials.

120. **Safety** - All communal entrances for the building will be capable of being secured. Entry doors are to be self-closing and signs are to be displayed requesting that building occupants not wedge doors open.
121. **Security** - If any security screens/grilles are installed, they are to be openable from within the building.
122. **Building identification** numbering that presents to public areas (ie the adjoining road reserve) are to be at least 7cm high and are to be situated 1-1.5m above ground level on the street frontage. The numbering is to be constructed from durable materials and shall not be obscured by vegetation.
123. **Noise Control** - The use of the premises will 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).
124. **Amenity of the Neighbourhood** - The implementation of this development will 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.
125. **Maintenance of Landscaping** - All trees and plants forming part of the landscaping will be maintained. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilising, pest and disease control, replacement of dead or dying plants and any other operations required to maintain healthy trees, plants and turfed areas.
- The maintenance of the landscaping shall be undertaken in perpetuity. Should any plants or trees die, then they shall be replaced with the same species (ie like for like).
126. **Annual Fire Safety Statement** - The owner of the building premises will ensure the Council is given an annual fire safety statement in relation to each essential fire safety measure implemented in the building. The annual fire safety statement will be given:
- (a) Within 12 months after the date on which the fire safety certificate was received.
  - (b) Subsequent annual fire safety statements are to be given within 12 months after the last such statement was given.
  - (c) An annual fire safety statement is to be given in or to the effect of Clause 181 of the Environmental Planning and Assessment Regulation 2000.
  - (d) A copy of the statement is to be given to the Commissioner of Fire & Rescue NSW, and a further copy is to be prominently displayed in the building.
127. **Responsibility of Owners Corporation** - The Owners Corporation will be responsible for presenting all approved waste and recycling receptacles for collection, and returning all receptacles to the waste collection room, as soon as practicable after they have been serviced.

The Owners Corporation will also be responsible for maintaining all equipment, systems, facilities and storage areas used in conjunction with the provision of waste management services in accordance with all applicable regulatory requirements, relevant health and environmental standards, and to the satisfaction of Council.



128. **Management of Waste Facilities** – The ongoing management of onsite waste facilities shall be undertaken in accordance with the following requirements:

- (a) Occupational Health and Safety issues such as slippery floors in waste rooms and the weight of the waste and recycling receptacles will need to be monitored.
- (b) Any cleaners will monitor the bin storage area and all spills will be attended to immediately by cleaners.

129. **Waste** - The ongoing operation of recycling and waste management services is to be undertaken in accordance with the Waste Management Plan.

130. **Air conditioning** - Any external plant/air-conditioning system must not exceed a noise level of 5dBA above the background noise level when measured at the boundaries of the property. Any proposed air conditioning systems or mechanical ventilation shall be appropriately screened from view and not located so that it can be seen from the street.

131. **Graffiti** - Any graffiti on the site is to be removed within forty eight (48) hours.

## **OPERATIONAL REQUIREMENTS UNDER THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979**

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

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

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

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

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

133. **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:

- (c) appoint a Principal Contractor to undertake the building work. If residential building work (within the meaning of the Home Building Act 1989) is to be undertaken, the Principal Contractor must be a holder of a contractor licence; and
- (d) notify the PCA of the details of any such appointment; and

- (e) notify the Principal Contractor of any critical stage inspections or other inspections that are required to be carried out in respect of the building work.

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

- 134. **Notification Requirements of Principal Certifier** - No later than two days before the building work commences, the Principal Certifier must notify:
  - a) the consent authority and the Council (if not the consent authority) of his or her appointment; and
  - b) the applicant of the critical stage inspections and other inspections that are to be carried out with respect to the building work.
- 135. **Notice of Commencement** - The applicant must give at least two days notice to the Council and the Principal Certifier of their intention to commence the erection of a building.
- 136. **Critical Stage Inspections** - The last critical stage inspection must be undertaken by the Principal Certifier. The critical stage inspections required to be carried out vary according to Building Class under the Building Code of Australia and are listed in Clause 162A of the Environmental Planning and Assessment Regulation 2000.
- 137. **Occupation Certificate** - A person must not commence occupation or use of the whole or any part of a new building unless an Occupation Certificate has been issued in relation to the building or part. Only the Principal Certifier appointed for the building work can issue the Occupation Certificate.

## **PRESCRIBED CONDITIONS**

- 138. **Clause 97A - BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
- 139. **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.
- 140. **Clause 98A – Erection of Signs** - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the Principal Certifier and the Principal Contractor.
- 141. **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.

142. **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.
143. **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 of a building must be executed safely and in accordance with appropriate professional standards.

All excavations associated with the erection 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 of a building or other approved methods of preventing movement of the soil shall be provided and adequate provision shall be made for drainage.

## END CONDITIONS

## NOTES/ADVICES

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144. **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.

145. **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.
146. **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.
147. **Access to NSW Legislations (Acts, Regulations and Planning Instruments)** - NSW legislation can be accessed free of charge at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)



148. **Principal Certifier** - Should the Council be appointed as the Principal Certifier in determining the Construction Certificate, the building must comply with all the applicable deemed to satisfy provision of the BCA. However, if an alternative solution is proposed it must comply with the performance requirements of the BCA, in which case, the alternative solution, prepared by an appropriately qualified fire consultant, accredited and having specialist qualifications in fire engineering, must justifying the non-compliances with a detailed report, suitable evidence and expert judgement. Council will also require if deemed necessary, for the alternative solution to undergo an independent peer review by either the CSIRO or other accredited organisation. In these circumstances, the applicant must pay all costs for the independent review.
149. **Fire and Rescue NSW comments.** Prior to the issue of a Construction Certificate the applicant may be required, under Clause 144 of the Environmental Planning & Assessment Regulation 2000 to seek written comment from FR NSW about any Fire Engineered Solution developed to meet the performance requirements under Category 2 Fire Safety Provisions.
150. **Referral to Fire and Rescue NSW** - Prior to the issue of an Occupation Certificate the applicant may be required, under Clause 152A of the Environmental Planning & Assessment Regulation, 2000 to seek written comment from FR NSW about the construction and location of any hydrant/booster system, developed to meet the performance requirements of the Building Code of Australia.
151. **Building - Energy Efficiency Provisions** - Should Council be appointed as the Principal Certifying Authority, a report prepared and endorsed by an Energy Efficiency Engineer or other suitably qualified person must be submitted, detailing the measures that must be implemented in the building to comply with Section J of the BCA. The proposed measures and feature of the building that facilitate the efficient use of energy must be identified and detailed on the architectural plans. At completion of the building and **before the issue of an Occupation Certificate**, a certificate certifying that the building has been erected to comply with the energy efficiency provisions must be submitted to the Certifying Authority.
152. **Land Contamination** - Note: A Certified Contaminated Land Consultant is a Certified Environmental Practitioner (Site Contamination) (CENVP(SC)) or certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM)

Information relating to certified contaminated land consultant or accredited site auditors can be found in EPA webpage: <https://www.epa.nsw.gov.au/your-environment/contaminated-land/>

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

154. **Compliance with Access, Mobility and AS4299** - Adaptable Housing - Should the Council be appointment as the PCA, the Construction Certificate Application must be accompanied by detailed working plans and a report or a Certificate of Compliance from an Accredited Access Consultant certifying that the building design and access to the adaptable apartments complies with Council's Development Control Plan and AS 4299 Adaptable Housing.
155. **Noise** - Noise related conditions - Council will generally enforce noise related conditions in accordance with the Noise Guide for Local Government (<http://www.environment.nsw.gov.au/noise/nglg.htm>) and the Industrial Noise Guidelines (<http://www.environment.nsw.gov.au/noise/industrial.htm>) publish by the Department of Environment and Conservation. Other state government authorities also regulate the Protection of the Environment Operations Act 1997.

Useful links relating to Noise:

- (a) Community Justice Centres - free mediation service provided by the NSW Government ([www.cjc.nsw.gov.au](http://www.cjc.nsw.gov.au)).
  - (b) Department of Environment and Conservation NSW, Noise Policy Section web page ([www.environment.nsw.gov.au/noise](http://www.environment.nsw.gov.au/noise)).
  - (c) New South Wales Government Legislation home page for access to all NSW legislation, including the Protection of the Environment Operations Act 1997 and the Protection of the Environment Noise Control Regulation 2000 ([www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)).
  - (d) Australian Acoustical Society - professional society of noise-related professionals ([www.acoustics.asn.au/index.php](http://www.acoustics.asn.au/index.php)).
  - (e) Association of Australian Acoustical Consultants - professional society of noise related professionals ([www.aaac.org.au](http://www.aaac.org.au)).
  - (f) Department of Gaming and Racing - ([www.dgr.nsw.gov.au](http://www.dgr.nsw.gov.au)).
156. **Acoustical Engineer Contacts & Reference Material** - Further information including lists of Acoustic Engineers can be obtained from:
- (a) Australian Acoustical Society - professional society of noise-related professionals ([www.acoustics.asn.au](http://www.acoustics.asn.au))
  - (b) Association of Australian Acoustical Consultants - professional society of noise related professionals ([www.aaac.org.au](http://www.aaac.org.au))
  - (c) NSW Industrial Noise Policy - Office of Environment & Heritage ([www.environment.nsw.gov.au](http://www.environment.nsw.gov.au))
163. **Strata Subdivisions**
- (a) Council will check the consent conditions on the relevant Strata Subdivision consent. Failure to submit the required information will delay endorsement of the plan of subdivision.
  - (b) Council will undertake the required inspections to satisfy the requirements of the Strata Schemes Development Regulation 2016 to determine the Strata Certificate.
  - (c) Strata Plans, Administration Sheets, 88B Instruments and copies must not be folded.
  - (d) All Strata Plans, Strata Plan Administration Sheets and 88B Instruments shall be submitted to Council enclosed in a protective cardboard tube (to prevent damage during transfer).

157. **Sydney Water Section 73 Certificates** - The Section 73 Certificate must be a separate certificate that relates specifically to this development consent. For example, if the development consent relates to the subdivision of the land, a Section 73 Certificate for the construction of the building that is subject to a different development consent will not suffice.
158. **Electricity Supply** - This development may need a connection to the Ausgrid network which may require the network to be extended or its capacity augmented. You are advised to contact Ausgrid on 13 13 65 or [www.ausgrid.com.au](http://www.ausgrid.com.au) (Business and Commercial Services) for further details and information on lodging your application to connect to the network.
159. **Disability Discrimination Act** - This application has been assessed in accordance with the Environmental Planning and Assessment Act 1979. No guarantee is given that the proposal complies with the Disability Discrimination Act 1992. The applicant is responsible to ensure compliance with this and other anti-discrimination legislation. The Disability Discrimination Act 1992 covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which refers to AS1428.1-Design for Access and Mobility.
160. **Council as PCA - Total Conformity with BCA - Accompanying Information** - Should the Council be appointed as the Principal Certifier, the Construction Certificate Application must be accompanied by the following details, with plans prepared and certified by an appropriately qualified person demonstrating compliance with the BCA:
- a) Mechanical ventilation to bathroom, laundry and basement areas not afforded natural ventilation.
  - b) Fire-fighting services and equipment including hydrant systems and booster assembly location, sprinkler and valve room systems, hose reels, portable fire extinguishers, smoke hazard management systems, sound and warning systems.
  - c) Emergency lighting and exit signs throughout, including communal open space areas, lobby/foyer and basement areas.
  - d) Construction of all fire doors including warning and operational signage to required exit and exit door areas.
  - e) Egress travel distances to exits and the discharge from fire isolated exits including the swing of exit doors.
  - f) The spandrel protection of openings in external walls
  - g) The protection of paths of travel from a fire isolated exit when passing within 6m of an opening within the external wall of the building.
  - h) Fire compartmentation and fire wall separation details including all stairway, lift and service shaft areas.
  - i) The location and construction of an electricity substation, including the location and smoke separation of electrical distribution boards.
  - j) Sound transmission and insulation details.
  - k) Window schedule is to include the protection of openable windows.

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

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

161. **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.

162. **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.

163. **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)).

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

- (i) Complete the Driveway Crossing on Council Road Reserve Application Form which can be downloaded from Georges River Council's Website at [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au)
- (ii) In the Application Form, quote the Development Consent No. (eg. DA2018/0580)

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

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

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

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

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

165. **Council Appointed as the CA.** Should the Council be appointed as the Certifying Authority in determining the Construction Certificate, the building must comply with all the applicable deemed to satisfy provision of the BCA. However, if an alternative solution is proposed it must comply with the performance requirements of the BCA, in which case, the alternative solution, prepared by an appropriately qualified fire consultant, accredited and having specialist qualifications in fire engineering, must justify the non-compliances with a detailed report, suitable evidence and expert judgement.

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

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

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

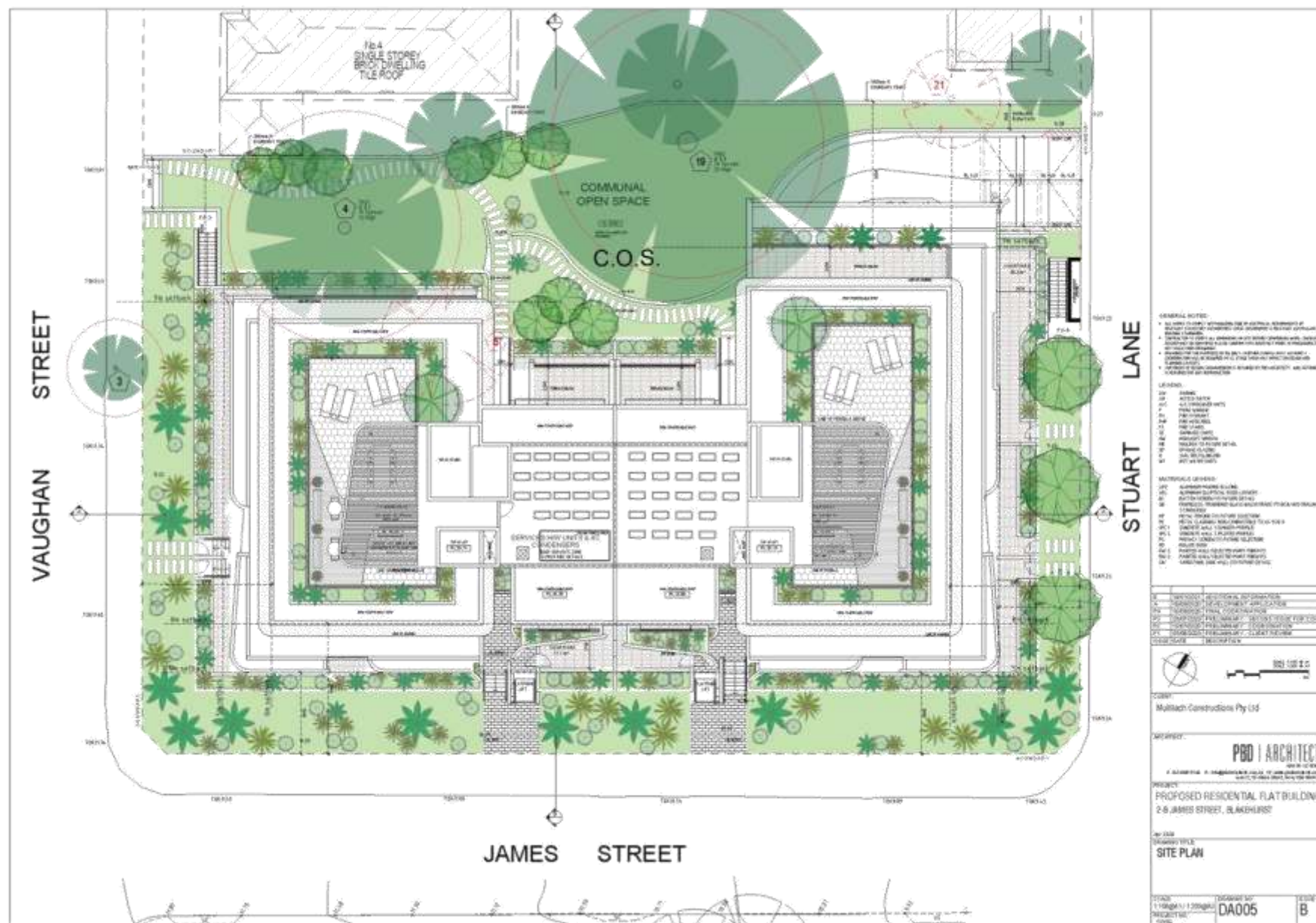
166. **Energy Efficiency Provisions** - Should Council be appointed as the Principal Certifying Authority, a report prepared and endorsed by an Energy Efficiency Engineer or other suitably qualified person must be submitted, detailing the measures that must be implemented in the building to comply with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

167. **Compliance with Access, Mobility and AS4299 - Adaptable Housing** - Should the Council be appointment as the PCA, the Construction Certificate Application must be accompanied by detailed working plans and a report or a Certificate of Compliance from an Accredited Access Consultant certifying that the building design and access to the adaptable apartments complies with Council's Development Control Plan and AS 4299 Adaptable Housing.

## ATTACHMENTS

Attachment [↓](#) 1  Site Plan and Elevations















**REPORT TO GEORGES RIVER COUNCIL  
LPP MEETING OF THURSDAY, 22 APRIL 2021**

LPP009-21

<b>LPP Report No</b>	<b>LPP009-21</b>	<b>Development Application No</b>	<b>DA2020/0470</b>
<b>Site Address &amp; Ward Locality</b>	29-31 Dora Street Hurstville Hurstville Ward		
<b>Proposed Development</b>	External alterations to level 2 of the existing Waratah Private Hospital to install security fencing and provide a new door opening with side and top fixed glazing		
<b>Owners</b>	Northwest Healthcare Properties Management		
<b>Applicant</b>	Willowtree Planning		
<b>Planner/Architect</b>	Willowtree Planning / HSPC		
<b>Date Of Lodgement</b>	9/12/2020		
<b>Submissions</b>	No submissions		
<b>Cost of Works</b>	\$47,190.00		
<b>Local Planning Panel Criteria</b>	Staff Referral- General Manager Delegation- Conflict of interest due to Council having a commercial interest within the site.		
<b>List of all relevant s.4.15 matters (formerly s79C(1)(a))</b>	State Environmental Planning Policy No 55 - Remediation of Land; State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017; State Environmental Planning Policy (Infrastructure) 2007, Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment; Draft Environment State Environmental Planning Policy; Draft Remediation of Land SEPP; Hurstville Local Environmental Plan 2012; Hurstville Development Control Plan Number 2 - Amendment No.10; Draft Georges River Local Environmental Plan 2020 and Georges River Development Control Plan 2020.		
<b>List all documents submitted with this report for the Panel's consideration</b>	Architectural Plans; Statement of Environmental Effects, BCA Statement, Fire Engineering Statement		
<b>Report prepared by</b>	Development Assessment Planner		

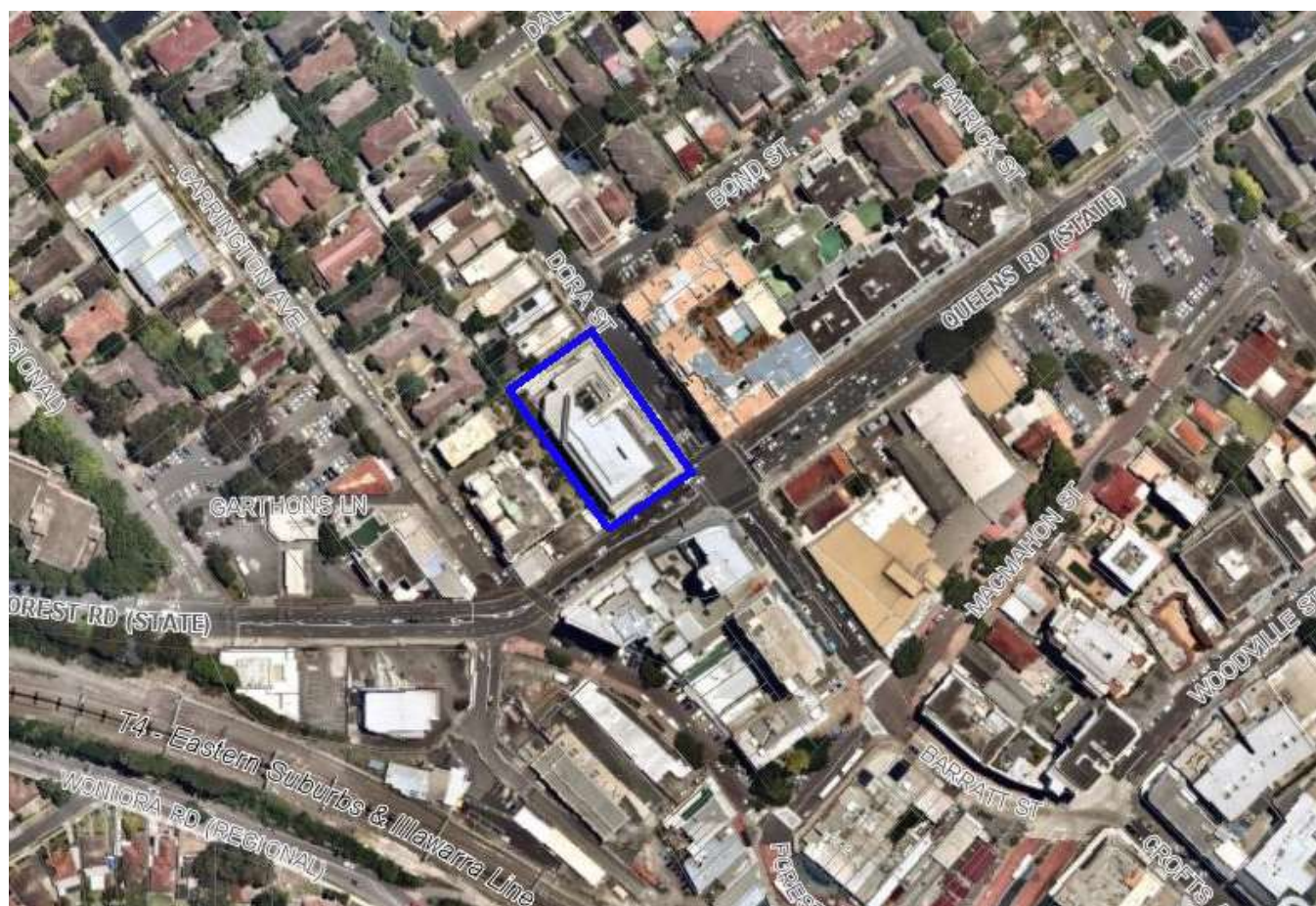
<b>Recommendation</b>	That the application be approved subject to the conditions referenced at the end of this report.
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<b>Summary of matters for consideration under Section 4.15</b> Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	<b>Yes</b>
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<b>Legislative clauses requiring consent authority satisfaction</b> Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?	Yes
<b>Clause 4.6 Exceptions to development standards</b> If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Not Applicable
<b>Special Infrastructure Contributions</b> Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	Not Applicable
<b>Conditions</b> Have draft conditions been provided to the applicant for comment?	No– the conditions can be viewed when the report is published.

### Site Plan



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

## Executive Summary

### Proposal

1. Development consent is sought for 'external alterations to level 2 of the existing Waratah Private Hospital to install security fencing and provide a new door opening with side and top fixed glazing' to facilitate increased use of this space by patients and staff.

### Site and Locality

2. The subject site is a rectangular shaped allotment located on the north-western corner of Dora Street and Queens Road to the south. The site has an approximate frontage of 39.0m to Queens Road, a secondary frontage of approximately 70.0m to Dora Street. The site is identified as 29-31 Dora Street Hurstville NSW 2220
3. The subject site is known as the Waratah Private Hospital which comprises an eight storey building housing a medical centre, a private hospital and a café. Additionally, the building incorporates eight (8) levels of basement car parking. The area surrounding the subject site is characterised by commercial and residential developments which vary from one storey to multi storey developments.

### Zoning and Permissibility

4. The site is zoned B4 – Mixed Use under the provisions of Hurstville Local Environmental Plan 2012 (HLEP 2012). Medical centres and health service facilities (hospitals) are permissible in the zone. In addition, medical centres and health service facilities (hospitals) are also permitted in the zone pursuant to clause 57 of the State Environmental Planning Policy (Infrastructure) 2007.

### Submissions

5. The application was notified in accordance with Council's Notification Policy and 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 (DA2020/0470) is recommended for approval subject to conditions for the reasons contained within this report.

### Report in Full

#### Proposal

7. Development consent is sought for 'external alterations to level 2 of the existing Waratah Private Hospital to install security fencing and provide a new door opening with side and top fixed glazing' to facilitate increased use of this space by patients and staff.
8. Further details of the proposed development are as follows:

#### Second storey external works (existing terrace)

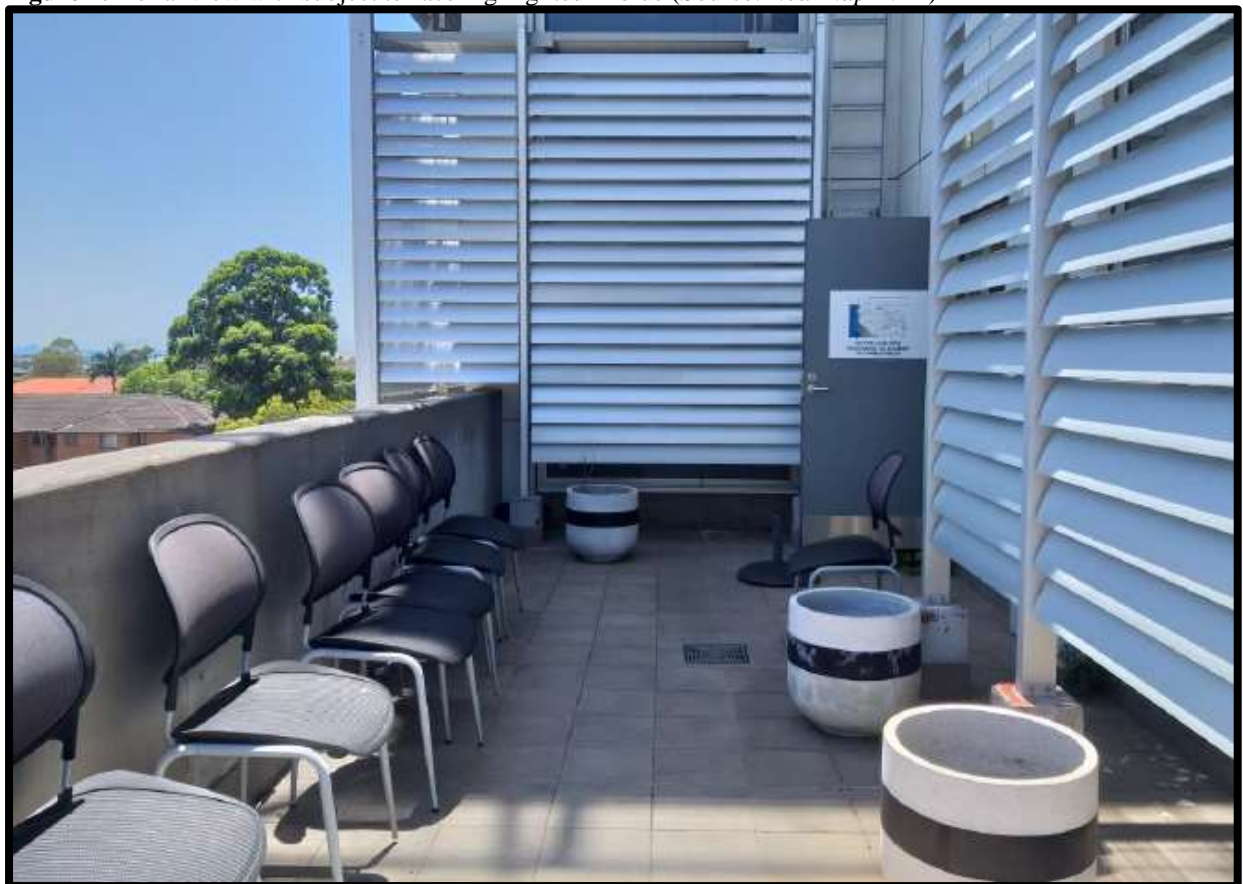
- Demolition of existing aluminium sunshade louvres along the north-western and western portion of the building (adjacent to existing terrace);
- Removal of existing window and demolish the sill to facilitate the installation of a new glazed door;
- Installation of anti-climb mesh security fencing 2.35m in height along the external façade of the existing terrace;
- Construction of a new door opening with glazed elements along south-western portion of the building leading to the existing terrace;



Note: The internal building layout will remain as existing. It is anticipated that any internal fit-out works (if any) will be undertaken as exempt development.



**Figure 2:** Aerial view with subject terrace highlighted in blue (Source: *Nearmap 2021*)



**Figure 3:** View of subject terrace (looking north-east)



**Figure 4:** View of subject terrace (looking north-west)

### The Site and Locality

9. The subject site is a rectangular shaped allotment located on the north-western corner of Dora Street and Queens Road to the south. The site is legally identified as Lot 1 DP1157338, CP SP85105 and Lot 2 DP1157338, and is commonly identified as 29-31 Dora Street Hurstville NSW 2220. The site has an approximate frontage of 39.0m to Queens Road, a secondary frontage of approximately 70.0m to Dora Street. The site has an area of 2,736.21sqm.
10. The subject site is known as the Waratah Private Hospital and comprises an eight storey building which includes a medical centre, a private hospital and a café. Additionally, the building incorporates eight (8) levels of basement car parking. The area surrounding the subject site is characterised by commercial and residential developments which vary from one storey to multi storey developments.
11. To the north-west of the site is a series of four (4) single storey semi-detached Victorian Terraces with pitched metal clad roofs fronting Dora Street. These terraces are identified as local heritage items (Item No. I119) under Schedule 5 of the Hurstville LEP 2012.
12. Directly to the south-west of the site is a group of six (6) to eight (8) storey residential flat buildings and a two (2) storey commercial building fronting Carrington Avenue at the corner of Queens Road. To the south-east of the site on the opposite side of Queens Road is a small public car park and one (1) to two (2) storey commercial and retail premises. The site south of the subject site, on the opposite side of Queens Road is a multi-storey mixed-use development.

### Background

13. Development application 05/DA-607 granted deferred commencement consent which was activated on 8 September 2006 for the construction of an eight storey medical centre building with ground floor retail, ancillary inpatient facilities and associated basement car parking.

14. On 13 February 2014 section 96 (1A) modification no. MOD2013/0090 was granted to modify the internal configuration of Level 5 and installation of new internal riser from Level 5 to rooftop plant enclosure.
15. On 14 July 2014 consent no. DA2014/0903 was granted for change of use of levels 4 and 5 of existing building from medical centre to private hospital and associated internal works to level 4.
16. On 30 May 2019 consent no. DA2019/0065 was granted for to change the use of the third floor level from (11) consulting rooms to a hospital comprising of (31) inpatient beds, associated internal reconfiguration and minor external alterations.
17. On 23 December 2020 Fire Safety Order (Notice) ON2020/0121 (Notice) was issued to the owners of the medical centre on 23 December 2020 in relation to the removal of combustible cladding products. The process is still ongoing.

#### **Use and Operational Details**

18. The operation of the use will be as follows:
19. Operating hours: No change to the approved hours of operation of the medical centre.  
  
The proposed development supports the mental health facility on Level 2 through the provision of a safe and functional terrace for patients and staff.
20. Staff: No change in the number of staff.
21. Clients: No change in the number of anticipated visitors.
22. Parking: Onsite parking will remain as existing.
23. Accessibility: Access to the existing terrace in addition to all additional openings created will be required to comply with the requirements of the Building Code of Australia (BCA) / National Construction Code (NCC) 2019. A specific condition has been imposed in that regard.
24. Acoustics: As the use of the existing terrace will likely increase due to its nomination as an outdoor communal space for visitors and staff (as opposed to staff only) a condition has been imposed limiting the hours of use of the terrace to the following:

*“8:00am until 6:00pm on any day”*

The reason for the imposition of the condition is to limit adverse acoustic impacts to the neighbouring residential developments. The applicant has been briefed and has accepted the imposition of the condition.

#### **Compliance and Assessment**

25. 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**

26. 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 (Infrastructure) 2007	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

LPP009-21

### **State Environmental Planning Policy (Infrastructure) 2007**

27. Clause 57 within Division 10 of Infrastructure State Environmental Planning Policy provides the following:  
*(1) Development for the purpose of health services facilities may be carried out by any person with consent on land in a prescribed zone.*
28. The prescribed zones are identified in Clause 56 and include B4-Mixed Use zones. As the subject site is zoned B4-Mixed Use, a '*health services facility*' is permissible on the subject site notwithstanding the provisions of the Hurstville Local Environmental Plan 2012.
29. As a health services facility already exists on the site, no specific Infrastructure State Environmental Planning Policy clauses under Division 10 (Health Services Facility) apply. It is noted that the definition of health services facilities includes medical centres. This is discussed in detail below.
30. The application was referred to Ausgrid pursuant to clause 45 of the Infrastructure State Environmental Planning Policy. No objection was received from Ausgrid.

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

31. State Environmental Planning Policy 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.
32. As the proposed works are located on level 2 within the footprint of the existing medical centre, it is unlikely that the land is contaminated.

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

33. The Vegetation State Environmental Planning Policy regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.
34. The Vegetation State Environmental Planning Policy 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).



35. The objectives of the State Environmental Planning Policy 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 State Environmental Planning Policy as the site is within both Georges River Council and the B4-Mixed Use zone.
36. Pursuant to Clause 8(1) of the State Environmental Planning Policy, 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).
37. No trees or significant vegetation are proposed to be removed by the proposal.
- GREATER METROPOLITAN REGIONAL ENVIRONMENTAL PLAN NO 2 - GEORGES RIVER CATCHMENT**
38. 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,*
39. Due to nature of the works being internal to the existing building, the application did not require referral to Council's Development Engineer. The proposal is not inconsistent with the provisions of this plan.

### **Draft Environmental Planning Instruments**

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

40. The Draft Environment State Environmental Planning Policy was exhibited from 31 October 2017 to 31 January 2018. This consolidated State Environmental Planning Policy 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 State Environmental Planning Policies:
- 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.

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

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

42. The Draft Remediation of Land State Environmental Planning Policy was exhibited from 31 January 2018 to 13 April 2018. The proposed remediation of land State Environmental Planning Policy 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.

43. 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 and there is no foundation material being impacted by this proposal.

**DRAFT DESIGN AND PLACE STATE ENVIRONMENTAL PLANNING POLICY**

Consideration is given to the provisions of the Draft Design and Place State Environmental Planning Policy in the assessment of this application.

45. The New South Wales Department of Planning, Industry and Environment exhibited an Explanation of Intended Effect between 26 February 2021 and 31 March 2021 for the proposed Design and Place State Environmental Planning Policy.
- The Design and Place State Environmental Planning Policy will:
- Establish principles for the design and assessment of places in urban and regional NSW;
  - Establish matters for consideration and application requirements that collectively respond to each of the principles;
  - Provide a single point of reference for design-related considerations and performance criteria in the planning system;
  - Define scales of development – precincts and significant development, and all other development;
  - Introduce a robust and consistent design process through requirements for design skills, design evaluation and review, and design excellence;
  - Integrate a design-led, place-based approach, which includes embedding the draft Connecting with Country Framework;
  - Be supported by existing, revised and new guidance, including a revised Apartment Design Guide (ADG), a new Urban Design Guide (UDG), and revisions to the Building Sustainability Index (BASIX);
  - Repeal and replace State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development and State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX SEPP)

Consolidate design and place requirements in other State Environmental Planning Policies in the future.

47. The proposal is not considered to be inconsistent with the provisions of the Draft State Environmental Planning Policy.



**Hurstville Local Environmental Plan 2012 (HLEP 2012)**

48. The subject site is zoned B4 – Mixed Use. The objectives of the B4-Mixed Use zone are:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To allow for residential development in the Hurstville City Centre while maintaining active retail, business or other non-residential uses at street level.*

The proposed development meets the objectives of the zone through the renovation of the existing medical centre/health services facility to meet the operational requirements of the provider. The proposed development is an approved use in the B4 zone as it is not a listed prohibited use. In addition, the use is permissible pursuant to the Infrastructure State Environmental Planning Policy.50. Pursuant to the B4 Mixed Use zone the following developments are permitted with consent:

*“Boarding houses; Centre-based child care facilities; Commercial premises; Community facilities; Dual occupancies; Educational establishments; Entertainment facilities; Function centres; Hostels; Hotel or motel accommodation; Information and education facilities; Medical centres; Multi dwelling housing; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Residential flat buildings; Respite day care centres; Restricted premises; Roads; Seniors housing; Shop top housing; **Any other development not specified in item 2 or 4**”*

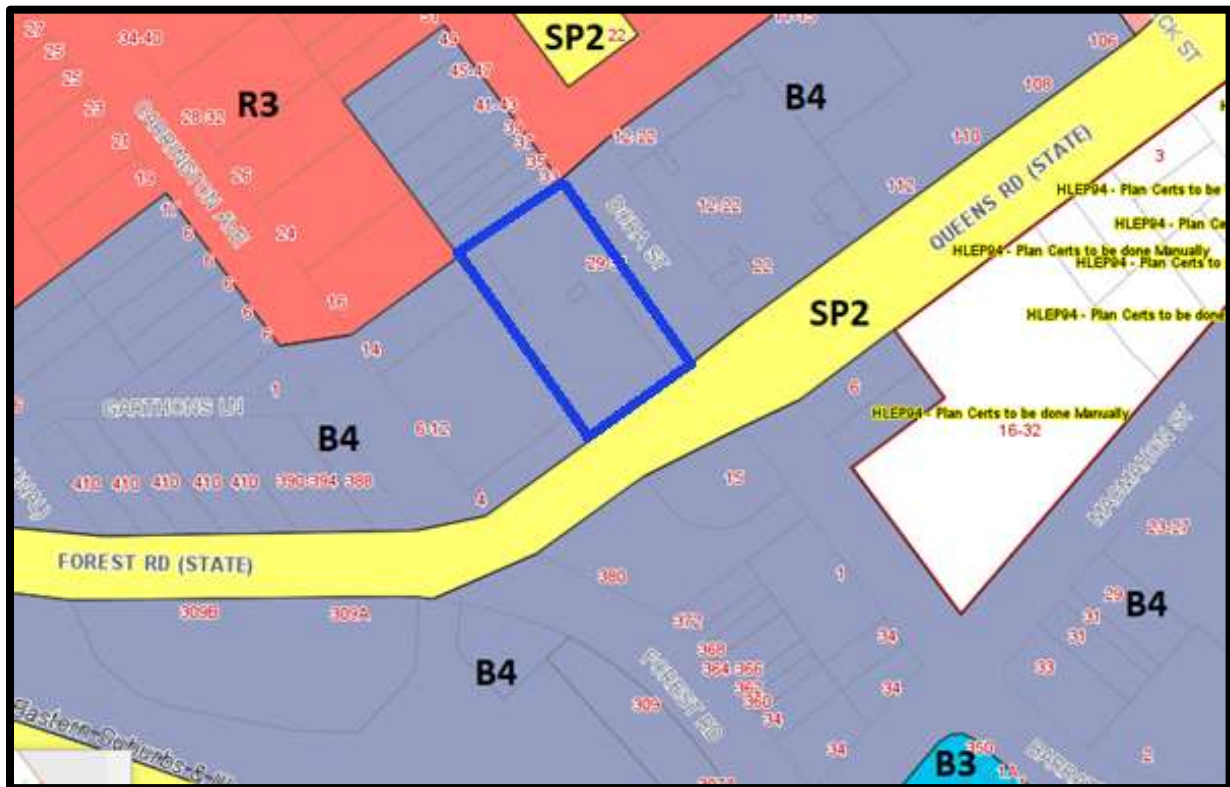
51. Pursuant to the B4 Mixed Use zone the following developments are prohibited:

*“Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Biosolids treatment facilities; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Environmental facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Jetties; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Recreation facilities (major); Research stations; Residential accommodation; Rural industries; Sewage treatment plants; Sex services premises; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Waste or resource management facilities; Water recycling facilities; Water supply systems; Wharf or boating facilities; Wholesale supplies”*

52. The proposed works to the medical centre/health services facility fall within the definition of health services under the HLEP 2012. Health services facility is defined as:

*“health services facility means a building or place used to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes any of the following:*

- (a) a medical centre,**
- (b) community health service facilities,*
- (c) health consulting rooms,*
- (d) patient transport facilities, including helipads and ambulance facilities,*
- (e) hospital.”**



**Figure 5:** Land Zoning Plan- subject site highlighted in blue

Clause	Standard	Proposed	Compliance
<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
<b>Part 4 Principal development standards</b>			
4.3 – Height of Buildings	30m	The height to the top of the proposed fence does not exceed 30m as it is located on level 2 of the building.	Yes
4.4 – Floor Space Ratio	4.5:1	The FSR will remain as existing.	Yes
<b>Part 5 Miscellaneous provisions</b>			
5.10 – Heritage Conservation	<p>(1) The objectives of this clause are as follows:</p> <p>(a) to conserve the environmental heritage of Hurstville,</p> <p>(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,</p>	<p>Site has not been identified as a heritage item, nor within a heritage conservation area.</p> <p>The site is located adjacent to semi-detached Victorian terraces located at 33-47 Dora Street (Lots 5-8 DP 237059, Lot 34 DP 836363, and Lot 1 DP 794227) which a</p>	Yes

	<p>(c) to conserve archaeological sites,</p> <p>(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.</p>	<p>listed as heritage items (I119).</p> <p>The proposed works are located along the south western corner of the Site and does not significantly alter the external appearance of the building as viewed from the street. Therefore, it is considered that there would be minimal impact to the neighbouring heritage items. The fence being open in form is not likely to increase overshadowing impacts to downstream buildings.</p>	
<b>Part 6 Additional local provisions</b>			
6.1 – Acid sulfate soils	(1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.	The site is not affected by Acid Sulfate Soils.	Yes

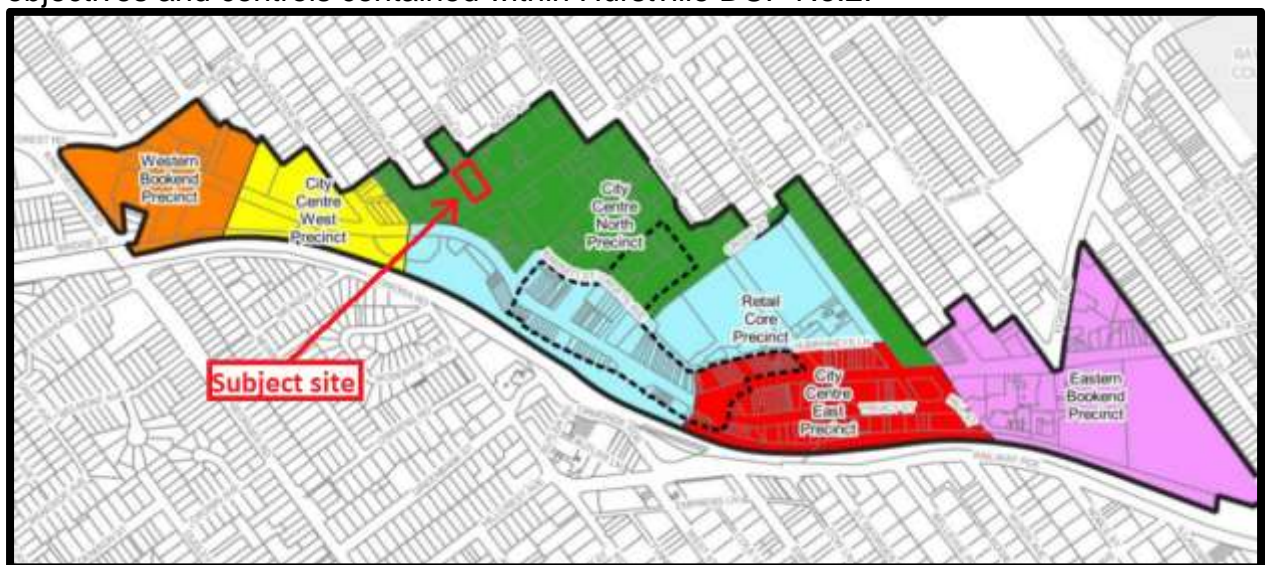
6.6 – Active street frontages	<p>(3) Development consent must not be granted to the erection of a building, or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied that the building will have an active street frontage after its erection or change of use.</p> <p>(5) In this clause, a building has an active street frontage if all premises on the ground floor of the building facing the street are used for the purposes of business premises, retail premises or medical centres.</p>	The subject site is required to have an Active Street frontage towards Queens Road. The site does not seek to alter the existing building front Queens Road.	Yes
6.7 – Essential services	<p>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—</p> <p>(a) the supply of water,</p> <p>(b) the supply of electricity,</p> <p>(c) the disposal and management of sewage,</p> <p>(d) stormwater drainage or on-site conservation,</p> <p>(e) suitable road and vehicular access.</p>	All essentials services are available to the site.	Yes

**DRAFT GEORGES RIVER LOCAL ENVIRONMENTAL PLAN 2020**

53. Consideration is given to the provisions of Draft Georges River Local Environmental Plan 2020 in the assessment this application.
54. 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**

55. The proposed development is subject to the provisions Hurstville Development Control Plan No.2. The following comments are made with respect to the proposal satisfying the objectives and controls contained within Hurstville DCP No.2.



**Figure 6:** Hurstville City Centre Precincts maps- location of subject site highlighted in red

<b>Hurstville Development Control Plan 2013 Compliance Table</b>			
<b>Applicable DCP Controls</b>	<b>Standard</b>	<b>Proposed</b>	<b>Compliance</b>
<b>4.4 City Centre North</b>			
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.	Given the subject site in adjacent to some residential developments, a condition has been imposed limiting the use of the terrace to 8:00am to 6:00pm daily.	Yes

5.4.7 Pedestrian access and mobility	<p>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.</p> <p>Access must be direct and without unnecessary barriers. Avoid obstructions, which cause difficulties including:</p> <ul style="list-style-type: none"> <li>• Uneven and slippery surfaces;</li> <li>• Steep stairs and ramps;</li> <li>• Narrow doorways, paths and corridors; and</li> </ul> <p>Devices such as door handles which require two hands to operate.</p> <p>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).</p> <p>The development must provide at least one main pedestrian entrance with convenient barrier free access in all developments to at least the ground floor.</p>	Access to the existing terrace in addition to all additional openings created will be required to comply with the requirements of the Building Code of Australia (BCA)/ National Construction Code (NCC) 2019. A specific condition has been imposed in this regard.	Yes, by condition
5.3.11 Awnings and Balconies	(a) Balconies and terraces must be integrated with the design and form of the building and enhance its appearance and contribution to the streetscape.	The terrace is an existing element of the building. The proposed works comprise external alterations to support the existing facility operating on	Yes



	<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 Georges River Council's Policy on "Balcony Enclosures in RFBs"</p> <p>(d) Terraces or roof gardens must be considered on podiums and upper floor building setbacks to provide additional private open space.</p> <p>(e) Balconies and terraces must allow outlook to public spaces or the street to increase casual surveillance.</p> <p>(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.</p> <p>(g) Primary balconies must have a minimum depth of 2.5m and have a minimum area of 10sqm.</p> <p>(h) The design of balconies should avoid excessive use of clear</p>	<p>this level to ensure the safety of staff and patients when enjoying this space.</p> <p>The proposed terrace will provide private open space to support the existing facility operating on this level.</p> <p>The proposed development does not comprise a balcony enclosure within a residential flat building.</p> <p>The proposed terrace would provide private open space to support the existing facility operating on this level.</p> <p>The terrace is existing.</p> <p>Existing development is not a residential flat building.</p> <p>The terrace size is existing and will not be modified the only change is for the safety of the users of the space.</p> <p>The proposed development intends to provide a</p>	
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		glass balustrades	2.35m non-climbable mesh screening fence to ensure the safety of the staff and patients of the health facility on level 2.	
<b>6. Site Planning Considerations</b>				
6.2.4 Minimisation Management	Waste and	(g) All development applications must be accompanied by a waste management plan that addresses: <ul style="list-style-type: none"> <li>• Best practice recycling and reuse of construction and demolition materials;</li> <li>• Use of sustainable building materials that can be reused or recycled at the end of their life;</li> <li>• 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</li> <li>• 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.</li> <li>• Describe and detail the manner in waste and</li> </ul>	The application was accompanied by a satisfactory waste management plan. Specific conditions have been imposed in this regard.	Yes

	<p>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 relevant to the storage and servicing of bins.</p> <ul style="list-style-type: none"> <li>The waste management plan is to be prepared by a specialist waste consultant and is subject to approval by Council.</li> </ul>		
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### **GEORGES RIVER DEVELOPMENT CONTROL PLAN 2020 (INTERIM POLICY)**

56. 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 is used as a guide as it is an endorsed position of the Council.
57. No specific controls apply due to the minor nature of the development. Notwithstanding, the proposal does not conflict with the controls and objectives of the Interim Policy Development Control Plan.

### **Georges River Development Control Plan 2020**

58. The Georges River Development control Plan was made by the Georges River Local Planning Panel on 24 March 2021.

This does not come into effect until the Georges River Local Environmental Plan is gazetted.

#### **MPACTS**

##### **Natural Environment**

60. The proposal does not involve the removal of any trees or vegetation and the existing landscaping will remain unaltered.
61. The proposed method of drainage will remain as existing given all the works are within the existing building envelope. No additional roof form will be created by the proposal.
62. The development will not result in any significant adverse impacts on the natural environment.

##### **Built Environment**

63. The proposed works are within the existing building envelope and will not result in adverse visual bulk when viewed from the public domain. The external works are limited to a non-climbable fence around the perimeter of the subject terrace, and demolition of existing features along the terrace area.

64. The works although in the vicinity of a heritage item, are respective to the item and will not exacerbate environment impacts.
65. No condition has been imposed for the payment of a damage deposit as construction/demolition works and the storage of equipment will be fully with the subject site including any vehicles used for the works. A condition has been imposed limiting all construction/demolition works, the storage of materials, and vehicles used for the works be within the subject site at all times.

### ***Social Impact***

66. The proposed development is of a scale and form that is consistent with existing development which does not result in unreasonable social impact. The proposed development supports the health facility on level 2 through the provision of a safe and functional terrace for patients and staff.
67. As the use of the existing terrace will likely increase due to its nomination as an outdoor communal space for visitors and staff (as opposed to staff only) a condition has been imposed limiting the hours of use of the terrace to 8:00am until 6:00pm on any day.
68. The reason for the imposition of the condition is to limit adverse acoustic impacts to the neighbouring residential developments. The applicant has been briefed and has accepted the imposition of the condition.

### ***Economic Impact***

69. The proposal is unlikely to result in adverse economic impacts.

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

70. The subject site is zoned B4 – Mixed use, and medical centres/health care facility are permissible forms of development in this zone. Alterations and additions to the medical centre/health care facility are considered to be ancillary to the primary use and is an appropriate and suitable form of development.

## **SUBMISSIONS, REFERRALS AND THE PUBLIC INTEREST**

71. The application was notified to adjoining residents between 24 December 2020 and 14 January 2021 in which notified residents were invited to view the plans and submit any comments on the proposal. No submissions were received by Council.

### **External Referrals**

#### Ausgrid

72. The application was referred to Ausgrid pursuant to clause 45 of the Infrastructure State Environmental Planning Policy. No objection was received from Ausgrid.

### **Contributions**

73. Section 7.12 (former Section 94A Contribution) contributions are applicable to any development with cost of works exceeding \$100,000.00.
74. In this case, as the cost of works does not exceed \$100,000.00 no contributions are required to be paid.

## **CONCLUSION**

75. Development consent is sought for 'external alterations to level 2 of the existing Waratah Private Hospital to install security fencing and provide a new door opening with side and top fixed glazing' to facilitate increased use of this space by staff and patients.

76. 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 B4 Mixed use zone objectives, in addition to complying with the relevant State Environmental Planning Policies, Local Environmental Plan and Development Control Plan and is not inconsistent with the draft instruments and policies.
77. The proposal will not result in any unreasonable amenity impacts of the visitors or staff of the medical centre/health care facility, or neighbours in the adjoining properties subject to the conditions of consent recommended below. The proposal will have minimal impacts on the adjoining heritage terraces.
78. The application is recommended for approval subject to conditions.

## **DETERMINATION AND STATEMENT OF REASONS**

### **79. Statement of Reasons**

- The proposed alterations and additions to the existing medical centre/health care facility is an appropriate response to the site and is consistent with the objectives of the B4 zone and existing developments in the locality.
- The proposed alterations and additions will not adversely affect the adjoining heritage terraces and satisfies the relevant controls of Clause 5.10 of Hurstville Local Environmental Plan 2012.
- The proposed development complies with the requirements of the relevant environmental planning instruments and development control plan.
- The proposed development is well considered and sensitively designed so that it will not result in any unreasonable impacts on the natural and built environment.
- The proposed development is unlikely to result in any unreasonable impacts on the social and economic environments.
- The proposal will not result in any unreasonable amenity impacts to the adjoining properties.
- The proposal is not inconsistent with the provisions of Draft Georges River Local Environmental Plan 2020.

### **Determination**

80. THAT pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 (as amended) Georges River Local Planning Panel grant consent to DA2020/0470 for external alterations to level 2 of the existing Waratah Private Hospital to install security fencing and provide a new door opening with side and top fixed glazing at Lot 1 DP1157338, CP SP85105 and Lot 2 DP1157338; 29-31 Dora Street Hurstville NSW 2220, subject to the following conditions:

## Development Details

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

Description	Reference No.	Date	Revision	Prepared by
Site Plan	Project 9-19-0019 DA01	06/11/2020	1	HSPC
Floor Plan	Project 9-19-0019 DA02	06/11/2020	1	HSPC
Elevation and Section Plan	Project 9-19-0019 DA03	06/11/2020	1	HSPC

## 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.

### Prior to the Issue of a Construction Certificate

3. **Fire Safety Measures** - Prior to the issue of a construction certificate a list of the essential fire safety measures that are to be provided in relation to the land and any building on the land as a consequence of the building work must accompany an application for a construction certificate, which is required to be submitted to either Council or a PCA. Such list must also specify the minimum standard of performance for each essential fire safety measure included in the list. The Council or PCA will then issue a Fire Safety Schedule for the building.
4. **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.
5. **Access for Persons with a Disability** – Access for persons with disabilities must be provided to the premises/building in accordance with the requirements of the Premises Standards, the Building Code of Australia, and AS 1428.1. Details must be submitted with the Construction Certificate Application for approval.
6. **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)).

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>	

#### Timing of Payment

The levy must be paid prior to the release of the Construction Certificate.

7. **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.

8. **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 including the proposed fencing. 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.

9. **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.

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

10. **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).

## During Construction

11. **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.
12. **Construction works** - All construction works including the storage of equipment and construction/demolition material shall be fully within the subject site. All vehicles used for the construction/demolition works shall be parked within the subject site with loading and unloading activities happening within the site.
13. **Hours of construction for demolition and building work** - Unless authorised by Council:
  - a. Building construction and delivery of material hours are restricted to: 7.00 am to 5.00 pm (inclusive) Monday to Saturday and no work on Sundays and Public Holidays.
  - b. Demolition and excavation works are restricted to: 8.00 am to 5.00 pm (inclusive) Monday to Friday only. Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site.
14. **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.
15. **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.
16. **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

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

## Operational Conditions (On-Going)

18. **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).
19. **Hours of Use of Outdoor Terrace** - The outdoor terrace the subject of this consent is to be only used between 8:00am and 6:00pm on days when the medical centre is in operation.

Reason: To limit adverse acoustic impacts to the surrounding residential developments.

20. **Annual Fire Safety Statement** - The owner of the building premises must ensure the Council is given an annual fire safety statement in relation to each essential fire safety measure implemented in the building. The annual fire safety statement must be given:
- (a) Within 12 months after the date on which the fire safety certificate was received.
  - (b) Subsequent annual fire safety statements are to be given within 12 months after the last such statement was given.
  - (c) An annual fire safety statement is to be given in or to the effect of Clause 181 of the [Environmental Planning and Assessment Regulation 2000](#).
  - (d) A copy of the statement is to be given to the Commissioner of Fire & Rescue NSW, and a further copy is to be prominently displayed in the building.
21. **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. The lighting is not to operate outside the permitted hours of use of this balcony.
22. **Amenity of the neighbourhood** - The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, dust, waste water, waste products, grit, oil or other harmful products.

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

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

24. **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.

25. **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.

26. **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.

27. **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](#).

28. **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.

29. **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

30. **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.
31. **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.
32. **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

33. **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.

34. **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.
35. **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.
36. **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>.






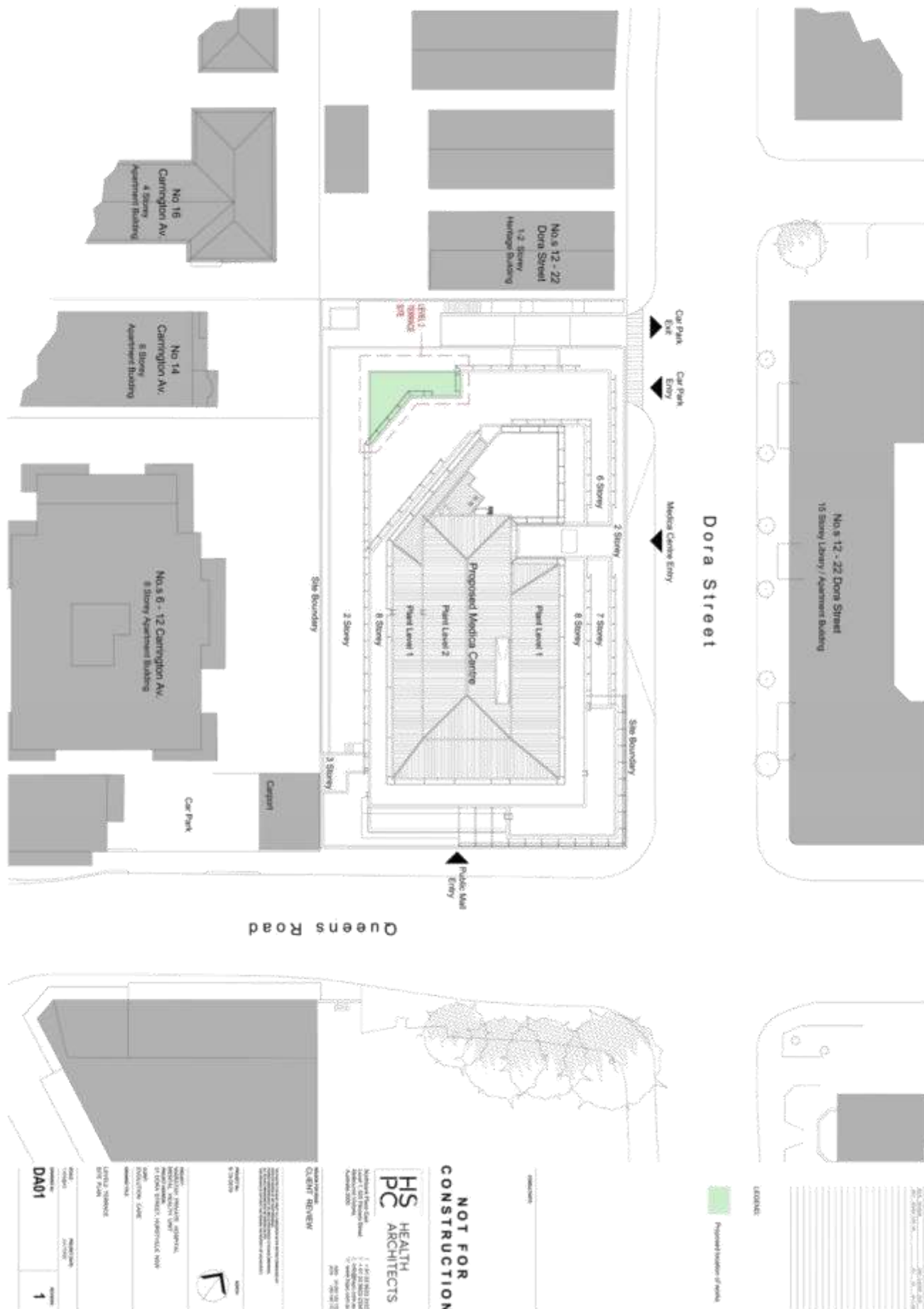
The required Long Service Levy payment can be direct to the Long Service Corporation via their web site <https://online.longservice.nsw.gov.au/bci/levy>. Payments can only be processed on-line for the full levy owing and where the value of work is between \$25,000 and \$6,000,000. Payments will be accepted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

37. **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.
38. **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)).

## ATTACHMENTS

- Attachment [↓1](#)  Site Plan- DA2020/0470
- Attachment [↓2](#)  Floor Plan- DA2020/0470
- Attachment [↓3](#)  Elevation and Section Plan- DA2020/0470



DA2020/0470  
 29-31 DORA STREET  
 HURSTVILLE NSW 1505

**LEGEND**

- Proposed location of works
- Proposed alterations to existing structure
- Proposed removal of structure
- Proposed removal of structure & concrete slab

**NOT FOR CONSTRUCTION**

**HS HEALTH PC ARCHITECTS**

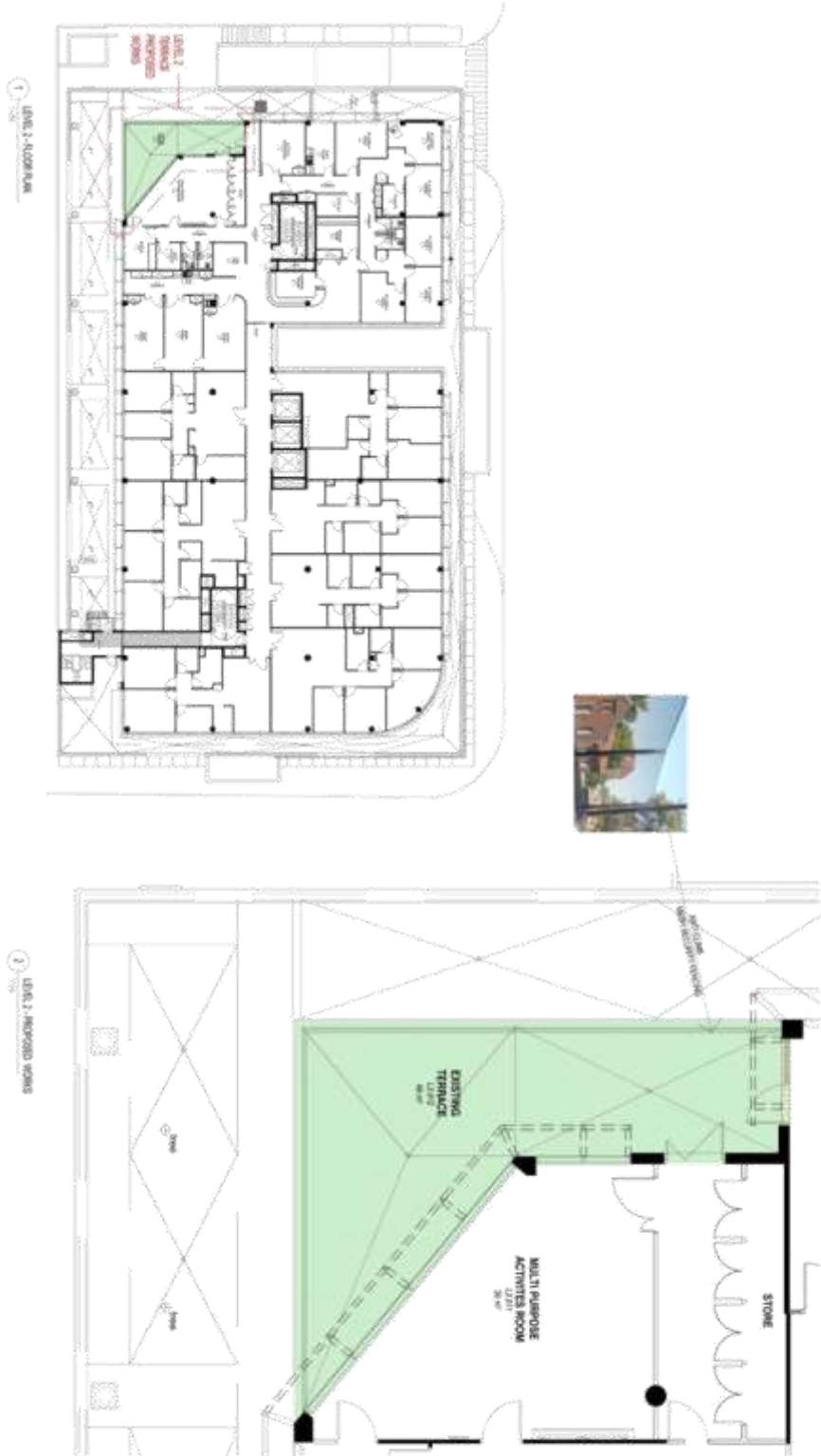
Principal Architect  
 Level 1, 201 Pitt Street  
 Sydney NSW 2000  
 Tel: 02 9232 1000  
 Fax: 02 9232 1001  
 Email: info@hshealthpc.com.au

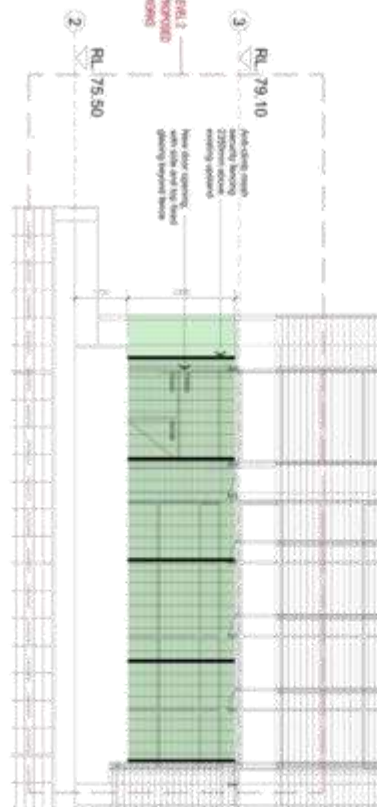
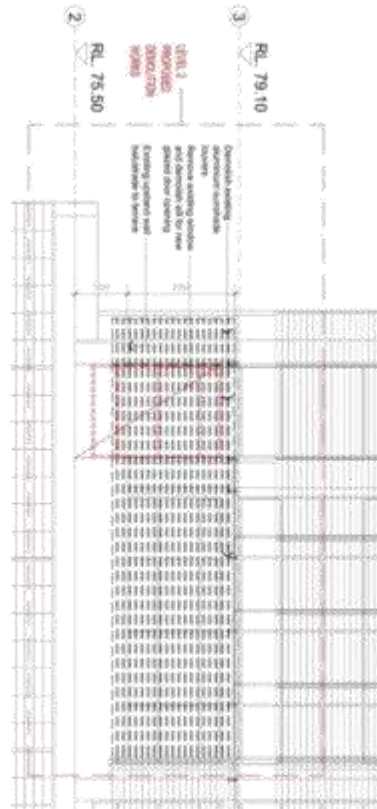
**CLIENT REVIEW**

Project No: 2020-0470

**DA02**

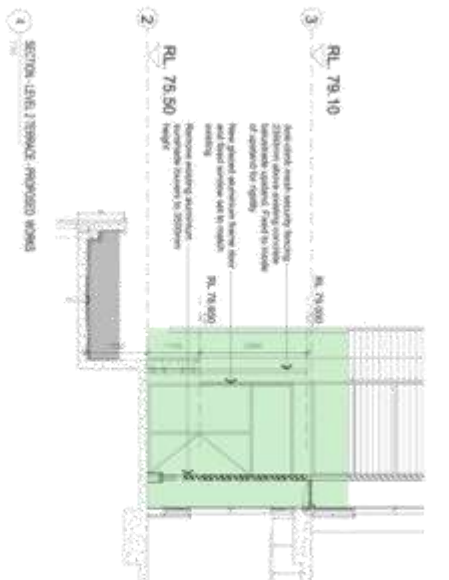
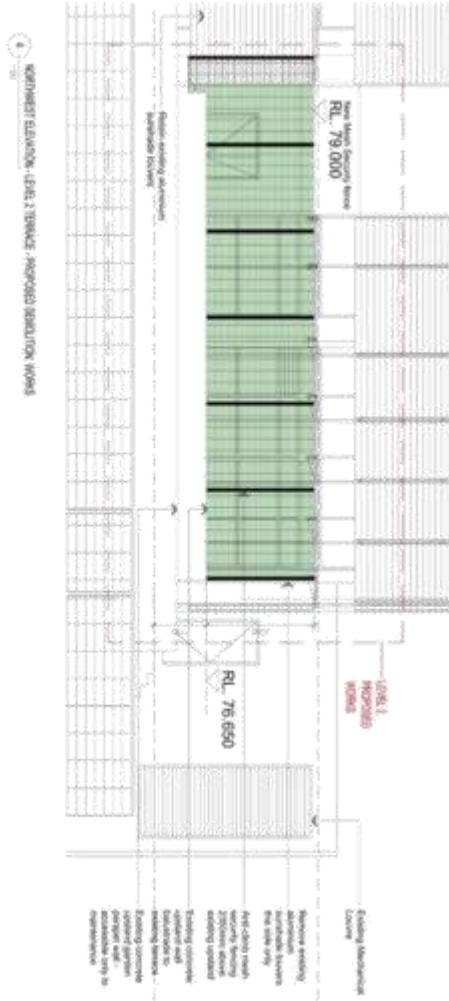
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1 SOUTHWEST ELEVATION - LEVEL 2 TERRACE - PROPOSED WORKS

2 SOUTHWEST ELEVATION - LEVEL 2 TERRACE - PROPOSED WORKS



3 SECTION - LEVEL 2 TERRACE - PROPOSED WORKS

Legend	Proposed structure of works
Legend	Proposed new structure and/or new building
Legend	Proposed structure existing structure
Legend	Proposed structure / structure existing and/or structure up

NOT FOR CONSTRUCTION

HS HEALTH PC ARCHITECTS

CLIENT REVIEW

DATE: 10/04/2021  
 DRAWN: J. J. J.  
 CHECKED: J. J. J.  
 APPROVED: J. J. J.  
 PROJECT: 2020/2021  
 CLIENT: HS HEALTH PC ARCHITECTS  
 PROJECT: 2020/2021  
 CLIENT: HS HEALTH PC ARCHITECTS

DA03

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