

AGENDA - LPP

Meeting:	Georges River Local Planning Panel (LPP)
Date:	Thursday, 5 August 2021
Time:	4.00pm
Venue:	Council Chambers, Civic Centre, Hurstville
Panel Members:	Sue Francis (Chairperson) Michael Leavey (Expert Panel Member) Awais Piracha (Expert Panel Member) Fiona Prodromou (Community Representative)

1. On Site Inspections – Carried out by Panel Members prior to meeting	
2. Opening	
3. Consideration of Items and Verbal Submissions	
LPP032-21	146 Letitia Street Oatley – DA2020/0453 (Report by Development Assessment Planner)
LPP033-21	565 King Georges Road Penshurst – DA2021/0009 (Report by Development Assessment Planner)
LPP034-21	608 Forest Road Penshurst – REV2020/0024 (Report by Development Assessment Planner)
LPP035-21	17-19 Vista Street San Souci – DA2021/0125 (Report by Senior Development Assessment Planner)
LPP036-21	53A-59A Gloucester Road Hurstville – PP2017/0005 (Report by Senior Strategic Planner)
4. LPP Deliberations in Closed Session	
5. Confirmation of Minutes	

**REPORT TO GEORGES RIVER COUNCIL
LPP MEETING OF THURSDAY, 05 AUGUST 2021**

LPP032-21

LPP Report No	LPP032-21	Development Application No	DA2020/0453
Site Address & Ward Locality	146 Letitia Street Oatley Blakehurst Ward		
Proposed Development	Demolition, tree removal and construction of a two storey attached dual occupancy with detached cabanas, a pool for dwelling 2, fencing, landscaping and site works		
Owners	Mr Farid Malika and Mr Ramez Yousif		
Applicant	Mr Abraham Nemra		
Planner/Architect	Nemco Design Pty Ltd		
Date Of Lodgement	3/12/2020		
Submissions	Seven (7) submissions		
Cost of Works	\$870,314.82		
Local Planning Panel Criteria	General Manager Direction - Number of submissions at or exceeding five (5)		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	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 (Coastal Management) 2018, State Environmental Planning Policy (Infrastructure) 2007, Draft Environmental State Environmental Planning Policy, Draft State Environmental Planning Policy – Remediation of Land, Draft Design and Places SEPP Kogarah Local Environmental Plan 2012, Kogarah Development Control Plan 2013, Draft Georges River Local Environmental Plan 2020, Draft Georges River Development Control Plan 2020.		
List all documents submitted with this report for the Panel's consideration	Architectural Plans, Statement of Environmental Effects, Compiled Submissions, Survey Plan, Arborist Report, Tree Valuation Report, Cost Summary Report, Shadow Diagrams		
Report prepared by	Development Assessment Planner		

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

the assessment report?	
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Not Applicable
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	Not Applicable
Conditions Have draft conditions been provided to the applicant for comment?	No, conditions can be reviewed when the report is published

Site Plan

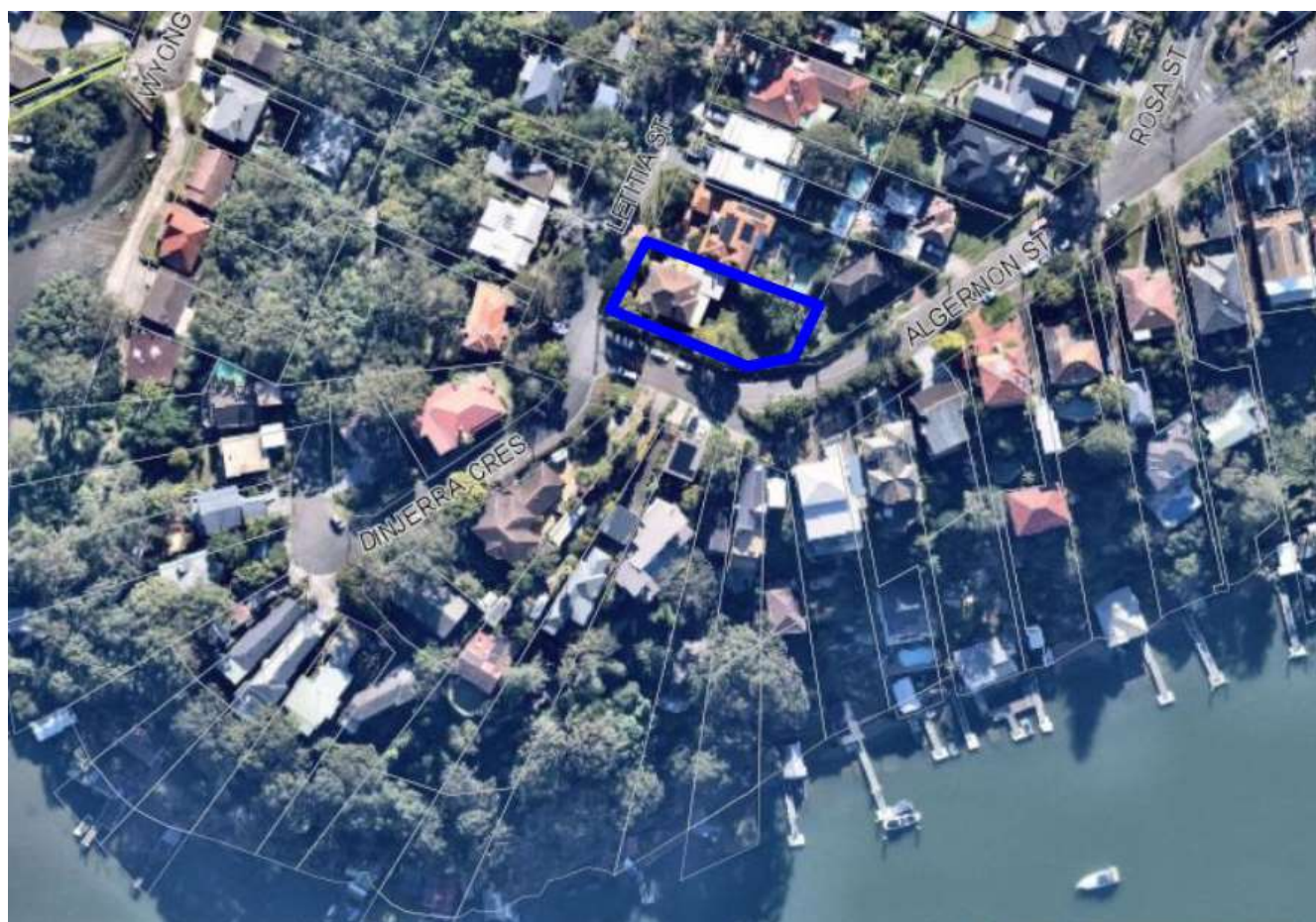


Figure 1: Aerial view of subject site outlined in blue

Executive Summary

Proposal

1. Development consent is sought for demolition, tree removal and construction of a two storey attached dual occupancy with detached cabanas, a pool for dwelling 2, fencing, landscaping and site works.
2. The proposed development complies with the relevant development standards in the Kogarah LEP 2012, and the majority of the relevant planning controls in the Kogarah

DCP 2013. Minor variations are sought to the 7.8m height limit and the 1.2m secondary street setback (limited to an articulated architectural element).

Site and Locality

3. The development site is located on the corner of Letitia Street and Algernon Street in Oatley. The site is irregular in shape and observes a 20.115m primary north western frontage to Letitia Street, a secondary street frontage of 49.085m to Algernon Street (splayed boundary) and a site area of 918.7sqm. The local area is characterised by one (1) and two (2) storey dwelling houses and dual occupancies.

Zoning and Permissibility

4. The site is zoned R2 – Low Density Residential under the provisions of Kogarah Local Environmental Plan 2012 (KLEP 2012). Dual occupancies are permitted with consent.

Submissions

5. The application was notified for a period of fourteen (14) days in accordance with the Kogarah Development Control Plan 2013. Five (5) submissions objecting to the development were received during the initial notification of the plans. Two (2) submissions objecting to the development were received during the notification of the amended plans.

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 (DA2020/0453) is recommended for approval subject to the conditions referenced at the end of this report.

Report in Full Proposal

7. Development consent is sought for the demolition, tree removal and construction of an two storey attached dual occupancy with detached cabanas, a pool for dwelling 2, fencing, landscaping and site works.
8. Further details of the proposed development are as follows:

Demolition

- Demolition of the existing single storey brick dwelling, carport, driveway, and paving.
- Removal of seven (7) on-site trees;

Construction - Semi Attached Dual Occupancy

Dwelling 1:

- Ground floor: single garage, porch (along Letitia Street), lounge room, guest bedroom, bathroom, laundry room, kitchen/living/dining room with butler's pantry, staircase to upper level and a rear alfresco area.
- First floor: Study space, three bedrooms, street facing front balcony, master bedroom with ensuite walk-in-robe and rear balcony and a bathroom.
- Rear cabana with BBQ space, kitchen and bathroom.
- 3.3m driveway crossing and internal driveway.
- Dwelling 2:

- Ground floor: single garage, porch (along Algernon Street), lounge room, guest bedroom, bathroom, laundry room, kitchen/living/dining room with butlers pantry and rear alfresco area.
- First floor: Study space, three bedrooms, front balcony addressing both streets, master bedroom with ensuite walk-in-robe and street and rear facing balcony and bathroom.
- Rear pool (5.5m x 1.5m (average) x 3.35m) with cabana and bathroom.
- 3.41m driveway crossing and internal driveway.

Ancillary works

- 1.2m front fence along Letitia Street, with the corner element being 0.7m high;
- 0.7m-1.2m front fence elements along the Algernon Street;
- 1.8m fence along the rear yard of Dwelling 2 adjacent to Algernon Street.
- Ancillary landscape and stormwater works to the site.

9. Note: No boundary fences will be approved under this application. Boundary fences are a civil matter governed under the Dividing Fences Act 1991. A specific condition has been imposed in that regard.

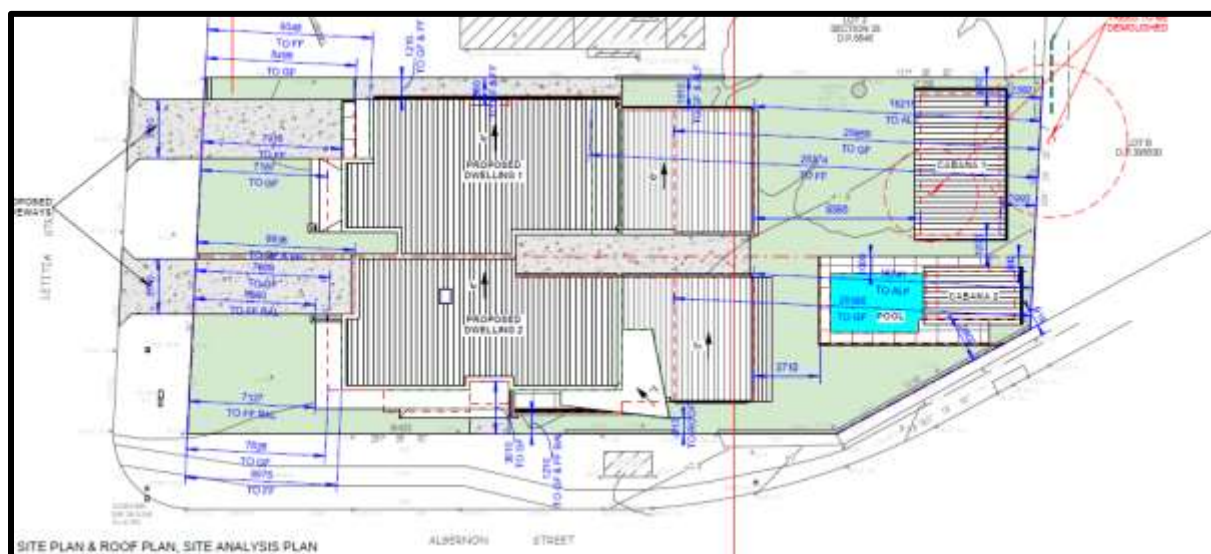


Figure 2: Proposed site plan (Source: Nemco Design 2021).

The Site and Locality

10. The subject site is formally identified as Lot 1 in DP 1097000 and known as 146 Letitia Street Oatley. The corner site is irregular in shape and observes a 20.115m primary north western frontage to Letitia Street, a secondary street frontage of 49.085m to Algernon Street, and a site area of 918.7sqm. The site slopes to the rear south eastern corner (towards Algernon Street) with a height difference of 1.5m.
11. The site currently accommodated a single storey brick and tiled dwelling house with an attached carport and vehicular access along Letitia Street. The site contains eight trees of varying significance. The largest tree (10m Jacaranda) is located within the rear yard and will be retained.

12. A power pole within the nature strip is located along the intersection between Letitia and Algernon Street. An electricity substation, a drainage lintel and a power pole are located along the nature strip within Algernon Street (secondary street frontage).
13. Adjoining the site to the north and east are two (2) – three (3) storey single dwellings. The locality is generally residential in character with the predominant land use being single dwelling houses either contemporary or traditional in design.
14. In the wider context, the subject site is located approximately 200m east of Neverfail Bay and 600m east of Oatley Point Reserve.



Figure 3: Street view as per officer inspection

Background

15. No previous applications pertinent to the site have been found.
16. A Notice of Intention to Serve an Order (ON2020/0650) was issued on 25 February 2021 in order to maintain the site's vegetation.
17. As part of this DA, the plans have been amended in order to bring the development closer to compliance with the relevant planning controls and to respond to the concerns raised by Council's Consultant Arborist. As part of the amended plans, the FSR was reduced, the design was improved by adding articulation elements along the northern wall, enlarging the entrance to dwelling 2 along Algernon Street to make it a more prominent feature, amendments to the cabanas and reducing the height of the front fence to maintain sightlines.

Compliance and Assessment

18. 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

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

State Environmental Planning Policy	Complies
State Environmental Planning Policy No 55 - Remediation of Land	Yes
State Environmental Planning Policy (Coastal Management) 2018	Yes
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Yes
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017	Yes
Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment	Yes
State Environmental Planning Policy (Infrastructure) 2007	Yes

STATE ENVIRONMENTAL PLANNING POLICY NO 55 – REMEDIATION OF LAND

20. SEPP 55 aims to promote the remediation of contaminated land in order to reduce the risk of harm to human health or any other aspect of the environment. Clause 7 requires contamination and remediation to be considered in determining a development application. The consent authority must not consent to the carrying out of development on land unless it has considered whether or not the land is contaminated.
21. A review of the site history indicates that the site has been used for residential purposes for extended periods of time, and such uses and/or development are not typically associated with activities that would result in the contamination of the site. The proposed works do not include any change to the use of the land that would result in any concerns with respect to contamination. There is no indication of previous uses that would cause contamination. In this regard there is no indication that the land is contaminated. The criterion of SEPP 55 has been satisfied.

STATE ENVIRONMENTAL PLANNING POLICY (COASTAL MANAGEMENT) 2018

22. The Coastal Management SEPP 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”*.
23. The site’s rear south western corner has been identified as being located within the Coastal Environment area and the Coastal Use Area as per NSW State Environmental Planning Policy (Coastal Management) 2018 - Maps.

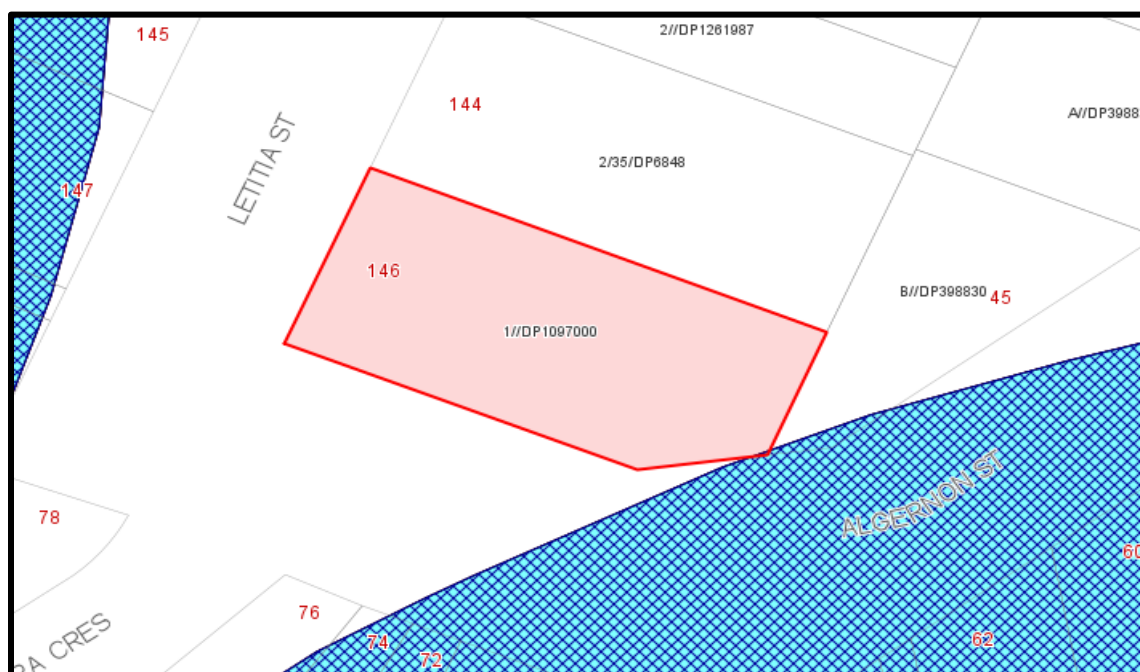


Figure 4: SEPP (Coastal Management) land map (Source Intramaps 2021)

24. The proposal has been assessed under Division 1 – Clause 11, Division 3 - Clause 13; Division 4 - Clause 14 and Division 5 - Clause 15 and 16 of the SEPP.

Division 3 Coastal Environment Area	
13 Development on land within the coastal environment area	
Control	Comment and compliance
<p>(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:</p> <p>(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,</p> <p>(b) coastal environmental values and natural coastal processes,</p> <p>(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,</p>	<p>Satisfies; the proposed will have minimal impacts on the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment.</p> <p>Satisfies; the proposed development will have minimal impacts on the coastal environmental values and natural coastal processes.</p> <p>Satisfies; the proposed development does not adjoin the waterway, and it is not expected the proposed development will adversely impact the water quality.</p>

<p>(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,</p> <p>(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,</p> <p>(f) Aboriginal cultural heritage, practices and places,</p> <p>(g) the use of the surf zone.</p>	<p>Satisfies; the development will have minimal impacts on marine and native vegetation.</p> <p>Satisfies; the proposed development does not adjoin the waterway. It is not expected the proposed development will adversely impact foreshore open space.</p> <p>Satisfies; The works are respectful of the cultural heritage, practices and places.</p> <p>Satisfies; Works are not located within the surf zone.</p>
<p>(2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:</p> <p>(a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or</p> <p>(b) if that impact cannot be reasonably avoided - the development is designed, sited and will be managed to minimise that impact, or</p> <p>(c) if that impact cannot be minimised - the development will be managed to mitigate that impact.</p>	<p>Satisfies; the proposed development does not adjoin the waterway, and it is not expected the proposed development will adversely impact the water quality.</p>
Division 4 Coastal use area	
14 Development on land within the coastal use area	
Control	Comment and compliance
<p>(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:</p> <p>(a) has considered whether the proposed development is likely to cause an adverse impact on the following:</p> <p>(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,</p> <p>(ii) overshadowing, wind funnelling and</p>	<p>Satisfies; the proposed development does not adjoin the waterway, and it is not expected the proposed development will adversely impact access to the waterway.</p> <p>Satisfies; development does not have</p>

<p>the loss of views from public places to foreshores,</p> <p>(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,</p> <p>(iv) Aboriginal cultural heritage, practices and places,</p> <p>(v) cultural and built environment heritage, and</p> <p>(b) is satisfied that:</p> <p>(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or</p> <p>(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or</p> <p>(iii) if that impact cannot be minimised - the development will be managed to mitigate that impact, and</p> <p>(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.</p>	<p>unreasonable impacts regarding overshadowing and sightlines.</p> <p>Satisfies; development does not have unreasonable impact on the visual amenity and scenic qualities of the coast, including coastal headlands,</p> <p>Satisfies; The works are respectful of the cultural heritage, practices and places.</p> <p>Satisfies; The site is not known to contain any items of heritage, and will not adversely affect the adjacent heritage item.</p> <p>Satisfies; development will have minimal impact on the coastal zone and its processes.</p> <p>Satisfies; development will have minimal impacts on the coastal zone and its processes.</p> <p>Satisfies, impacts are minimal.</p> <p>Satisfies; the application has considered the surrounding coastal area. The proposed development is of a built form unlikely to adversely impact upon the surrounding coastal area with regards to bulk and scale.</p>
Division 5 General	
15 Development in coastal zone generally - development not to increase risk of coastal hazards	
Control	Comment and compliance
Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.	Satisfies; the proposed development is unlikely to increase the risk of coastal hazards.
16 Development in coastal zone generally - coastal management programs to be considered	
Control	Comment and compliance
Development consent must not be	Satisfies.

granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land	
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LPP032-21

25. Upon thorough assessment for the application under the SEPP Coastal Management 2018, the proposal reasonable satisfies the objectives and controls of the SEPP.

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

26. The trigger for BASIX Certification is when the estimated cost of works for residential development (new dwelling(s)/alterations and additions) is equal to or above \$50,000. BASIX Certification is also triggered when proposing a swimming pool with a volume of 40,000 litres or more.

A BASIX Certificate prepared by Efficient Living Pty Ltd, dated 22 April 2021, certificate number 1196667M, has been submitted with the Development Application satisfying the minimum requirements of SEPP (Building Sustainability Index: BASIX) 2004.

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

28. The Vegetation SEPP regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.
29. The Vegetation SEPP applies to clearing of:
- (a) Native vegetation above the Biodiversity Offset Scheme (BOS) threshold where a proponent will require an approval from the Native Vegetation Panel established under the Local Land Services Amendment Act 2016; and
 - (b) Vegetation below the BOS threshold where a proponent will require a permit from Council if that vegetation is identified in the council's development control plan (DCP).
30. The objectives of the SEPP are to protect the biodiversity values of trees and other vegetation in non-rural areas and preserve the amenity of non-rural areas through the preservation of trees and other vegetation. This policy is applicable pursuant to Clause 5(1) of the SEPP as the site is within both Georges River Council and the R2 Low Density Residential zone.
31. Pursuant to Clause 8(1) of the SEPP, clearing does not require authority under the policy as it is a type of clearing that is authorised under Section 60O of the Local Land Services Act 2013 (specifically, that associated with a development consent issued under Part 4 of the Environmental Planning and Assessment Act 1979).
32. Seven (7) trees are nominated to be removed as part of the works. The application was referred to Council's Consultant Arborist who did not object to the removal of these trees subject to replacing and replanting new trees at a 2:1 ratio. Specific landscape conditions have been imposed in that regard. The rear major Jacaranda tree will be retained and protected.
33. Tree offset fees will require to be paid for tree T6 and T7 (both Jacaranda mimosifolia trees, along southern side boundary). Tree T10 shown as to be removed, will require to

be retained as no owners consent for its removal was obtained from 45 Algernon Street Oatley. Conditions have been imposed in this regard.

GREATER METROPOLITAN REGIONAL ENVIRONMENTAL PLAN NO 2 - GEORGES RIVER CATCHMENT

34. 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,*
35. The proposed stormwater drainage system has been assessed by Council's Development Engineer and has been found to be satisfactory. Specific stormwater conditions have been imposed in that regard.

Draft Environmental Planning Instruments

DRAFT ENVIRONMENTAL STATE ENVIRONMENTAL PLANNING POLICY

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

DRAFT REMEDIATION OF LAND STATE ENVIRONMENTAL PLANNING POLICY

38. The Draft Remediation of Land SEPP was exhibited from 31 January 2018 to 13 April 2018. The proposed remediation of land SEPP will:
- Provide a state-wide planning framework for the remediation of land;

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

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

DRAFT DESIGN AND PLAN SEPP

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

KOGARAH LOCAL ENVIRONMENTAL PLAN 2012

41. The extent to which the proposed development complies with the Kogarah Local Environmental Plan 2012 (KLEP 2012) is detailed and discussed in the table below.

42. The allotment is zoned R2 – Low Density Residential Zone, a ‘dual occupancy’ is permitted with consent. It is noted that swimming pools and cabanas are considered ancillary to the dual occupancy use and are also a permitted form of development.

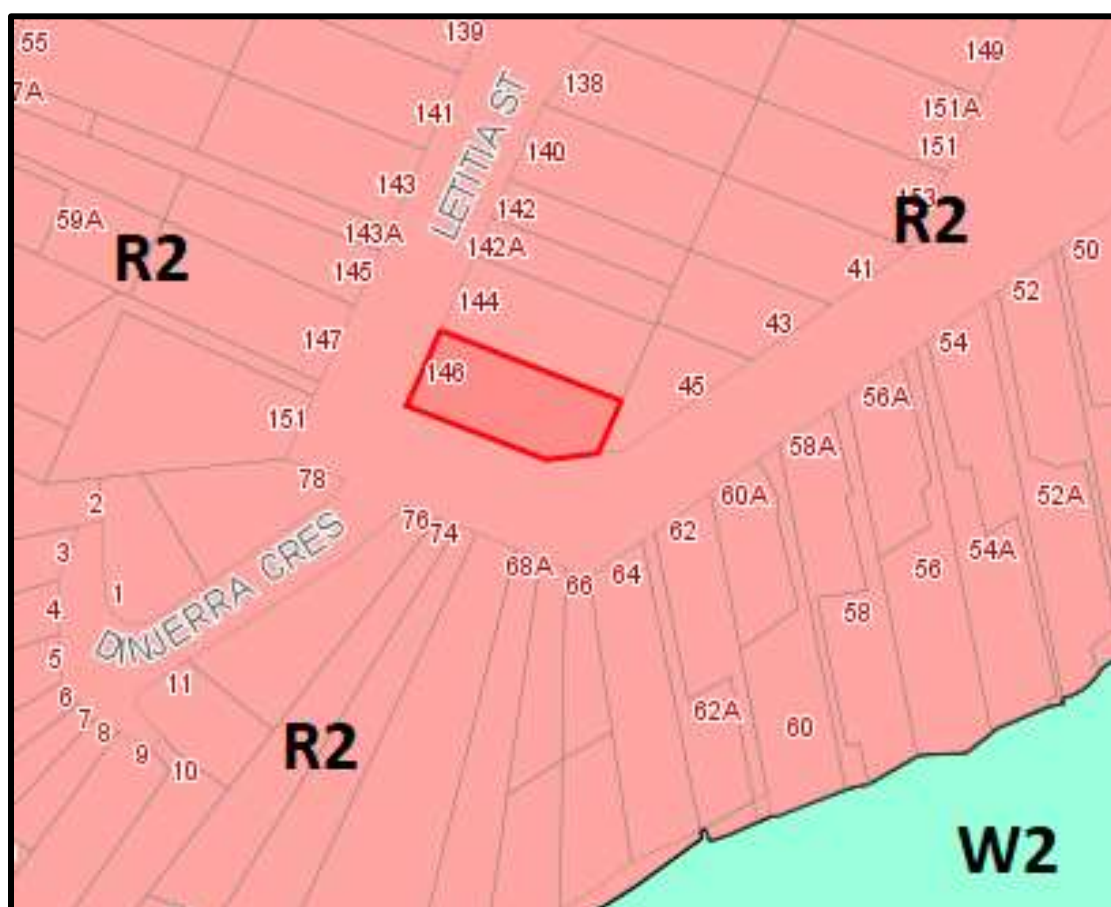


Figure 4: Zoning Map – site outlined in red

Clause	Standard	Proposed	Complies
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Part 1 Preliminary			
1.2 – Aims of the Plan	In accordance with Clause 1.2 (2)	The development is consistent with the aims of the plan.	Yes
1.4 – Definitions	Dual occupancy (attached) means 2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.	The proposed development is consistent with the definition.	Yes
Part 2 Permitted or prohibited development			
2.3 - Zone objectives and Land Use Table	<p>Meets objectives of R2- Low Density Residential Zone:</p> <ul style="list-style-type: none"> <i>To provide for the housing needs of the community within a low density residential environment.</i> <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i> 	The proposal satisfies the objectives of the R2 zone and is permissible with development consent.	Yes
Part 4 Principal development standards			
4.1B – Minimum lot size for dual occupancies	<p>(2) Despite clause 4.1, development consent must not be granted for the erection of a dual occupancy on a lot unless—</p> <p>(a) the lot is at least the minimum lot size shown on the Lot Size for Dual Occupancies Development Map (650sqm) in relation to that land, and</p> <p>(b) in relation to a dual occupancy (detached)—the lot has at least 2 road frontages and each dwelling has a</p>	<p>918.7sqm</p> <p>Development is an attached dual occupancy, with each dwelling fronting a different street.</p>	<p>Yes</p> <p>Yes</p>

	frontage to a road.		
4.3 – Height of Buildings	9m as identified on Height of Buildings Map	Dwelling 1: 7.19m Cabana (dwelling 1): 3.29m Dwelling 2: 8.44m (to parapet feature along Algernon Street), 7.53m to main roof Cabana (dwelling 2): 3.54m	Yes
4.4A – Exceptions to floor space ratio for residential accommodation in Zone R2	(2) Despite clause 4.4 (2), the floor space ratio for residential accommodation on land in Zone R2 Low Density Residential is not to exceed the maximum floor space ratio specified in the table to this subclause. For a site area less than 1,000 square metres but not less than 800 square metres, floor space is not to exceed: $[(\text{lot area} - 800) \times 0.2 + 402.5] \div \text{lot area}:1$ Site area: 918.7sqm 0.46:1 or 426.24sqm	The proposed development has a total FSR of 412.1sqm or 0.44:1	Yes
Part 5 Miscellaneous provisions			
5.10 – Heritage conservation	In accordance with Clause 5.10 (1)	The site is not a heritage item and not located within the vicinity of any heritage items. The site is not in a heritage conservation area.	Yes
Part 6 Additional local provisions			
6.1 – Acid sulfate soils	(2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid	A very small portion of the site (top north-western corner) is located in a Class 5 area. The area in which the acid sulfate soils are located will	Yes

	<p>Sulfate Soils Map as being of the class specified for those works:</p> <p>Class 5: Works within 100 metres of adjacent Class 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 2, 3 or 4 land.</p>	not be excavated, furthermore the area is not within 100m of an adjacent Class 2, 3 or 4 land that is below 5 metres Australian Height Datum.	
6.2 – Earthworks	<p>(2) Development consent is required for earthworks unless—</p> <p>(a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or</p> <p>(b) the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.</p>	The proposed earthworks are considered acceptable having regard to the provisions of this clause as the works are not likely to have a detrimental impact on environmental functions and processes, neighbouring properties.	Yes
6.3 – Flood planning	<p>(2) This clause applies to —</p> <p>(a) land identified as “Flood planning area” on the Flood Planning Map, and</p> <p>(b) other land at or below the flood planning level.</p>	The proposed development is not located in a mapped flood prone area.	Yes
6.4 – Limited development on foreshore area	<p>(1) The objective of this clause is to ensure that development in the foreshore area will</p>	Site is not located within a foreshore area.	N/A

	not impact on natural foreshore processes or affect the significance and amenity of the area.		
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Draft Georges River Local Environmental Plan 2020

43. 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 zoning, height and floor space ratio remain unchanged.
44. Consideration is given to the provisions of Draft Georges River Local Environmental Plan 2020 in the assessment this application.
45. 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

46. The proposal has been assessed under the relevant sections of the Kogarah Development Control Plan 2013 as follows.

Kogarah DCP 2013 Part C1- Low Density Housing			
Clause	Standard	Proposed	Complies
1.2 Building Scale and Height			
1.2.1 Floor space Requirements	(5) Blank walls and flat facades should be avoided. Walls longer than 10m should be articulated by a minimum 300mm projection or indentation in the façade.	The building is sufficiently articulated.	Yes
	(6) The overall building should present a building mass that is in proportion with the allotment size, provides opportunities for modulation and articulation of the building and does not detract from the satisfaction of any other applicable design principle.	The proposed development is considered to be appropriate given the streetscape, locality and subject site characteristics. The development has responded to the corner nature of the site by adopting a main entrance feature to dwelling 2 along the secondary street facade in addition to the addition of a prominent roof feature over the balcony.	Yes

	(7) Where proposed development includes a two (2) residential level element, then the second level should not extend beyond 60% of the depth of the allotment measured from the street boundary. Where side boundaries are of varying length, the second level is limited to a line across the block between the points on both boundaries, see Figures 1 and 2.	60% depth: 28.37m Proposed: 21.917m	Yes
1.2.2 Building Heights	<p>(1) 7.2m to the underside of the upper ceiling 7.8m to the top of the parapet for attached dual occupancies</p> <p>(2) The maximum number of residential levels is two (2), except where the site has a slope exceeding 1:8 (12.5%), where the maximum number of residential levels is three (3).</p>	<p>Dwelling 1: 7.19m (6.59m to ceiling)</p> <p>Dwelling 2: 8.44m (to parapet feature along Algernon Street), 7.53m to main roof. (6.93m to ceiling)</p> <p>Two storeys proposed</p>	<p>Yes</p> <p>Refer to comment (1)</p> <p>Yes</p>
<p>(1) Building Heights</p> <p>The overall ridge height of dwelling 2 measured to the top of the parapet feature along Algernon Street is 8.44m, which exceeds the 7.8m parapet height under KDCP 2013 (1.2.2 (1)) by 0.64m or 8.2%.</p> <p>It is noted that the parapet feature is an architectural roof feature that addresses Algernon Street, in order to create a prominent design feature along the secondary street. As the development is for a dual occupancy dwelling 2 has been designed to incorporate the main pedestrian entrance along Algernon Street. The result is a development that responds well to the corner nature of the allotment.</p> <p>It is noted that the main roof of dwelling 2 complies with the required 7.8m limit. With reference to the submitted shadow diagrams, the majority of the shadows will fall along Algernon Street and the adjoining sites will still receive the required 3 hrs of solar access in midwinter. It is considered that non-compliance in this case is acceptable given the minor nature of the deviation and its location not exacerbating environmental impacts.</p>			
1.2.3 Rhythm of the Built	(1) The primary building façade should not exceed	The primary façade is articulated with	Yes

Elements in the Streetscape	<p>40% of the overall width of the total frontage (Figure 6).</p> <p>(2) The secondary building façade should be set back a minimum of 1.5 metres from the primary building façade (Figure 7).</p>	<p>openings and material changes and is a suitable response to the site.</p> <p>Garages are setback 1.5m behind the primary building façade.</p>	Yes
1.2.4.2 Front Setbacks	<p>Where the setback of an adjacent building is greater than 5m, an appropriate setback may be achieved by ensuring development is set back:</p> <p>(ii) the average of the setbacks of the two adjoining buildings, if the difference between the setbacks of the buildings is greater than 2.0m</p> <p>(3) Where a development has a frontage to two (2) streets, then the setback to the secondary street shall be 1.2m, with the exception of dual occupancy (detached), where the setback to the secondary street shall be 4.5m.</p>	<p>Setback of neighbours:</p> <ul style="list-style-type: none"> - 144 Letitia St: 4.5m - 142 Letitia: 4.2m <p>The proposed front setbacks are:</p> <p>Dwelling 1: 4.7m to front columns Dwelling 2: 5.1m</p> <p>The secondary street setback is predominately 1.2m.</p> <p>A minor step to 0.913m is observed along the top balcony in order to produce a prominent design feature to distinguish the site's entrance along Algernon Street. The minor variation is considered acceptable. (0.28m or 24%)</p>	<p>Yes</p> <p>Acceptable on merit</p>
1.2.4.3 Side and Rear Setbacks	<p>Rear Buildings are to have a minimum rear setback of 15% of the average site length, or 6m, whichever is greater. 15% = 7.09m</p> <p>For buildings having a wall height of 3.5m or less, the minimum side boundary</p>	<p><u>Rear setbacks</u></p> <p>Dwelling 1: 16.46m</p> <p>Dwelling 2: 15.99m</p> <p>1.2m to ground floors.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

	<p>setback is 900mm.</p> <p>Side For buildings having a wall height of greater than 3.5m, the minimum side boundary setback is 1200mm</p>	<p><u>Side setbacks</u></p> <p>Dwelling 1:</p> <ul style="list-style-type: none"> - Northern side setback: 1.2m (ground and first floor). <p>Dwelling 2:</p> <ul style="list-style-type: none"> - Side setback to secondary street is as per KDCP 1.2.4.2. 	Yes
1.2.5 Fenestration and External Materials	(1) New buildings and alterations and additions should present a primary building façade and roofing that is constructed of materials, and within a colour range, that is complementary to the dominant character of buildings in the streetscape.	The proposed development is considered to be consistent with the modern design demonstrated throughout the immediate vicinity.	Yes
	(2) Garage doors should not dominate the street front elevation.	The proposed development includes two garage doors recessed below the level above.	Yes
	(3) The roof should be similar to the angle of pitch, materials and colour of roofs in the streetscape.	The locality demonstrates both pitched and parapet roofs, the proposal is consistent with the streetscape.	Yes
	(4) The colours of garages, window frames, and balustrading on main facades and elevations are to be integrated with the external design of the building.	The external facades of the proposed development are considered appropriate for the locality.	Yes
	(5) Glazing shall be limited to a maximum 35% of the total area of the overall street front façade. This includes both primary and secondary façade bays	Less than 35%	Yes

1.2.6 Street Edge	(1) New developments should provide front fencing that complements fencing within the streetscape.	The proposed development provides sufficient front fencing to complement the streetscape.	Yes
	(2) Fencing is to be consistent with the requirements of Section 4.2.	Fencing is consistent with the Section 4.2 requirements.	Yes
	(3) Existing vegetation in the front building line setback or on the street verge that contributes to the character of the streetscape should be preserved.	Tree removal within the frontage of the development was assessed by Council's Consultant Arborist and was supported subject to replanting of new trees.	Yes
	(4) The driveway location should not result in the removal of any street trees or removal of substantial trees on the site.	Tree removal within the frontage of the development was assessed by Council's Consultant Arborist and was supported subject to replanting of new trees.	Yes
1.3 Open Space	(1) 15% of the site area must be deep soil landscaped area.	35% or 320sqm	Yes
	(2) Private open space should be adjacent to and visible from the main living and/or dining rooms and be accessible from those areas.	Directly accessible from rear alfresco areas.	Yes
1.4 Vehicular access, parking and circulation	(1) Car parking is to be provided in accordance with the requirements in Section B4. • KDCP B4: Dual occupancy: 1.5 spaces/dwelling.	1 sheltered space provided per dwelling in addition to one hardstand space per dwelling	Yes
	(2) On corner sites with two street frontages vehicular access should be provided to the	Although the site is located on a corner, garaging has been provided along the	Acceptable

	secondary frontage.	<p>primary road for a number of reasons including:</p> <ul style="list-style-type: none"> - The secondary street is located on a bend which will make parking along that location potentially dangerous due to the lack of sightlines of incoming traffic. - The secondary street contains a substation and a power pole which constrains the site in that location. - The site proposes two relatively narrow driveway crossings (3.3m and 3.1m) in lieu of the permissible 4.5m driveway width per dwelling. - The garages proposed are single garages in lieu of the permissible double width garage. - Pedestrian access to dwelling 2 is along the secondary street in order for the development to respond to the corner location of the site and address Algernon Street. 	
	(5) Garaging should be setback behind the primary façade.	Garages are setback behind the primary façade.	Yes
1.5.1 Visual Privacy	(2) Where terraces and balconies are proposed and are elevated more than 1.5m above ground level (finished) and are located behind the street front façade, they are restricted to a maximum width of 2.5m and must be setback a minimum 3m	The rear balcony of dwelling 1 is within 3.0m of the northern boundary. It is setback 1.2m.	Refer to control 1.5.1 (4)

	<p>from any adjoining property boundary.</p> <p>(4) Council may consider a variation to the above requirements where it is considered that the terrace or balcony will not result in a loss of privacy to neighbouring properties.</p>	<p>The rear balcony contains a wall along the northern façade with no side openings which will limit opportunities to overlook the neighbouring properties.</p>	Acceptable
1.6 Solar Access	<p>(3) Where the neighbouring properties are affected by overshadowing, at least 50% of the neighbouring existing primary private open space or windows to main living areas must receive a minimum of 3 hours sunlight between 9am–3pm on 21 June.</p>	<p>The proposal will allow neighbouring properties to receive the required 3hrs of solar access in midwinter.</p>	Yes
2.1 Dual Occupancies	<p>Minimum frontage: 18m</p> <p>Minimum site area: 850sqm</p>	<p>20.115</p> <p>918.7sqm</p>	<p>Yes</p> <p>Yes. However this control is overridden by Clause 4.1B of Kogarah LEP 2012</p>
4.2.1 Front Fences	<p>(1) In cases where an applicant can demonstrate the need for a front fence higher than 1.4m, the maximum height of the fence must not exceed 1.8m.</p>	<p>Front fence ranges from 0.7m to 1.2m.</p>	Yes
4.2.3 Retaining walls	<p>(1) Retaining walls over 600mm in height must be designed by a suitably qualified structural engineer.</p>	<p>Conditions will be imposed necessitating the construction of all retaining walls.</p>	Yes, condition of consent imposed
4.4 Outbuildings	<p>(1) Outbuildings are not to be located within the front building line and must be set back 900mm from the site boundaries. Windows and glass doors must face into the yard, or be frosted if facing a neighbour's</p>	<p>900mm from the rear boundary. Greater than 900mm from the side boundaries.</p> <p>Finished floor level of outbuildings is located predominately at ground</p>	Yes

	<p>property.</p> <p>(4) The sum of the floor space of all outbuildings on a site (excluding carports and open structures such as pergolas, awnings and the like) must not exceed 70m².</p> <p>(5) Maximum height of outbuildings is 3.5m to the ridge and 2.5m to the underside of the eaves above natural ground level.</p>	<p>level</p> <p>6.5sqm being the bathrooms.</p> <p>Cabana (dwelling 1): 3.29m</p> <p>Cabana (dwelling 2): 3.54m</p> <p>Height to underside of ceiling is acceptable.</p>	<p>Yes</p> <p>Yes</p> <p>Acceptable on merit</p>
4.6 Swimming pools, spas and enclosures	<p>(1) Swimming pools/ spas should be located at the rear of properties.</p> <p>(3) Swimming pools/spas must be positioned a minimum of 900mm from the property boundary with the water line being a minimum of 1500mm from the property boundary.</p> <p>(4) In-ground swimming pools shall be built so that the top of the swimming pool is as close to the existing ground level as possible. On sloping sites this will often require excavation of the site on the high side to obtain the minimum out of ground exposure of the swimming pool at the low side.</p> <p>(6) 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. This will be imposed as a condition of</p>	<p>The pool is located in the rear yard.</p> <p>Greater than 1.5m from boundaries.</p> <p>Swimming pool is located a maximum 410mm above existing ground level as a result of the cross fall observed.</p> <p>The pool does not observe a height in excess of 500mm.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

	development consent.		
	(8) Filling is not permitted between the swimming pool and the property boundary. The position of the swimming pool, in relation to neighbours and other residents, must be considered to minimise noise associated with activities carried out in the swimming pool or from the swimming pool equipment, such as cleaning equipment.	No filling proposed.	N/A
	(9) Council may require mechanical equipment to be suitably acoustically treated so that noise to adjoining properties is reduced.	By condition of consent.	Yes
	(10) A pool fence complying with the legislation should separate access from the residential dwelling on the site to the pool.	1.2m high pool fence, conditioned to comply with relevant Australian Standard.	Yes, by condition of consent
	(11) Safety and security measures for swimming pools must comply with the relevant requirements of the Swimming Pools Act and any relevant Australian Standards.	Condition of consent will be imposed to ensure the control is met.	Yes

Georges River Development Control Plan 2020

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

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

DEVELOPER CONTRIBUTIONS

49. The proposed development would require payment of developer contributions under Section 7.11 of the Environmental Planning and Assessment Act 1979. A development condition outlining the required contributions has been imposed.

IMPACTS

Natural Environment

50. 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.

51. Seven (7) trees are nominated to be removed as part of the works. The application was referred to Council's Consultant Arborist who did not object to the removal of these trees subject to replacement replanting of new trees at a 2:1 ratio. Specific landscape conditions have been imposed in this regard. The rear major Jacaranda tree will be retained and protected.
52. Tree offset fees will require to be paid for tree T6 and T7 (both Jacaranda mimosifolia trees, along southern side boundary). Tree T10 shown as to be removed, will be required to be retained as no owners consent for its removal was obtained from 45 Algernon Street Oatley. Conditions have been imposed in this regard.
53. The proposal includes excavation that has been assessed as being reasonable in the context of the site. 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

54. 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 R2 Low Density Residential zoning.

Social Impact

55. No adverse social impacts have been identified as part of the assessment. The proposed development, in principle, continues to provide housing in the area. The construction of a dual occupancy on the site is consistent with the residential zoning of the land.

Economic Impact

56. There is no apparent adverse economic impact that is likely to result within the locality due to the construction of the dual occupancy. It is likely there will be a small positive economic impact as a result of the construction of the development.

Suitability of the site

57. The site is zoned R2 – Low 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.

SUBMISSIONS AND THE PUBLIC INTEREST

58. The application was neighbour notified in accordance with Kogarah DCP 2013 for a period of fourteen (14) days. Seven (7) submissions were received. Amended plans were received and were renotified with two submissions being received from neighbours who previously objected. In summary the following issues and concerns were raised.

Issue	Comment
Loss of trees from the site	All removed trees have been assessed by Council's Consultant Arborist. The removal of seven trees is supported. The major Jacaranda tree in the rear will be retained. An offset fee will be paid for the removal of two trees in the front setback. All removed trees will be replaced at a 2:1 ratio.

	Tree offset fees will require to be paid for tree T6 and T7 (both Jacaranda mimosifolia trees, along the southern side boundary). Tree T10 shown as to be removed, this is required to be retained as no owners consent for its removal was obtained from 45 Algernon Street Oatley. Conditions have been imposed in this regard.
Height	The height of the development is compliant with the 9.0m LEP limit, and 7.8m parapet DCP limit. A minor variation is proposed for the parapet feature along Algernon Street. Given the minor nature of this building element and the lack of adverse environmental impact arising from it, the variation is supported.
Character and streetscape	The proposed use being a dual occupancy is permissible as per the KLEP. The streetscape includes dual occupancy developments and given the proposed development complies with all LEP and DCP standards (except for minor variations to the parapet feature along Algernon Street) the proposal is considered acceptable and an appropriate response to the surrounding locality.
Boundary fence	Boundary fences are a civil matter. A condition will be imposed removing references to boundary walls and requiring that they be dealt with as a civil matter.
Driveway location being too close to corner	The proposed driveway is more than 6.0m from the tangent point which achieves compliance with AS2890 in relation to distance from the corner intersections.
Asbestos	The matter will be dealt with by a condition of consent.
Cost of works	The cost of works was revised and an update figure of \$870,314.82 was put forward by a qualified quantity surveyor.
Fence height	The fence height along Letitia Street was amended so that the fence does not exceed 700mm along the corner to allow for adequate sightlines for drivers. The fence along the secondary street is 1.8m in order to provide a level of privacy to the rear yard of dwelling 2.

REFERRALS

Council Referrals

Development Engineer

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

Consultant Arborist

60. Council's Consultant Arborist has raised no objection subject to the imposition of conditions of consent should the application be approved.

GIS

61. Council's GIS team have provided a new residential address to the new occupancy.

External Referrals

Ausgrid

62. 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, subject to a condition which has been imposed.

CONCLUSION

63. 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 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 desired future character of development in the R2 zoned land in this location and immediate locality.
64. The proposal has been assessed against the relevant State Environmental Planning Policies, the provision of the Kogarah Local Environmental Plan 2012 and Kogarah Development Control Plan 2013. The proposal satisfies the key planning controls in the LEP and DCP.

DETERMINATION AND STATEMENT OF REASONS

Statement of Reasons

65. The reasons for this recommendation are:
- The proposed development complies with the requirements of the relevant environmental planning instruments.
 - The proposal has effective façade modulation and wall articulation that will serve to provide visual interest and reduce the bulk of the buildings.
 - The proposal aims to provide a high-quality development that will establish a positive urban design outcome, setting a good architectural and planning precedent in the area.
 - The proposal satisfactorily achieves the zone objectives.

Determination

66. THAT pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act, 1979, as amended, the Georges River Local Planning Panel, grants development consent to Development Application DA2020/0453 for demolition tree removal, construction of an attached two storey dual occupancy with detached cabanas, a pool for dwelling 2, fencing, landscaping and site works on Lot 1 in DP 1097000 and known as 146 Letitia Street, 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	Review	Prepared by
Demolition Plan	Job 20218, drawing A01.01	29/06/2021	C	Nemco Design Pty Ltd
Site Plan	Job 20218, drawing A01.03	29/06/2021	C	Nemco Design Pty Ltd
FSR and Landscaping calculation Plan	Job 20218, drawing A01.06	29/06/2021	C	Nemco Design Pty Ltd
Ground Floor Plan	Job 20218, drawing A02	29/06/2021	C	Nemco Design Pty Ltd
First Floor Plan	Job 20218, drawing	29/06/2021	C	Nemco Design Pty

	A03			Ltd
Cabana Plans	Job 20218, drawing A04	29/06/2021	C	Nemco Design Pty Ltd
North western and south western elevations plan	Job 20218, drawing A05	29/06/2021	C	Nemco Design Pty Ltd
South eastern and North eastern Elevations plan	Job 20218, drawing A06	29/06/2021	C	Nemco Design Pty Ltd
Section Plans	Job 20218, drawing A07	29/06/2021	C	Nemco Design Pty Ltd
Window and doors schedule	Job 20218, drawing A011	29/06/2021	C	Nemco Design Pty Ltd
Streetscape and fence view Plan	Job 20218, drawing A012	29/06/2021	C	Nemco Design Pty Ltd
Schedule of Colours and Finishes	Job 20218, drawing A013	29/06/2021	C	Nemco Design Pty Ltd
Landscape Plan	Job No. 2021-520, sheets 1 of 2 and 2 of 2	22/04/2021	-	Unique Garden Design Consulting
Arborist Impact Assessment Report	210701-146 Letitia St-AIA	01/07/2021	A	Urban Arbor
Tree Valuation Report	210701-146 Letitia St-TV	01/07/2021	-	Urban Arbor

Separate Approvals Required Under Other Legislation

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

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

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

- (a) Placing or storing materials or equipment;
- (b) Placing or storing waste containers or skip bins;
- (c) Erecting a structure or carrying out work
- (d) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
- (e) Pumping concrete from a public road;
- (f) Pumping water from the site into the public road;
- (g) Constructing a vehicular crossing or footpath;
- (h) Establishing a “works zone”;

- (i) Digging up or disturbing the surface of a public road (eg Opening the road for the purpose of connections to utility providers);
- (j) Stormwater and ancillary works in the road reserve;
- (k) Stormwater and ancillary to public infrastructure on private land; and
- (l) If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council's roadways/footways.

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

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

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

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

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

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

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

Requirements of Concurrence, Integrated & Other Government Authorities

5. **Sydney Water - Tap inTM** - The approved plans must be submitted to a Sydney Water Tap inTM to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately endorsed. For details please refer to 'Plumbing, building and developing' section of Sydney Water's web site at www.sydneywater.com.au then see 'Building', or telephone 13000 TAP IN (1300 082 746). The Certifying Authority must ensure that a Tap inTM agent has appropriately stamped the plans prior to the issue of the Construction Certificate.
6. **Notice of Requirements for a Section 73 Certificate** - A Notice of Requirements of what will eventually be required when issuing a Section 73 Compliance Certificate under

the [Sydney Water Act 1994](http://legislation.nsw.gov.au/) <<http://legislation.nsw.gov.au/>> must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the 'Plumbing, building and developing' section of the web site www.sydneypwater.com.au <<http://www.sydneypwater.com.au>> then refer to 'Providers' under 'Developing' or telephone 13 20 92 for assistance.

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

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

Prior to the Issue of a Construction Certificate

7. **Low reflectivity roof** - Roofing materials must be low glare and reflectivity. Details of finished external materials including colours and texture must be provided to the Certifying Authority.
8. **Pre-Construction Dilapidation Report - Private Land** - A professional engineer specialising in structural or geotechnical engineering shall prepare a Pre-Construction Dilapidation Report detailing the current structural condition of adjoining premises including but not limited to:
 - (a) All adjoining and 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.

9. **Stormwater System** - The approved stormwater plan (stormwater plan dwg No. C01, C02, C03, C04, C05 Revision 'C', dated 05/11/2020, prepared by Nemco Design Pty Ltd) 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 existing kerb inlet pit located in front of the development site in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).
 - (b) The stormwater pipes in the nature strip shall be not bended and shall be running in straight line.

- (c) An inspection point shall be provided for the stormwater discharge pipes along the boundary line.
- (d) Stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a professional engineer who specialises in Hydraulic Engineering in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (1987) and Council's Stormwater Drainage Guidelines, shall accompany the application for the Construction Certificate.

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

10. **Required Design changes** - The following changes are required to be made and shown on the Construction Certificate plans to the satisfaction of the PCA:

- (a) The approved landscape plan (reference No. 2021-520, sheets 1 of 2 and 2 of 2 dated 22/04/2021 prepared by Unique Garden Design Consulting) shall be amended to be consistent with the approved architectural plans (reference Job No. 20218 dated 29/06/2021 review C prepared by Nemco Design Pty. Ltd.).
- (b) Tree (T10) on the architectural plans is required to be retained and protected.
- (c) Any proposed photovoltaic system shall comply with the relevant sections of the State Environmental Planning Policy (Infrastructure) 2007.
- (d) Boundary dividing fences have not been approved under this application. Dividing fences are a civil matter and shall be erected in accordance with the Dividing Fences Act 1991 and State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

11. **NBN Connection** - Prior to the issue of the Construction Certificate, the developer/applicant is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:

- (a) The installation of fibre-ready facilities to the site. Evidence must demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose; and
- (b) The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to the site demonstrated through an agreement with a carrier.

This condition does not apply if the above provisions are already available to the site. Evidence must be presented to the PCA in demonstration of this.

12. **On-site Stormwater Detention (OSD)** - The submitted stormwater plan (stormwater plan dwg No. C01, C02, C03, C04, C05 Revision 'C', dated 05/11/2020, prepared by Nemco Design Pty. Ltd.) has been assessed as a concept plan only. Final detailed plans of the drainage system, prepared by a professional engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate.

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

- (a) The OSD system shall discharge by gravity to Council's drainage system in the street.
- (b) Provide at least one grated access and sufficient ventilation to the OSD tank.
- (c) The design and structural adequacy of the OSD system shall be certified by a practicing structural engineer to the satisfaction of the PCA.

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

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

Full details shall accompany the application for the Construction Certificate.

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

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

Please contact Council prior to the payment of Section 7.11 Contributions to determine whether the amounts have been indexed from that indicated below in this consent and the form of payment that will be accepted by Council.

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

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

Fee Type	Fee
GENERAL FEES	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See https://portal.longservice.nsw.gov.au/bci/levy/	
Builders Damage Deposit	\$3,800.00
Inspection Fee for Refund of Damage Deposit	\$336.00
Offset Fee for Tree Replacement (Per Tree) for Trees on Private Land	
Tree T6 – <i>Jacaranda mimosifolia</i>	\$7,641.00
Tree T7 - <i>Jacaranda mimosifolia</i>	\$10,000.00
Total Tree Offset Fees	\$17,641.00
DEVELOPMENT CONTRIBUTIONS	
Kogarah Section 94 Development Contributions Plan No.1 - Roads and Traffic Management - Residential	\$693.31
Kogarah Section 94 Development Contributions Plan No.5 - Open Space 2007	\$12,136.15
Kogarah Section 94 Development Contributions	\$308.51

Plan No.9 - Kogarah Libraries - Buildings	
Kogarah Section 94 Development Contributions	\$432.7
Plan No.9 - Kogarah Libraries - Books	
Total 7.11 Contributions	\$13,570.67

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 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.

14. **Damage Deposit - Minor Works** - In order to insure against damage to Council property the following is required:
- 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: **\$3,800.00** (2 road frontages).
 - Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee to enable assessment of any damage and repairs where required: **\$336.00** (2 road frontages).
 - 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.

15. **Site Management Plan** - A Site Management Plan detailing all weather access control points, sedimentation controls, fencing, builder's site sheds office, amenities, materials storage and unloading arrangements must be submitted with the application for the Construction Certificate.
16. **BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificates No. 1196667M (dated 22 April 2021) must be implemented on the plans lodged with the application for the Construction Certificate.
17. **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.

18. **Geotechnical report** - 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 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.

19. **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.
20. **Stormwater Drainage Plan Details** - Stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a professional engineering specialising in hydraulic engineering shall be submitted with the Construction Certificate application.

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

21. **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 3m wide pavement/kerb face to kerb face width, and a non-slip surface. The location of any driveway shall be in accordance to AS2890 including distance from the tangent point (along road intersection).
22. **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.

23. **Swimming Pools - Use and Maintenance** - The following apply to the construction, use and maintenance of swimming pools and spas:
 - (a) no ground level may be raised or filled except where shown specifically on the approved plans;
 - (b) all pool/spa waste water is to be discharged to the sewer according to the requirements of Sydney Water;
 - (c) the swimming pool must not be used for commercial or professional purposes;
 - (d) drain paved areas to the landscaped areas or a suitable lawful drainage system; and
 - (e) arrange any external pool/spa lighting to minimise glare nuisance to adjoining owners.

24. **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).
25. **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.
26. **Landscape Plan** – All landscape works shall be carried out in accordance with the approved landscape plans and specifications, drawn by Unique Garden Design Garden Design, Ref No 2021 – 520, sheets 1 – 2 and dated 22/04/21 (as amended by 'Required Design Changes' condition). The landscaping must be maintained in accordance with the approved plans in perpetuity, subject to the following -
- The proposed four (4) trees and all plant species, pot/ bag size and quantities of plants shall be in accordance with the proposed plant schedule upon the landscape plan.
 - 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;
 - 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;
27. **Compliance with submitted Arborist Report** - The following trees shall be retained and protected.

The recommendations outlined in the Arborist's Report titled Arboricultural Impact Assessment Report prepared by Urban Arbor, Rev A, dated 1 July 2021 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 10 requires to be retained.**

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

Tree Species	Location of Tree / Tree No.	Tree Protection Zone (metres) TPZ as per AS4970 - 2009 Fencing distance from trunk
T1 – <i>Murraya paniculata</i>	Within adjacent site, front, No 144 Letitia Street	2.6m
T2 – <i>Melaleuca bracteata</i>	Within adjacent site, front,	1.8m

	No 144 Letitia Street	
T8 – <i>Jacaranda mimosifolia</i>	Within site, rear yard north fence	6.7m
T10 – <i>Ulmus parvifolia</i>	Neighbours tree within No 45 Algernon (Survey & demolition plan)	4.4m
T11, 12 & 13 – <i>Camellia japonica</i>	Within adjacent site, front, No 144 Letitia Street	2.0m each tree
T21 – <i>Murraya paniculata</i>	Within No 45 Algernon Street, back fence	3.6m

- (a) The client must 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, forming compliance.
- (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, excavations 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) The tree protection measures must be undertaken in accordance AS4970 -2009 *Protection of trees on development sites*.
- (d) 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.
- (e) 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.
- (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 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.
- (i) 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.

- (j) The Tree Protection Zone of each tree, to be protected, shall be watered thoroughly and regularly to minimise the effects of construction works.
- (k) No building products, preparation of building products, storage of materials, stockpiling, site sheds or services shall be installed or placed within the TPZ of the trees to be retained.

Excavation works near tree to be retained

- (l) The engaged AQF 5 Arborist must be in attendance prior and during the excavations within the TPZ of trees 1, 2, 8, 10, 11, 12, 13 and 21 with a letter of findings with photographic evidence forwarded to the nominated PCA, to whether the trees to be retained and protected have been kept in a viable condition and ongoing retention, to form compliance.
- (m) Stormwater excavations within the TPZ of tree 21, *Murraya paniculata* upon No 45 Algernon St must only be conducted using non destructive types of excavation. This includes the use of *air spade* or *hydro vac* excavation and must be under the guidance of the engaged AQF 5 Arborist to form compliance. No bucket type of machinery is permitted within the TPZ of tree 21.
- (n) Tree Protection Zones around the trees to be retained are not to have soil level changes, grade 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 / Cantilever –

- (o) To preserve T10 and T21, the footings of the proposed cabanas, must be isolated pier and beam construction within the TPZ of both trees. The piers must be hand dug and located such that no roots of a diameter greater than 50mm are severed or injured in the process of any site works during the excavation and construction period. The cantilever slabs & beams must be located on or above the existing soil levels, with all excavations under the guidance of the AQF 5 Arborist.
- (p) 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).

28. **Tree Removal & Replacement - Tree removal** – Permission is granted for the removal of the following trees:

Tree Species	Number of trees	Location
T3 – <i>Castanospermum australe</i>	1	Within site, front yard
T4 – <i>Arbutus unedo</i> (Council to remove)	1	Councils street verge
T5 – <i>Jacaranda mimosifolia</i>	1	Within site, front corner
T6 – <i>Jacaranda mimosifolia</i> (Thyer value at \$7,641.00)	1	Within site, south rear fence

T7 - <i>Jacaranda mimosifolia</i> (Thyer value at \$11,618.00, however fee is capped to \$10,000 as per Council's Schedule of Fees and Charges 2021/22)	1	Within site, south rear fence
T9 – <i>Magnolia soulangeana</i>	1	Within site, rear yard middle
T14 – <i>Polyspora axillaris</i>	1	Within site, front yard
T15 – <i>Nerium oleander</i>	1	Within site, front yard
T16 & 17 – <i>Camellia sasanqua</i>	2	Within site, front yard
T18 – <i>Lagerstroemia indica</i>	1	Within site, south fence line
T19 & 20 – <i>Ceratopetalum gummiferum</i>	1	Within site, rear side north fence
Thyer tree valuations for tree 6 and 7 must be paid to Council prior to removal with receipt forwarded to the PCA to form compliance.		

General Tree Removal Requirements

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

Street Tree Removal / Replacement by Council –

- (c) One (1) street tree of species to be determined must be provided in the road reserve fronting the site, between the driveways.
- (d) Council shall be appointed to remove and plant all tree/s on public land. All costs associated with the removal of the tree/s and the planting of replacement trees shall be met by the applicant. Fees and charges outlined in the table below are subject to change and are set out in the current version of Council's 'Schedule of Fees and Charges', applicable at the time of payment.
- (e) The fees must be paid in accordance with the conditions of this consent. The fee payable is to ensure that the development makes adequate provision for the demand it generates for public amenities and public services within the area.
- (f) The fees payable will be adjusted at the time of payment to reflect changes in the cost of delivering public amenities and public services, in accordance with the indices provided by the relevant conditions set out in this consent.

Fee Type – Tree planting on public land	Number of trees	Amount per tree
Administration Fee, tree planting and maintenance	X1	\$452.00
Tree removal – tree 4 – fronting the site		
Tree removal by Council only	Contact Council for fee determination	
Stump Grinding by Council only	Contact Council for fee determination	

29. **Allocation of street addresses** - In order to comply with AS/NZS 4819:2011 Rural and Urban Addressing & the NSW Addressing User Manual (Geographical Names Board of

NSW) and Georges River Council's requirements, the street addresses for the subject development must be allocated as follows:

Location within development	Proposed street address to comply with AS/NZS 4819:2011 and NSW Addressing Manual
Northern lot (proposed dwelling 1)	146 Letitia Street, Oatley NSW 2223
Southern lot (proposed dwelling 2)	148 Letitia Street, Oatley NSW 2223

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

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

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

The report must include the following:

- Photographs showing the existing condition of the road pavement fronting the site,
- Photographs showing the existing condition of the kerb and gutter fronting the site,
- Photographs showing the existing condition of the footpath pavement fronting the site,
- Photographs showing the existing condition of any retaining walls within the footway or road, and
- If applicable - Closed circuit television/video inspection (in digital format) of public stormwater drainage systems fronting, adjoining or within the site, and
- The full name and signature of the structural engineer.
- The Dilapidation Report must be prepared by a qualified structural engineer. The report must be provided to the PCA and a copy provided to the Council.

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

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

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

31. **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.

32. **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.
33. **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](#).
34. **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.
35. **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.

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

During Construction

37. **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.
38. **Asbestos Clearance Certificate** - An asbestos clearance certificate is to be prepared by a suitably qualified asbestos removalist and be provided to the satisfaction of the PCA after all existing buildings and structures have been demolished.
39. **Archaeological Discovery During Excavation** -
- (a) Should any relics be unexpectedly discovered on the site during excavation, all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW should be informed in accordance with section 146 of the Heritage Act 1977.
 - (b) Should any Aboriginal objects be unexpectedly discovered then all excavation or disturbance of the area is to stop immediately and NSW Government Office of Environment and Heritage is to be informed in accordance with Section 89A of the National Parks and Wildlife Act 1974.
 - (c) Should any archaeological remains or Aboriginal objects be discovered, a copy of recording of the finds and the final archaeological summary report is to be submitted to Council prior to the Occupational Certificate;
 - (d) If the discovery is on Council's land, Council must be informed.
40. **Hours of construction for demolition and building work** - Any work activity or activity associated with the development consent that requires the use of any tools (including hand tools) or any power operated plant and machinery that creates noise on or adjacent to the site shall not be performed, or permitted to be performed, except between the hours of 7.00am to 5.00pm, Monday to Saturday inclusive. No work or ancillary activity is permitted on Sundays, or Public Holidays.

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

41. **Damage within Road Reserve and Council Assets** - The owner shall bear the cost of restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site. This may include works by Public Utility Authorities in the course of providing services to the site.
42. **Contamination - Unexpected Finds** - Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier and all works on site must cease immediately.
43. **Swimming Pools - Filling with water** - The pool/spa shall not be filled until the safety fences have been completed in accordance with the approved plans and specifications and inspected by the PCA.
44. **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.
45. **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.
46. **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.
47. **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

48. **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.*

49. **Maintenance Schedule - On-site Stormwater Management** - A Maintenance Schedule for the proposed on-site stormwater management measures is to be prepared and submitted to Council. The Maintenance Schedule shall outline the required maintenance works, how and when these will be done and who will be carrying out these maintenance works.

50. **Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the [Sydney Water Act 1994 <http://legislation.nsw.gov.au/>](http://legislation.nsw.gov.au/) must be submitted to the PCA prior to the issue of the Occupation/Subdivision Certificate.
51. **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:
- (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.
52. **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) The structural adequacy of the On-Site Detention system (OSD);
 - (c) That the works have been constructed in accordance with the approved design and will provide the detention storage volume and attenuation in accordance with the submitted calculations;
 - (d) Pipe invert levels and surface levels to Australian Height Datum;
53. **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.
54. **Completion of Landscape Works** –
- (a) All landscape works, the planting of four (4) trees and fees payable for Councils street tree planting and removal must be completed before the issue of the Final Occupation Certificate.
 - (b) 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 and shrubs have been planted as per landscape plan and specifications and forwarded to the PCA – Principal Certifying Authority to form compliance.
55. **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.

56. **Driveways and parking spaces** - Internal driveways and parking spaces are to be adequately paved with concrete or bitumen, or interlocking pavers to provide a dust-free surface.
57. **Post Construction Dilapidation report - Private Land** - At the completion of the construction works, a suitably qualified person is to be engaged to prepare a post-construction dilapidation report. This report is to ascertain whether the construction works associated with the subject development created any structural damage to all the adjoining neighbouring building.

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 (Ongoing)

58. **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).
59. **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.
60. **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.

61. Maintenance of Landscaping –

- (a) 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

- (b) The following replacement/ planted trees are to be planted prior to the issue of either an Occupation Certificate or Subdivision Certificate (whichever is first). All replacement trees must be replanted a minimum of 3m away from any driveway, building or structure.
- (c) A minimum of 4 x 45 litre size trees, which will attain a minimum mature height of nine (9) metres, shall be planted within the property. The trees are to conform to AS2303 – 2018, *Tree stock for landscape use*.
- (d) Tree species selected shall be from Georges River Councils Tree Management Policy, April 2019. Appendix 1 – Tree Planting.
- (e) 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.
- (f) 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.

- 62. **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.

- 63. **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

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

- 65. **Appointment of a PCA** - The erection of a building must not commence until the applicant has:

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

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

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

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

- 66. **Notification Requirements of PCA** - No later than two days before the building work commences, the PCA must notify:
 - (a) the consent authority and the Council (if not the consent authority) of his or her appointment; and
 - (b) the applicant of the critical stage inspections and other inspections that are to be carried out with respect to the building work.
- 67. **Notice of Commencement** - The applicant must give at least two days notice to the Council and the PCA of their intention to commence the erection of a building. A Notice of Commencement Form is attached for your convenience.
- 68. **Critical Stage Inspections** - The last critical stage inspection must be undertaken by the PCA. The critical stage inspections required to be carried out vary according to Building Class under the Building Code of Australia and are listed in Clause 162A of the [Environmental Planning and Assessment Regulation 2000](#).
- 69. **Notice to be given prior to critical stage inspections** - The principal contractor for a building site, or the owner-builder, must notify the PCA at least 48 hours before each required inspection needs to be carried out.

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

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

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

An Occupation Certificate Application Form is attached for your convenience.

Prescribed Conditions

- 71. **Clause 97A - BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
- 72. **Clause 98 - Building Code of Australia & Home Building Act 1989** - Requires all building work to be carried out in accordance with the Building Code of Australia. In the

case of residential building work to which the Home Building Act 1989 relates, there is a requirement for a contract of insurance to be in force before any work commences.

73. **Clause 98A - Erection of Signs** - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the PCA and the Principal Contractor.
74. **Clause 98B - Home Building Act 1989** - If the development involves residential building work under the [Home Building Act 1989](#), no work is permitted to commence unless certain details are provided in writing to Council. The name and licence/permit number of the Principal Contractor or Owner Builder and the name of the Insurer by which work is insured under Part 6 of the [Home Building Act 1989](#).
75. **Clause 98E - 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.
76. **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

77. **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.

78. **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.

79. **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.
80. **Torrens Title Subdivision of a Dual Occupancy Development** - A separate development application is required to be lodged with Council for the Torrens Title Subdivision of a Dual Occupancy. Development consent for Torrens Title Subdivision cannot be granted until after the final Occupation Certificate has been issued for the Dual Occupancy Development.
81. **Underground Cables (Ausgrid Condition)**- Special care should also be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Hence it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area.

Safework Australia – Excavation Code of Practice, and Ausgrid's Network Standard NS156 outlines the minimum requirements for working around Ausgrid's underground cables. Should ground anchors be required in the vicinity of the underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

Should you have any enquiries, please contact Ausgrid at development@ausgrid.com.au

82. **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.

83. **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.

84. **Register your Swimming Pool** - All swimming pools in NSW are required to be registered. Fines apply for pools that are not registered. To register please visit: www.swimmingpoolregister.nsw.gov.au.
85. **Stormwater & Ancillary Works - Applications under Section 138 Roads Act and/or Section 68 Local Government Act 1993** - To apply for approval under Section 138 of the Roads Act 1993 and/or Section 68 Local Government Act 1993:
- (a) Complete the Stormwater Drainage Application Form which can be downloaded from Georges River Council's website at www.georgesriver.nsw.gov.au.
 - (b) In the Application Form, quote the Development Consent No. (eg. DA2020/0***) 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.

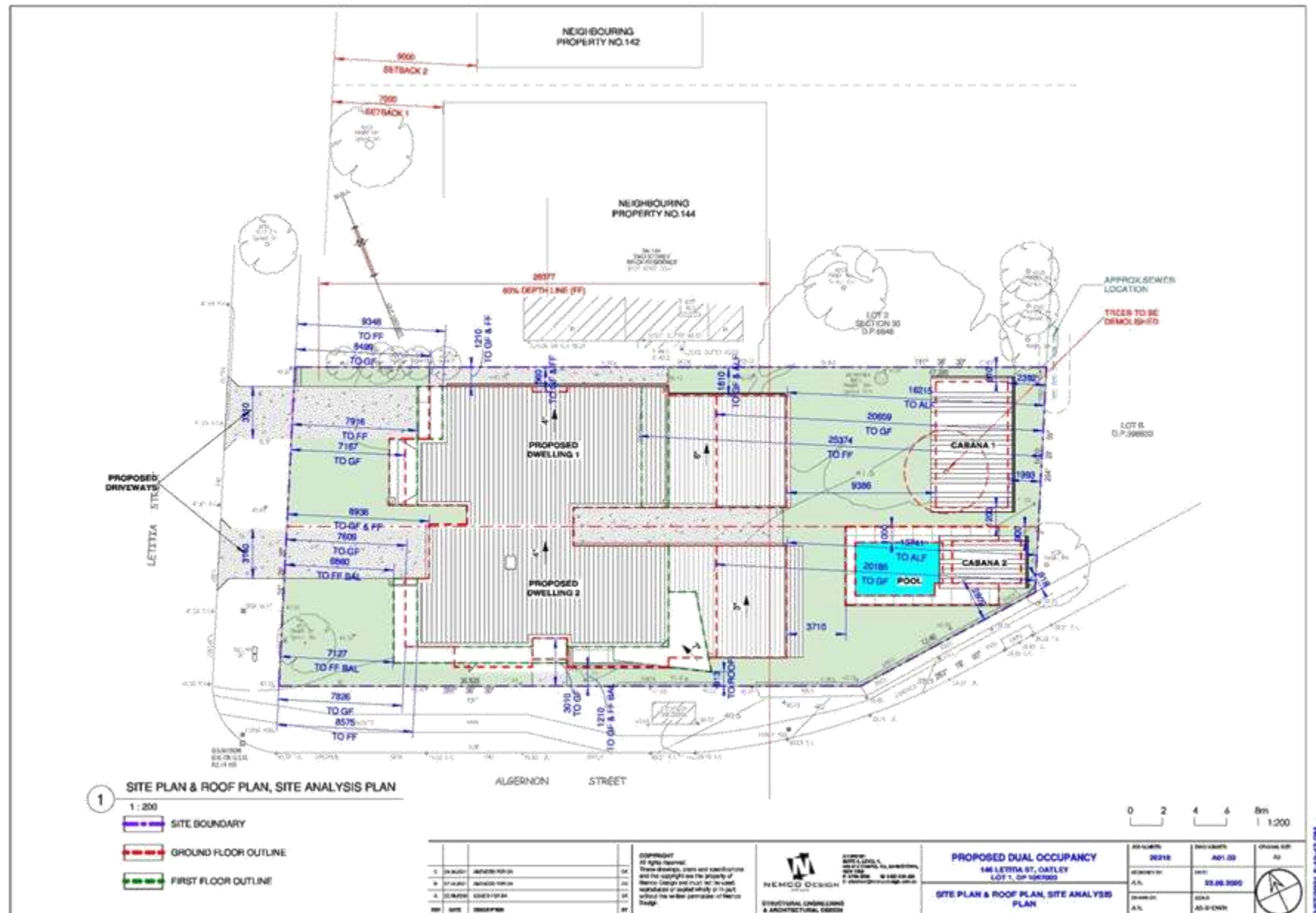
NOTE: A minimum of four weeks should be allowed for assessment.

86. **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.
87. **Site Safety Fencing** - Site fencing must be erected in accordance with SafeWork Guidelines, to exclude public access to the site throughout the demolition and/or construction work, except in the case of alterations to an occupied dwelling. The fencing must be erected before the commencement of any work and maintained throughout any demolition and construction work.

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

ATTACHMENTS

Attachment  1  Site plan, elevation plans, and streetscape plan - 146 Letitia St Oatley









REPORT TO GEORGES RIVER COUNCIL LPP MEETING OF THURSDAY, 05 AUGUST 2021

LPP033-21

LPP Report No	LPP033-21	Development Application No	DA2021/0009
Site Address & Ward Locality	565 King Georges Road Penshurst Mortdale Ward		
Proposed Development	Demolition and construction of a two (2) storey boarding house with hardstand parking, fencing, landscaping and site works		
Owners	Mr Rifaat Gergis Hanna (executor of estate)		
Applicant	Mr Azzam Yousef		
Planner/Architect	Planner: Yousef Services / Designer: A to Z Building Consultants		
Date Of Lodgement	13/01/2021		
Submissions	One submission		
Cost of Works	\$580,000.00		
Local Planning Panel Criteria	General Manager Delegation- Development for the purposes of a boarding house		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy (Affordable Rental Housing) 2009; State Environmental Planning Policy (Infrastructure) 2007; State Environmental Planning Policy No 55 - Remediation Of Land; State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004; State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017; Draft Environment State Environmental Planning Policy; Draft Remediation of Land SEPP; Draft Georges River Local Environmental Plan 2020; Draft Design and Place State Environmental Planning Policy Hurstville Local Environmental Plan 2012; Hurstville Development Control Plan No1 (amendment No. 7); Draft Georges River Local Environmental Plan 2020.		
List all documents submitted with this report for the Panel's consideration	Architectural Plans, Statement of Environmental Effects, Plan of Management, Arborist Report, Traffic Report, Acoustic Report, Survey Plan, BASIX Certificate, Stormwater plans, LPP Minutes and refused plans for DA2019/0545 and REV2020/0016		
Report prepared by	Development Assessment Planner		

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

Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Not Applicable
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	Not Applicable
Conditions Have draft conditions been provided to the applicant for comment?	No, conditions can be reviewed when the report is published

Site Plan



Figure 1: Aerial view of subject site outlined in red (Intramaps 2021)

Executive Summary Proposal

1. Development consent is sought for the demolition works and construction of a two (2) storey boarding house comprising of ten (10) boarding rooms with hardstand parking, fencing, landscaping and site works.
2. The proposal reasonably complies with all the applicable environmental planning instruments, development standards, and controls.

Site and Locality

3. The site is legally described as Lot 8 in DP 12478 and is known as 565 King Georges Road, Penshurst. The site is located on the western side of King Georges Road (classified Road) approximately 40m from its intersection with Young Street (to the north). The site is a rectangular in shape and has a frontage of 13.41m and a site area of 843.69sqm. The site observes a gentle slope to the street.
4. The site contains a single dwelling house with detached outbuildings. One (1) tree (*Lophostemon Confertus*) is located along the southern side boundary towards the rear of the property.
5. The local area is characterised by single and two (2) storey dwelling houses mostly traditional in design with a brick and tiled roof finish.

Zoning and Permissibility

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

Submissions

7. The application was notified in accordance with Hurstville Development Control Plan No 1, one (1) individual submission was received objecting to the application. The issues raised are summarised below:
 - Insufficient parking;
 - Neighbourhood Amenity;
 - Crime prevention;
 - Safety;
 - Overlooking;
 - Acoustic impacts; and
 - Sightlines.

Conclusion

8. 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 (DA2021/0009) is recommended for approval subject to conditions for the reasons contained within this report.

Report in Full Proposal

9. Development consent is sought for the demolition works and construction of a two (2) storey boarding house comprising of ten (10) boarding rooms with hardstand parking, fencing, landscaping and site works.
10. Further details of the proposed development are as follows:

Demolition And Excavation

- Demolition of the existing single storey building, detached garage, and sheds;
- Earthworks along the site;

Construction

- Ground floor layout:
 - Entry foyer with accessible platform lift leading to the main entry;

- Provision of three (3) double lodger boarding rooms one of which is accessible, and one (1) single lodger boarding room (no room contains private kitchen facilities);
- Shared kitchen and laundry room;
- Communal room with communal open space area adjacent to this room; and
- Stairs leading to upper level.
- First floor layout:
 - Provision of six (6) double lodger boarding rooms two of which contain a private kitchen facility, with room 9 containing a balcony facing the street; and
 - Lift, stairs and storage area.
- Outdoor works:
 - Paved pedestrian entry leading to the building;
 - A 6.0m wide driveway crossing onto King Georges Road with an internal waiting bay;
 - Internal driveway along southern side boundary leading to the rear hard-paved parking area containing provisions for five (5) car parking spaces one of which is accessible, two motorcycle spaces, 2 bicycle spaces;
 - Bin area along southern façade of building;
 - Rear communal open space area; and
 - 1.0m high front fence along the northern-eastern corner of the site onto King Georges Road.

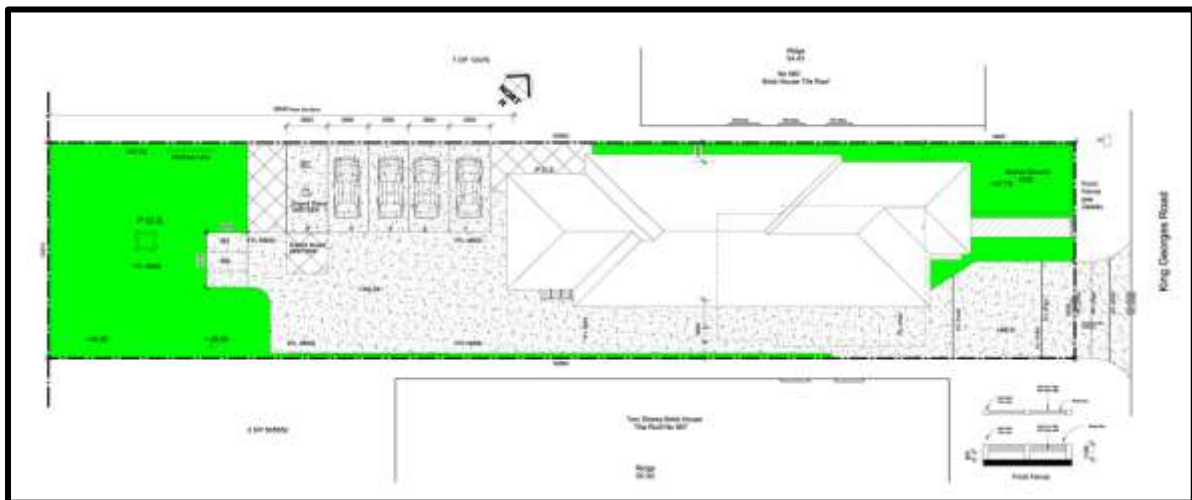


Figure 2: Proposed site plan

The Site and Locality

11. The site is legally described as Lot 8 in DP 12478 and is known as 565 King Georges Road, Penshurst. The site is located on the western side of King Georges Road (classified Road) approximately 40m from its intersection with Young Street (to the north). The site is a rectangular in shape and has a frontage of 13.41m in width and a site area of 843.69sqm. The site observes a gentle slope to the street.
12. The site currently accommodates a single storey brick and tiled single dwelling house with a detached garage and two sheds. One (1) tree (*Lophostemon Confertus*) is located along the southern side boundary towards the rear of the property.

13. The subject site is located within a residential area that is predominantly characterised by detached one and two storey dwellings mostly traditional in design with a brick and tiled roof finish.
14. Immediately adjoining the site to the south is a two storey brick and tiled dwelling. Adjoining the site to the north is a single storey brick and tiled dwelling. Adjoining the site to the rear is a single storey brick and tiled dwelling with a detached outbuilding within its rear yard.
15. Opposite the subject site, across King Georges Road are single dwelling houses and multi-dwelling developments.
16. In the wider context, the subject site is located approximately 250m west of Gifford Park, and 315m south of the intersection of Stoney Creek Road and King Georges Road. The site is approximately 850m south (walking distance) of Beverly Hills station



Figure 3: Street view as per Officer Inspection

Background

17. Development Application 'DA2019/0545' was refused by the Local Planning Panel on 21 May 2021 for the demolition of existing structures and construction of a 12 room boarding house. The main refusal reasons included non-compliance with the Affordable Rental Housing SEPP, traffic issues in relation to Transport for NSW, parking issues, development within the TPZ of the rear tree, accessibility issues, and bulk and built form concerns.
18. Section 8.2 Review Application 'REV2020/0016' was refused by the Georges River Local Planning Panel on 3 September 2020 in relation to a review of determination of DA2019/0545 for the demolition of existing structures and construction of a 12 room boarding house. The main refusal reasons included adverse traffic impacts due to design of the driveway, insufficient amount of communal open space area, lack of landscaping, and internal amenity concerns.

19. As part of the current application 'DA2021/0009' the plans as originally lodged were not accepted by Council due to the ramping within the building, works within the TPZ of the rear tree, overall bulk, inadequate waste facilities, internal amenity issues, internal layout issues, and compliance with the Affordable Housing SEPP.
20. Following a meeting with the applicant, the plans were amended to resolve all the issues raised by Council. The ramping within the building was removed with a platform lift introduced. The pedestrian path was also made flat in lieu of the originally proposed ramp. The internal layout was improved, and the previous storage room was converted to a communal kitchen and laundry room. A communal open space area was added adjacent to the rear communal room. Works within the TPZ were reduced to an acceptable level which was endorsed by Council's Consultant Arborist.

Compliance and Assessment

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

STATE ENVIRONMENTAL PLANNING INSTRUMENTS

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

SEPP Title	Complies
State Environmental Planning Policy (Affordable Rental Housing) 2009	Yes
State Environmental Planning Policy (Infrastructure) 2007	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 (AFFORDABLE RENTAL HOUSING) 2009

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

Division 3 Boarding Houses

Clause 25 - 28 Development to which this Division applies

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

'27 Development to which Division applies

- (1) *This Division applies to development, on land to which this Division applies, for the purposes of boarding houses.*
- (2) *Despite subclause (1), this Division does not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone in the Sydney region unless the land is within an accessible area.*

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

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

'accessible area means land that is within:

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

26. The subject site satisfies the requirements of an accessible area as defined in (c) above. A map and table outlining bus services within proximity to the site is provided below. The following services were operating at the time of the preparation of this assessment report.

Location of Bus Stop	Bus Route	Walking Distance	Mon – Fri Frequency	Saturday Frequency	Sunday Frequency
Cambridge Street and George Street	M91 Towards Parramatta	400m	Complies	Complies	Complies
	M91 Towards Hurstville	400m	Complies	Complies	Complies

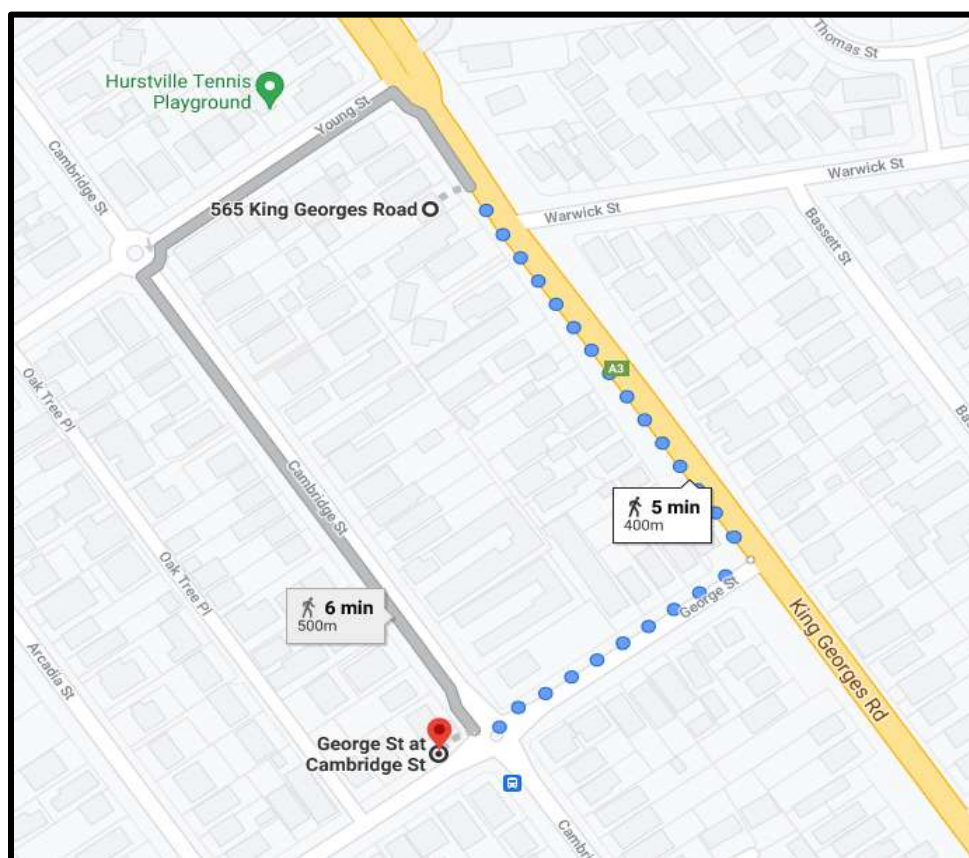


Figure 4: Map showing bus stops within 400m of the subject site (Source: Google Maps, 2021).

Clause 29 - Standards that cannot be used to refuse consent

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

Clause 29	Standards	Proposal	Complies
Floor Space Ratio - If Residential accommodation is permitted	If the density and scale of the buildings when expressed as a FSR is not more than the existing maximum FSR for any form of residential accommodation permitted (0.6:1 under HLEP 2012). Site area = 843.62sqm Maximum = 506.17sqm	351sqm or 0.41:1	Yes
Height	If the building height is not more than the maximum height permitted under another EPI for any building on the land: Maximum 9m in R2 under the HLEP 2012.	8.1m	Yes
Landscape Area	The landscape treatment of the front setback area is compatible with the	The front setback is appropriately landscaped consistent	Yes

	streetscape in which the building is located.	<p>with the streetscape character of King Georges Road where it serves to provide a suitable balance between built form and landscaped elements along this frontage.</p> <p>The front area will contain a deep soil zone, a relatively flat pedestrian path, a small front fence along the northern portion of the frontage and a driveway. The landscape plan shows a 45ltr crape myrtle tree within the front setback area.</p> <p>Note: The OSD basin in the front setback is a deep soil zone. The basin is a natural deep soil grass area, as opposed to the OSD tank which is below the main driveway leading to the rear parking area.</p>	
Solar Access	Where the development provides for one or more communal living rooms, if at least one of those rooms receives minimum of 3 hours direct sunlight between 9am and 3pm in midwinter.	<p>The communal room and the kitchen communal room both include windows along the north-western façade to maximize solar access. Both rooms will receive in excess of 3 hours of solar access in midwinter.</p> <p>A condition has been imposed requiring all fire-rated windows be openable windows (as per NCC) to prevent the installation of glass block windows.</p>	Yes

Private Open Space (other than the front setback area)	<p>If a minimum of the following is provided:</p> <p>(i) one area of at least 20sqm with a minimum dimension of 3m is provided for the use of the lodgers</p> <p>(ii) if accommodation is provided on-site for a boarding house manager—one area of at least 8sqm with a minimum dimension of 2.5m is provided adjacent to that accommodation</p>	<p>20sqm area is provided in the form of a paved communal terrace along the northern-western rear facade of the building; adjacent to the communal room.</p> <p>No manager is proposed to reside onsite as there are less than 20 boarders accommodated.</p>	<p>Yes</p> <p>N/A</p>
Parking	<p>(ii) in the case of development not carried out by or on behalf of a social housing provider — at least 0.5 parking spaces are provided for each boarding room,</p> <p>(iii) in the case of any development — not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site</p>	<p>In this case: 10 lodger rooms x 0.5 car space = 5 car spaces required, 5 car spaces have been provided (one of which is an accessible space).</p> <p>No manager is proposed to reside onsite.</p>	<p>Yes</p> <p>N/A</p>
Accommodation size	<p>Each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least:</p> <p>(i) 12sqm in the case of a boarding room intended to be used by a single lodger, or</p> <p>(ii) 16sqm in any other case</p>	<p>10 boarding room are proposed.</p> <p><u>Room 1</u>: double, 20sqm excluding bathroom (accessible)</p> <p><u>Room 2</u>: double, 18sqm excluding bathroom</p> <p><u>Room 3</u>: single, 16sqm</p>	<p>Yes</p>

		excluding bathroom <u>Room 4:</u> double, 17sqm excluding bathroom <u>Room 5:</u> double, 17sqm excluding bathroom <u>Room 6:</u> double, 20sqm excluding bathroom and kitchen facilities <u>Room 7:</u> double, 18sqm excluding bathroom <u>Room 8:</u> double, 17sqm excluding bathroom <u>Room 9:</u> double, 24sqm excluding bathroom and kitchen facilities <u>Room 10:</u> double, 17sqm excluding bathroom	
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Clause 30 - Standards for Boarding Houses

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

Clause 30	Standards	Proposal	Complies
Communal living	(a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided	10 rooms proposed - two communal living rooms provided. (kitchen/laundry area and a separate sitting area).	Yes
Size of boarding rooms	(b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25sqm	No boarding room has an area exceed 25sqm in size (excluding any area used for the purposes of private kitchen or bathroom facilities)	Yes
Maximum occupancy	(c) no boarding room will be occupied by more than 2 adult lodgers	Maximum 2 adult lodgers per room proposed for double lodger rooms. Room 3 will be a single lodger room.	Yes, by condition
Kitchen and bathroom facilities	(d) adequate bathroom and kitchen facilities will be available within the boarding	A shared communal kitchen room is provided on the ground	Yes

	house for the use of each lodger	floor. Two boarding rooms being rooms 6 and 9 have private kitchen facilities.	
Boarding house manager	(e) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager	The boarding house has a total occupant capacity of 19, thus a boarding house manager is not required. As per the plan of management, a caretaker will be appointed to manager the day to day operations of the boarding house.	Yes
Bicycle and motor cycle space	(h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.	In this case 10 boarding rooms provided: 2 motorcycle and 2 bicycle spaces required. 2 of each have been provided.	Yes

30AA Boarding houses in Zone R2 Low Density Residential

29. Clause 30AA states that:

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

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

Clause 30A – Character of local area

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

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

33. It has also been held that in assessing ‘compatibility’ both the existing and future character of the local area needs to be taken into account (Sales Search Pty Ltd v The

Hills Shire Council [2013] NSWLEC 1052 (2 April 2013) and Revelop Projects Pty Ltd v Parramatta City Council [2013] NSWLEC 1029).

Relationship to the Existing and Future Character of the Local Area

34. In Revelop Projects Pty Ltd v Parramatta City Council [2013] NSW LEC 1029, Commissioner Morris concluded that the 'local area' includes both sides of the street and the 'visual catchment' as the minimum area to be considered in determining compatibility.
35. The 'local area' in this case is taken to include both sides of King Georges Road and the immediate surrounding streets. Within this local area, development is primarily characterised by single and double storey dwelling houses being brick and tiled in finish. Most dwellings have a large driveway onto King Georges road, a small front fence, and a deep soil zone within the front setback.
36. In Project Venture Developments v Pittwater Council [2005] NSWLEC 191 the Land and Environment Court specifically set out a relevant planning principle. Consideration has therefore been given to the two key questions identified in the Land and Environment Court Planning Principles:

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

37. Comment: The proposal in its current form is considered to result in a built form that is consistent with that of a two (2) storey development. The height does not exceed the permitted height control of 9.0m and the built form is articulated along the side to reduce the bulk of the building. Due to these reasons it is considered that the development will not result in adverse overshadowing impacts to neighbouring properties. By virtue of the submitted shadow diagrams, the majority of the shadows in midwinter will fall on the site itself.
38. The FSR proposed is not more than what is permissible for dwelling houses on the allotment (being 410.5sqm as per clause 6.5 of HLEP 2012). From a bulk and scale perspective the proposal is not anticipated to present as dissimilar to development in its surrounding locality, or development yet to be constructed within the locality.
39. The proposal adopts a traditional architectural typology and materiality. The development includes a pitched roof and face brickwork with rendered elements which is consistent with surrounding development.
40. The landscape setting to the street frontage again is not dissimilar to what can be found in the surrounding area. The proposal provides for a sufficient deep soil zone within the front setback and within the rear.
41. This development has reduced the impact on the tree in the rear of the site which is to be retained. The proposal was assessed by Council's Consultant Arborist and was found to be acceptable.
42. The amended driveway design together with the addition of the waiting bay has been endorsed by Transport for NSW subject to conditions. The proposed parking layout was also supported by Council's Traffic Engineer. In this regard the proposal is not anticipated to result in adverse traffic and parking impacts.

43. Given the proposal is along a classified road and the development will house up to 19 occupants, an acoustic report accompanied the application. The acoustic report concluded that the development will be capable of achieving the required acoustic standards and will not result in adverse acoustic impacts.
44. In relation to privacy, all windows along the first floor side elevations have been raised and treated to address overlooking impacts accordingly. A condition has been imposed requiring all fire-rated windows along the north-western façade to be openable windows (as per NCC which will require protection under this criterion). The condition is to prevent the use of glass block windows which prevent natural ventilation and only allow for filtered light to reach the rooms.
45. For the reasons stated above, it is considered that the proposed development will not result in an unreasonable impact upon surrounding residential development and will not constrain the development potential of adjoining sites.

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

46. Comment: The existing streetscape is characterised by single and two (2) storey detached dwellings with a brick and tiled in finish. Most dwellings have a large driveway onto King Georges Road a small front fence and a deep soil zone within the front setback.
47. The proposed boarding house is two storey in nature and will observe an earthy face brick finish with a tiled black roof. The chosen colour palette will blend into the surrounding locality given the majority of dwellings observe similar colours and finishes.
48. The proposed landscape zone in the front, in addition to the proposed trees and shrubs, and the small front fence will further allow the boarding house to sit well within its surroundings.
49. In relation to the side facades, the north-eastern and south-western side elevations provide for adequate articulation and appropriate architectural relief.
50. With the absence of a statement of desired future character in the DCP, the bulk and scale of development is derived by the applicable development standards contained within the Hurstville Local Environmental Plan that permit a particular built form. The proposed height and floor space is consistent with the development on the R2 – Low Density Zone and the setbacks proposed are consistent with residential development. The built form is therefore considered to be of an appropriate scale and character within the streetscape.

Comparison Table

51. The character of an area is not only defined by what is physically existing on the adjoining allotments, but also what is permitted under the planning controls which apply at the time.

The proposal adopts a built form commensurate with that of a two storey dwelling house.

52. Whilst Council does not have prescribed controls for the built form of boarding houses, as a “best fit” in consideration of the Character Test, the proposal has been considered

against the provisions Section 4.1 Single Dwelling Houses of Development Control Plan No 1 – LGA Wide below.

Control	Single Dwelling	Proposal
Height	9m	8.1m
Maximum ceiling height	7.2m	6.13m
Floor Space Ratio	0.6:1 (0.48:1 in this case for dwelling house only as per clause 6.5 of HLEP 2012)	351sqm or 0.41:1
Landscape (minimum 2m x 2m)	20%	23% or 197.28sqm (minimum 2m x 2m)
Setbacks: <u>Front</u>	4.5m	6.1m
<u>Rear setback:</u> Ground	3m	28.54m
First	6m	28.54m
<u>Side setback:</u> Ground	900mm	North East – 1.2m South West – 3.6m
First	1.2m	North East – 1.2m South West - 3.6m

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

STATE ENVIRONMENTAL PLANNING POLICY NO 55 – REMEDIATION OF LAND

55. SEPP 55 aims to promote the remediation of contaminated land in order to reduce the risk of harm to human health or any other aspect of the environment. 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.
56. A review of the site history indicates that the site has been used for residential purposes for extended periods of time, and such uses and/or development are not typically associated with activities that would result in the contamination of the site. The proposed works do not include any change to the use of the land that would result in any concerns

with respect to contamination. There is no indication of previous uses that would cause contamination. In this regard there is no indication that the land is contaminated. The criterion of SEPP 55 have been satisfied.

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

57. A BASIX Certificate is required to be lodged for any residential development application in NSW. BASIX Certificate 1207103M dated 27 May 2021 was lodged to confirm that the proposed development satisfies the sustainability requirements.

STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

58. The aim of the Infrastructure SEPP is to facilitate the effective delivery of infrastructure across the State. The DA was referred to Ausgrid in accordance with Clause 45 of State Environmental Planning Policy (Infrastructure) 2007. Ausgrid advised there are no issues with the proposal and no conditions recommended.
59. As the subject site is located on King Georges Road, the proposal was referred to Transport for NSW. The proposal was supported by Transport for NSW subject to conditions.
60. As per clause 102 (Impact of road noise or vibration on non-road development) of the Infrastructure SEPP, the development was required to be accompanied by an acoustic report given King Georges Road has a daily traffic volume of more than 20,000 vehicles.
61. An acoustic report accompanied the proposal, concluding that the required standard will be met subject to compliance with the recommendations of the report. The acoustic report was assessed by Council's Environmental Health team and was endorsed. Relevant conditions have been imposed in that regard.

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

62. The Vegetation SEPP regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.
63. The Vegetation SEPP applies to clearing of:
- (a) Native vegetation above the Biodiversity Offset Scheme (BOS) threshold where a proponent will require an approval from the Native Vegetation Panel established under the Local Land Services Amendment Act 2016; and
 - (b) Vegetation below the BOS threshold where a proponent will require a permit from Council if that vegetation is identified in the council's development control plan (DCP).
64. The objectives of the SEPP are to protect the biodiversity values of trees and other vegetation in non-rural areas and preserve the amenity of non-rural areas through the preservation of trees and other vegetation. This policy is applicable pursuant to Clause 5(1) of the SEPP as the site is within both Georges River Council and the R2 Low Density Residential zone.
65. Pursuant to Clause 8(1) of the SEPP, clearing does not require authority under the policy as it is a type of clearing that is authorised under Section 60O of the Local Land Services Act 2013 (specifically, that associated with a development consent issued under Part 4 of the Environmental Planning and Assessment Act 1979).

66. No trees or significant vegetation are proposed for removal. All neighbouring trees will be required to be protected during construction works. The rear major tree (*Lophostemon confertus*) will be retained and protected. The application in its current form was referred to Council's Consulting Arborist who supported the application subject to specific landscape conditions and the protection of the *Lophostemon confertus* tree.

Draft Environmental Planning Instruments

DRAFT ENVIRONMENTAL STATE ENVIRONMENTAL PLANNING POLICY

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

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

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

DRAFT REMEDIATION OF LAND STATE ENVIRONMENTAL PLANNING POLICY

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

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

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

DRAFT DESIGN AND PLACE SEPP

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

HURSTVILLE LOCAL ENVIRONMENTAL PLAN 2012

72. The extent to which the proposed development complies with the Hurstville Local Environmental Plan 2012 (HLEP 2012) is detailed and discussed in the table below.
73. The allotment is zoned R2 – Low Density Residential Zone, a boarding house is permissible with consent.

Figure 5: Zoning Map – site outlined in red

Clause	Standard	Proposed	Complies
Part 1 Preliminary			
1.2 – Aims of the Plan	In accordance with Clause 1.2 (2)	The development is consistent with the aims of the plan.	Yes
1.4 - Definitions	Boarding House: <i>means a building that:</i> <i>(a) is wholly or partly let in lodgings, and</i> <i>(b) provides lodgers with a principal place of residence for 3 months or more, and</i> <i>(c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and</i> <i>(d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers, but does not include backpackers' accommodation, a group</i>	The proposed development is consistent with the definition.	Yes

	<i>home, hotel or motel accommodation, seniors housing or a serviced apartment.</i>		
Part 2 Permitted or prohibited development			
2.3 - Zone objectives and Land Use Table	<p>Meets objectives of R2-Low Density Residential Zone:</p> <p>Development must be permissible with consent and satisfy the below objectives:</p> <ul style="list-style-type: none"> <i>To provide for the housing needs of the community within a low density residential environment.</i> <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i> <i>To encourage development of sites for a range of housing types, where such development does not compromise the amenity of the surrounding area, or the natural or cultural heritage of the area.</i> <i>To ensure that a high level of residential amenity is achieved and maintained.</i> <i>To encourage greater visual amenity through maintaining and enhancing landscaping as a major element in the residential environment.</i> <i>To provide for a range of home business activities where such activities are not likely to adversely affect the surrounding residential amenity.</i> 	The proposal satisfies the objectives of the R2 zone and is permissible with development consent.	Yes
Part 4 Principal development standards			

4.3 – Height of Buildings	9m as identified on Height of Buildings Map	8.1m	Yes
4.4 – Floor Space Ratio	0.6:1 as identified on Floor Space Ratio Map	351sqm or 0.41:1	Yes
Part 5 Miscellaneous provisions			
5.10 – Heritage conservation	In accordance with Clause 5.10 (1)	The site is not a heritage item and not located within the vicinity of any heritage items. The site is not in a heritage conservation area.	Yes
Part 6 Additional local provisions			
6.1 – Acid sulfate soils	(1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.	Site has not been identified as located in an area containing Acid Sulfate Soils as per the LEP maps.	Yes
6.7 – Essential Services	<p>The following services that are essential for the development shall be available or that adequate arrangements must be made available when required:</p> <ul style="list-style-type: none"> - Supply of water, electricity and disposal and management of sewerage - Stormwater drainage or on-site conservation - Suitable vehicular access 	<ul style="list-style-type: none"> - Adequate facilities for the supply of water and removal of sewage is available to the site and can be extended to service this development. - Stormwater can drain via gravity to the street. - New 6.0m wide driveway crossing to King Georges Road as required by Transport for NSW. (standard conditions for the submission of a separate vehicular crossing applications and driveway design have been imposed) 	Yes

DRAFT GEORGES RIVER LOCAL ENVIRONMENTAL PLAN 2020

74. Consideration is given to the provisions of Draft Georges River Local Environmental Plan 2020 in the assessment this application.
75. 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

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

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

77. The DCP requires parking to be required at a rate of one (1) space per three (3) beds plus one (1) space per two (2) employees. As the development proposes ten (10) beds, 3.3 (rounded to 4) car spaces are required to be provided.
78. The proposal provides five (5) car spaces, two (2) motorcycle spaces, and two (2) bicycle spaces, satisfying the car parking requirements of the DCP.
79. The design and layout of the parking area is consistent with the objectives of Section 3.1 of the DCP and the relevant Australian Standards.

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

80. Section 3.3 requires that one (1) accessible room be provided per five (5) bedrooms or part thereof. As the proposed development accommodates ten (10) bedrooms, two (2) accessible rooms are required. The development provides one (1) accessible room being room one. A condition has been imposed requiring room 2 also be an accessible room thus satisfying the DCP control.
81. One (1) accessible car parking spaces has been provided in accordance to Table 1 DS1.1 of Section 3.3 (*1 parking space per 10 bedrooms or part thereof shall be provided in accordance with AS 2890*).

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

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

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

83. A detailed landscape plan was submitted with the application and was assessed by Council's Consultant Arborist. Specific conditions of consent have been imposed requiring specific landscape provisions in addition to the retention and protection of the Lophostemon Confertus tree.

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

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

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

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

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

86. A Waste Management Plan has been submitted with the application which is acceptable. Conditions requiring the provision of appropriate waste facilities for the ongoing use of the development have been imposed.

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

87. The application is accompanied by a BASIX Certificate which identifies that the development meets the target scores.
88. In terms of overshadowing, shadow diagrams submitted with the application show that the proposed development will comply with the State Environmental Planning Policy Affordable Rental Housing 2009 (ARH SEPP) solar access requirements. The ARH SEPP 2009 requires that the communal room of a boarding house receives minimum of 3 hours direct sunlight between 9.00am and 3.00pm in mid-winter. This control has been satisfied as the communal room includes windows along the northern-western facade to maximise solar access. The shadow diagrams show that most of the shadow cast will be predominantly in the morning hours when the sun is low on the horizon. The impact will mostly fall on the site itself.

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

89. No trees or significant vegetation are proposed for removal. All neighbouring trees will be required to be protected during construction works. The major tree in the rear (*Lophostemon confertus*) will be retained and protected. The application in its current form was referred to Council's Consultant Arborist who supported the application subject to specific landscape conditions and the protection of the *Lophostemon Confertus* tree.

GEORGES RIVER DEVELOPMENT CONTROL PLAN 2020 (INTERIM POLICY)

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

IMPACTS

Natural Environment

92. The proposal does not seek to remove any significant trees and conditions are recommended for the protection of neighbouring trees on the adjoining properties. The development provides sufficient area for landscaping and a condition is also recommended for the retention and protection of the *Lophostemon Confertus* tree located in the rear of the site.
93. The proposal seeks to drain to the street which is consistent with Council's requirements and a requirement for OSD is also recommended as a condition of consent.
94. The development will not result in any significant adverse impacts on the natural environment.

Built Environment

95. The built form of the proposed development is of a bulk and scale that is consistent with contemporary two storey dwelling houses in the locality. Further, the pitched roof design and brick finish of the proposed boarding house is similar to existing dwelling houses in close proximity to the site. The proposal is complimentary to the existing character of the streetscape and representative of the low density residential nature of the area.
96. Shadow diagrams for the proposed development accompanying the development application indicate shadow cast by the proposed development at 9am, 12 noon and 3pm on the winter solstice (21 June) demonstrate that the shadow will fall on the site itself, with minor shadow impacting the southern neighbour between 12 noon and 3pm during midwinter. The impact is considered acceptable given compliance with the solar requirements is achieved and the building envelope proposed is consistent with that of a two storey dwelling house.

Social Impact

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

Economic Impact

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

Suitability of the Site

99. The site is zoned R2 – Low Density Residential, a boarding house not exceeding 12 rooms is a permissible form of development in this zone. It is considered the proposal will not result in an adverse impact on the adjoining properties or the streetscape. The proposal is considered to be a suitable form of development.
100. The site is not contaminated, flood affected, bushfire affected, or affected by acid sulfate soils. The site provides for a waiting bay along the driveway to allow for safe vehicular access to King Georges Road.

SUBMISSIONS, REFERRALS AND THE PUBLIC INTEREST

101. The application was notified in accordance with Hurstville Development Control Plan No 1, one (1) individual submission was received objecting to the application. The issues raised are summarised below.

Concern	Council Response
Insufficient parking	<p>The proposed boarding house provides the required car parking ratios as per clause 29 (2)(e) of the State Environmental Planning Policy (Affordable Rental Housing) 2009.</p> <p>Five (5) car spaces are required and five (5) have been provided. Two (2) motorcycle and two (2) bicycle spaces are required and have also been provided.</p>
Neighbourhood Amenity	<p>The proposal as amended satisfies the R2 zone objectives. The development provides for adequate car parking for the future occupants and provides for two (2) communal rooms (sitting area and a kitchen and laundry area) and a communal open space area adjacent to the communal room, in addition to the rear landscaped area. The boarding house satisfies all controls and development standard and is not considered to result in adverse amenity impacts to the neighbourhood or future occupants.</p> <p>The proposal is accompanied by a Plan of Management which includes the role of a caretaker to manage the day to day operations of the house. The caretaker will be contactable 24/7.</p>
Crime prevention	The proposal has been assessed in accordance with the relevant provisions. The proposal allows opportunities for passive and casual surveillance to and from the street. The Plan of Management provided will form part of the development consent conditions and covers acceptable behaviour protocols of boarders and visitors.
Safety	Boarding houses are a type of residential accommodation permitted in the R2 zone. The boarding house will not result in adverse safety concern to the neighbours. Plan of Management provided will form part of the development consent conditions and covers acceptable behaviour protocols of boarders and visitors.
Overlooking	The amended proposal provides for high-sill windows (minimum 1.6m above finished floor level of the first floor) to all windows along the side façades of the first floor. The staircase window has also been frosted to reduce any opportunity for overlooking.
Acoustic impacts	<p>As per clause 102 (Impact of road noise or vibration on non-road development) of the Infrastructure SEPP, the development was required to be accompanied by an acoustic report given King Georges Road has a daily traffic volume of more than 20,000 vehicles.</p> <p>An acoustic report accompanied the proposal, concluding that the required standard will be met subject to compliance with the recommendations of the report. The acoustic report was assessed by Council's Environmental Health team and was endorsed. Relevant conditions have been imposed in that regard.</p>
Sightlines	As the subject site is located on King Georges Road, the proposal was referred to Transport for NSW. The proposal was supported

	<p>by Transport for NSW subject to conditions. The proposal was also referred to Council's Traffic Engineer and was found to be satisfactory.</p> <p>A 1.0m front fence was only incorporated along the north-eastern corner of the development which due to its low scale will not result in adverse impacts on sightlines. A condition requiring compliance with AS2890 has been imposed.</p>
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Council Referrals

Development Engineering Team

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

Environmental Health Team

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

Environmental Services Team (Waste)

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

Traffic Team

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

Consultant Arborist

106. No objections were raised, and specific conditions of consent have been recommended and included in the conditions referenced at the end of this report. Condition has been imposed requiring compliance with the submitted landscape plan and the retention of the Lophostemon Confertus tree within the rear yard.

External Referrals

Ausgrid

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

Transport for NSW

108. As the subject site is located on King Georges Road, the proposal was referred to Transport for NSW. The proposal was supported by Transport for NSW subject to conditions.

Local Infrastructure Contributions

109. The development is subject to Section 7.12 (former Section 94A Contribution) contribution as the proposed cost of works, registered with Council exceeds \$100,000.00. In accordance with Council's Section 94A Plan, Section 7.12 – Fixed Development Consent Levies are applicable to boarding house developments.
110. In this case the levied charge is \$5,800, which is required to be paid in full prior to the release of any Construction Certificate.

CONCLUSION

111. Development consent is sought for the demolition works and construction of a two (2) storey boarding house comprising of ten (10) boarding rooms with hardstand parking, fencing, landscaping and site works.
112. The proposal has been assessed in accordance with Section 4.15 (1) of the Environmental Planning and Assessment Act, 1979. As discussed throughout this report, the proposal is considered to be compatible with the character of the local area and reasonably complies with the boarding house standards of the State Environment Planning Policy (Affordable Rental Housing) 2009. The proposal also satisfies the R2 Low Density zone objectives, in addition to complying with the relevant Local Environmental Plan and Development Control Plan requirements. The proposed development is considered to be suitable for the site and its locality and is appropriately located within an accessible distance from local public transport and commercial centre.
113. The proposal will not result in any unreasonable impacts to the amenity of adjoining properties subject to the conditions of consent recommended below.
114. The application is recommended for approval subject to conditions.

DETERMINATION AND STATEMENT OF REASONS

115. Statement of Reasons:

- The proposal is an appropriate response to the site and is consistent with the desired future character of the R2 zone and existing developments in the locality.
- The proposal is compliant with the boarding house standards and the character test as per the State Environment Planning Policy (Affordable Rental Housing) 2009.
- The boarding house is located in an accessible location as per the State Environment Planning Policy (Affordable Rental Housing) 2009.
- The proposal is fully compliant with the maximum height of building and floor space ratio permitted for the site under the Hurstville Local Environmental Plan 2012.
- The proposal's bulk and scale is appropriately contained within a generally compliant building envelope that is respectful of the established character of the area in relation to height, street setback, and side boundary setbacks.
- The proposal is consistent with the Draft Georges River Local Environmental Plan 2020.

Determination

116. THAT pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 (as amended) the Georges River Local Planning Panel grant consent to DA2021/0009 for demolition works and construction of a two (2) storey boarding house comprising of ten (10) boarding rooms (19 lodgers) with hardstand parking, fencing, landscaping and site works at Lot 8 in DP 12478 and known as 565 King Georges Road, Penshurst, subject to the following conditions:

General Conditions

1. **Approved Plans** - The development must be implemented in accordance with the approved plans and supporting documentation listed below which have been endorsed

by Council's approved stamp, except where marked up on the plans and/or amended by conditions of this consent:

Description	Reference No.	Date	Revision	Prepared by
Site Plan	A01A	17/06/2021	-	A to Z Building Consultants
Floor Plans	A02	17/06/2021	-	A to Z Building Consultants
Elevation Plans	A03	17/06/2021	-	A to Z Building Consultants
Sections Plan	A04	17/06/2021	-	A to Z Building Consultants
Calculation Plan	A07	17/06/2021	-	A to Z Building Consultants
Room Calculation Plan	A08	17/06/2021	-	A to Z Building Consultants
Landscape plan	352019	18/06/2021	C	Lisound Landscape
Schedule of Colours and Finishes	565 King Georges Road Penshurst	-	-	A to Z Building Consultants
Arboricultural Impact Assessment Report	565 King Georges Road Penshurst	-	-	Malcolm Bruce Consultant Arborist
Acoustic Report	3916R20201110mfc565KingGeorgesRdPenshurst_DAv3.docx	10/11/2020	V3	Koikas acoustics Pty Ltd
Traffic and Parking Assessment Report	565 King Georges Road Penshurst	October 2020	-	A to Z Building Consultants
Plan of Management	565 King Georges Road Penshurst	-	-	Yousef Services Pty Ltd

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Separate Approvals Required Under Other Legislation

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

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

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

- (a) Placing or storing materials or equipment;
- (b) Placing or storing waste containers or skip bins;

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

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

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

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

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

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

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

4. **Road Opening Permit** - A Road Opening Permit must be obtained from Council, in the case of local or regional roads, or from the RMS, in the case of State roads, for every opening of a public road reserve to access services including sewer, stormwater drains, water mains, gas mains, and telecommunications before the commencement of work in the road.
5. **Road Occupancy Licence (ROL)** - A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on King Georges Road during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>.

Requirements of Concurrence, Integrated & Other Government Authorities

6. **Sydney Water - Tap in™** - The approved plans must be submitted to a Sydney Water Tap in™ to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately endorsed. For details please refer to 'Plumbing, building and developing' section of Sydney Water's web site at www.sydneywater.com.au then see 'Building', or telephone 13000 TAP IN (1300 082 746). The Certifying Authority must ensure that a Tap in™ agent has appropriately stamped the plans prior to the issue of the Construction Certificate.
7. **Notice of Requirements for a Section 73 Certificate** - A Notice of Requirements of what will eventually be required when issuing a Section 73 Compliance Certificate under the [Sydney Water Act 1994](http://www.sydwater.nsw.gov.au/legislation/act/1994) must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the 'Plumbing, building and developing' section of the web site www.sydneywater.com.au then refer to 'Providers' under 'Developing' or telephone 13 20 92 for assistance.

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

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

Prior to the Issue of a Construction Certificate

8. **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.
9. **Transport for NSW Conditions** -
 - (a) All buildings and structures, together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited height or depth), along the King Georges Road boundary.
 - (b) The design and reconstruction of the kerb and stormwater drainage works on King Georges Road shall be in accordance with TfNSW requirements. Details of these requirements should be obtained by email to developerworks.sydney@transport.nsw.gov.au.

Detailed design plans of the proposed works are to be submitted to TfNSW for approval prior to the issue of a construction certificate and commencement of any road works. Please send all documentation to development.sydney@transport.nsw.gov.au.

A plan checking fee and lodgement of a performance bond is required from the applicant prior to the release of the approved road design plans by TfNSW.

The developer is required to enter into a Works Authorisation Deed (WAD) for the abovementioned works. TfNSW fees for administration, plan checking, civil works

inspections and project management shall be paid by the developer prior to the commencement of works.

- (c) All vehicles shall enter and exit the site in a forward direction.
- (d) The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1-2004, AS2890.6-2009 and AS 2890.2-2018. Parking Restrictions may be required to maintain the required sight distances at the driveway.
- (e) Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to TfNSW for approval, prior to the commencement of any works. Please send all documentation to development.sydney@transport.nsw.gov.au.
A plan checking fee will be payable and a performance bond may be required before TfNSW approval is issued.
- (f) Bicycle Parking should be provided in accordance with AS2890.3.
- (g) The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.
- (h) All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping.

10. **Pre-Construction Dilapidation Report - Private Land** - A professional engineer specialising in structural or geotechnical engineering shall prepare a Pre-Construction Dilapidation Report detailing the current structural condition of adjoining premises including but not limited to:

- a) All neighbouring buildings likely to be affected by the excavation as determined by the consulting engineer.

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

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

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

11. **Acoustic Requirements-** The construction certificate plans shall demonstrate compliance with the Acoustic Report submitted and approved by Council titled 'Acoustical Report prepared by Koikas acoustics Pty Ltd reference 3916R20201110mfc565KingGeorgesRdPenshurst_DAv3.docx revision V3 dated 10/11/2020.

This means that a review of glazing design and mechanical plants must be undertaken to ensure that acoustic objectives will be met. Written verification from a suitably qualified acoustic consultant must be submitted to the PCA and Council validating that the

acoustic objectives contained within the aforementioned report will be met.

12. **Vehicular Access Grades** – 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.

(a) 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.

(b) 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.

13. **Stormwater System** – The submitted stormwater plan (“*Stormwater Drainage Details*”, Drawing No. 2025 – S1/2, S2/3 & S3/3, Rev G, dated 07/06/2021” prepared by John Romanous and Associates Pty Ltd) 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 to Council.

(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.

14. **On Site Detention (OSD Tank and Above Ground Basin)** – The submitted Concept Stormwater and OSD Plan prepared by John Romanous and Associates Pty Ltd with reference number “*Stormwater Drainage Details*”, Drawing No. 2025 – S1/2, S2/3 & S3/3, Rev G, dated 07/06/2021” has been assessed as a concept plan only. Final detailed plans of the drainage system, prepared by a qualified professional engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate.

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

(b) The required OSD storage requirements and permissible discharge are to be calculated in accordance with Table 3 of Council's Stormwater Management Policy.

(c) A minimum 17.0 cubic metre OSD tank volume and 7.0 cubic meter above ground OSD basin are to be provided its in accordance with the Stormwater Drainage Concept Plan (Sheet S1/3) and Council's Stormwater Management Policy. On this

site it is required to design the dwellings gutters and pipes to the OSD to cater for the 100year event.

- (d) OSD Tank structural design details prepared by a practising Structural Engineer being used to construct all reinforced concrete structural slabs, walls, beams, columns and other structural members. The details are to be submitted to the Principal Certifying Authority for approval.
- (e) The OSD facility shall be designed to meet all legislated safety requirements. 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.

15. **Stormwater Drainage Application** - This Development Consent does not give Transport for NSW managed public infrastructure approval to undertake site discharge pit to be connected to this development provided newly created drainage pit and pipe along King Georges Road on as per "*Stormwater Drainage Details*", *Drawing No. 2025 – S1/2, S2/3 & S3/3, Rev G*, dated 07/06/2021" prepared by John Romanous and Associates Pty Ltd. A separate approval of a Stormwater Drainage Application for the construction of the proposed pit and pipe along King Georges Road from RMS is required under Section 138 of the Roads Act 1993 and/or Section 68 of the Local Government Act 1993 to undertake:

- (a) Stormwater & ancillary works in the road reserve. This includes connections to RMS and council.
- (b) Stormwater & ancillary to public infrastructure on private land

The Stormwater Drainage Application approval from Transport for NSW must be obtained and evidence of the approval provided to Council and the Certifying Authority prior to the issue of the Construction Certificate.

The Application Form for this activity can be downloaded from Council's website www.georgesriver.nsw.gov.au. For further information, please contact Council's Customer Service Centre on (02) 9330 6400.

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

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

- “Off-street car parking” to prevent the scraping of the underside of the vehicles.

17. **Fire Safety Measures** - Prior to the issue of a construction certificate a list of the essential fire safety measures that are to be provided in relation to the land and any building on the land as a consequence of the building work must accompany an application for a construction certificate, which is required to be submitted to either Council or a PCA. Such list must also specify the minimum standard of performance for each essential fire safety measure included in the list. The Council or PCA will then issue a Fire Safety Schedule for the building.

18. **Access for Persons with a Disability** - Access for persons with disabilities must be provided direct to the site, including to all common areas, boarding rooms 1 and 2, carpark and required sanitary facilities in accordance with the Premises Standards, the Building Code of Australia and AS 1428.1. Buildings with between 11 and 40 rooms require two accessible rooms. Details must be submitted with the Construction Certificate Application.

Pedestrian access throughout the site shall be highlighted and sign posted to safeguard access and egress. The proposed platform lift shall be designed accordingly.

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

19. **Commonwealth Disability (Access to Premises) Standard** - The Commonwealth Disability (Access to Premises - Buildings) Standards 2010 (the Premises Standards) applies to all applications (i.e. Construction Certificate). This requires any new building, part of a building and the affected part of the existing building to comply with the Premises Standards, the Building Code of Australia and AS 1428.
20. **Slip Resistance** - All pedestrian surfaces in areas such as foyers, public corridors, stairs and ramps as well as floor surfaces in the wet rooms in any residential units must have slip resistance classifications, as determined using test methods in either wet or dry conditions, appropriate to their gradient and exposure to wetting. The classifications of the new pedestrian surface materials, in wet or dry conditions, must comply with AS/NZS4586:2004 - Slip Resistance Classifications of New Pedestrian Materials and must be detailed on the plans lodged with the application for the Construction Certificate.
21. **Fees to be paid** - The fees listed in the table below must be paid in accordance with the conditions of this consent and Council's adopted Fees and Charges applicable at the time of payment (available at www.georgesriver.nsw.gov.au).

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

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

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

Fee Type	Fee
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GENERAL FEES	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See https://portal.longservice.nsw.gov.au/bci/levy/	
Builders Damage Deposit	\$1,900.00
Inspection Fee for Refund of Damage Deposit	\$168.00
Georges River Council Section 94A Development Contributions Plan 2017	\$5,800.00

General Fees

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

Development Contributions

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

Indexation

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

Timing of Payment

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

Further Information

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

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

- a) Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development: **\$1,900.00**
- b) Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee to enable assessment of any damage and repairs where required: **\$168.00**
- c) Submit to Council, before the commencement of work, a photographic record of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal.

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

23. **NBN Connection** - Prior to the issue of the Construction Certificate, the developer/applicant is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:
- (a) The installation of fibre-ready facilities to the site. Evidence must demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose; and
 - (b) The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to the site demonstrated through an agreement with a carrier.
24. **Site Management Plan** - A Site Management Plan detailing all weather access control points, sedimentation controls, fencing, builder's site sheds office, amenities, materials storage and unloading arrangements must be submitted with the application for the Construction Certificate.
25. **BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No. 1207103M dated 27 May 2021 be implemented on the plans lodged with the application for the Construction Certificate.
26. **Required design changes** - The following changes are required to be made and shown on the Construction Certificate plans:
- (a) External windows nominated as 'fire rated' along the north-western façade of the ground floor and first floor are to be openable windows as per the requirements of the NCC.
 - (b) Boarding rooms one (1) and two (2) are to be nominated as accessible rooms and designed in accordance to AS1428, the NCC, and any other relevant access standards.
27. **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.

28. **Structural details** - Engineer's details prepared by a practising Structural Engineer being used to construct all reinforced concrete work, structural beams, columns and other structural members. The details are to be submitted to the Principal Certifying Authority for approval prior to construction of the specified works. A copy shall be forwarded to Council where Council is not the PCA.
29. **Traffic Management - Compliance with AS2890** - All driveways, access ramps, vehicular crossings and car parking spaces shall be designed and constructed in accordance with the current version of Australian Standards, AS 2890.1 (for car parking facilities) and AS 2890.2 (for commercial vehicle facilities). This also includes the provision of compliant sightlines.
30. **Waste Management Plan** - A Waste Management Plan incorporating all requirements in respect of the provision of waste storage facilities, removal of all materials from the site that are the result of site clearing, extraction, and, or demolition works and the designated Waste Management Facility shall be submitted to the Certifying Authority prior to the issue of any Construction Certificate.
31. **Landscape Plans** – All landscape works shall be carried out in accordance with the approved landscape plans and specifications, drawn by Lisound Landscape, Ref No. 352019 Rev C and dated 18/06/21. The landscaping shall be maintained in accordance with the approved plans in perpetuity, subject to the following -
- (a) The proposed Two (2) trees and plant species, pot/ bag size and quantities of plants shall be in accordance with the proposed plant schedule upon the landscape plan. If plant species, pot/ bag size and quantities cannot be sourced, Council shall be contacted for alternatives;
- i. An additional Australian native tree of species *Melaleuca quinquenervia* must be planted within the rear yard and be of pot/bag size 45 litre.
- ii. All three (3) trees proposed within this consent must 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;
- iii. If the planted three (3) 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.
32. **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>Lophostemon confertus</i>	Within site, rear yard, south side	4.8 metres radially out from its trunk

- (a) The client shall engage a qualified Arborist who holds an AQF Level 5 or above in Arboriculture and who is a current practicing and financial member of an Australian Arboricultural Association or Affiliation, with a letter of engagement forwarded to the nominated PCA, forming compliance.
- (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) The tree protection measures must be undertaken in accordance AS4970 -2009 *Protection of trees on development sites*.
- (d) 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.
- (e) 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.
- (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 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.
- (i) 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.
- (j) The Tree Protection Zone of each tree, to be protected, shall be watered thoroughly and regularly to minimise the effects of construction works.
- (k) No building products, preparation of building products, storage of materials, stockpiling, site sheds or services must not be installed within the TPZ of the *Lophostemon confertus*.

Excavation works near tree to be retained

- (l) No works are to occur within the TPZ (4.8m) of the *Lophostemon confertus*
- (m) 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.

33. Tree Removal Prohibited - No trees are to be removed under this consent.

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

34. **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.

35. **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.
36. **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](#).
37. **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.

38. **Registered Surveyors Report - During Development Work** - A report must be submitted to the PCA at each of the following applicable stages of construction:
- Set out before commencing excavation.
 - Floor slabs or foundation wall, before formwork or commencing brickwork.
 - 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.
 - 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.
 - Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries.
 - 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.

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

During Construction

40. **Development Engineering - Damage within Road Reserve and Council Assets** - The owner shall bear the cost of restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site. This may include works by Public Utility Authorities in the course of providing services to the site.
41. **Development Engineering - Public Utility and Telecommunication Assets** - The owner shall bear the cost of any relocation or modification required to any Public Utility Authority assets including telecommunication lines and cables and restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site.
42. **Contamination - Unexpected Finds** - Council and the Principal Certifying Authority (if Council is not the PCA) must be notified as soon as practicable if any information is discovered during demolition or construction work that has the potential to alter previous conclusions about site contamination.
43. **Hazardous or Intractable Waste – Removal and Disposal**- Hazardous or intractable waste arising from the demolition or construction process shall be removed and disposed of in accordance with the requirements of SafeWork NSW and the NSW Environment Protection Authority and with the provision of:
- Work Health and Safety Act 2011 (NSW) (as amended);

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

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

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

46. **Ground levels and retaining walls** - The ground levels of the site shall not be excavated, raised or filled, or retaining walls constructed on the allotment boundary, except where indicated on approved plans or approved by Council.
47. **Cost of work to be borne by the applicant** - The applicant shall bear the cost of all works associated with the construction of the development that occurs on Council property. Care must be taken to protect Council's roads, including the made footway, kerbs, etc., and, where plant and vehicles enter the site, the footway shall be protected against damage by deep-sectioned timber members laid crosswise, held together by hoop iron straps and chamfered at their ends. This construction shall be maintained in a state of good repair and condition throughout the course of construction.
48. **Obstruction of Road or Footpath** - The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste or skip bins, or any other matter is not permitted unless separately approved by Council under Section 138 of the [Roads Act 1993](#) and/or under Section 68 of the [Local Government Act 1993](#). Penalty infringement Notices may be issued for any offences and severe penalties apply.
49. **Waste Management Facility** - All materials removed from the site as a result of demolition, site clearing, site preparation and, or excavation shall be disposed of at a suitable Waste Management Facility. No vegetation, article, building material, waste or the like shall be ignited or burnt.
- Copies of all receipts for the disposal, or processing of all such materials shall be submitted to the PCA and Council, where Council is not the Principal Certifying Authority.
50. **Asbestos Clearance Certificate**- An asbestos clearance certificate is to be prepared by a suitably qualified asbestos removalist and be provided to the satisfaction of the PCA after all existing buildings and structures have been demolished.

Prior to the issue of the Occupation Certificate

51. **Stormwater Management – Surveyor’s Report** - For this development, a registered surveyor shall verify the levels of the design surface throughout the development and finished floor levels to mAHD and according the approved plans (“*Stormwater Drainage Details*”, Drawing No. 2025 – S1/2, S2/3 & S3/3, Rev G, dated 07/06/2021” prepared by John Romanous and Associates Pty Ltd). The registered surveyor will provide certifications of:

- (a) The finished floor levels are in accordance with the approved plans.
- (b) The finished ground levels throughout the development ensuring that the finished ground levels and car parking level have been constructed as per abovementioned approved plans.
- (c) The OSD tank and the above basin have been constructed as per approved plans.

A report addressing the above requirements from the surveyor is to be forwarded to Council prior to the issuing of an Occupation Certificate.

52. **Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the [Sydney Water Act 1994](#) must be submitted to the PCA prior to the issue of the Occupation/Subdivision Certificate.

53. **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.

54. **Maintenance Schedule - On-site Stormwater Management** - A Maintenance Schedule for the proposed on-site stormwater management measures is to be prepared and submitted to Council. The Maintenance Schedule shall outline the required maintenance works, how and when these will be done and who will be carrying out these maintenance works.
55. **Requirements prior to the issue of the Occupation Certificate – Stormwater, OSD Tank and Aboveground Detention Basin Works** - The following shall be completed and or submitted to the PCA prior to the issue of the Occupation Certificate:
- (a) All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
 - (b) Work as Executed Plans prepared and jointly duly signed by a Chartered Professional Engineer and 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.
56. **Requirements prior to the issue of the Occupation Certificate - Driveways Works-** The following works must be completed at the applicant's expense to the satisfaction of Council's Engineering Services section and submitted to the PCA prior to the issue of the Occupation Certificate:
- (a) Construction new driveway and vehicle crossings as required by this consent.
 - (b) Stormwater pipes, pits and connections to public stormwater systems within the King Georges Road related area;
 - (c) Replacement of all redundant vehicle crossing laybacks with kerb and guttering, and replacement of redundant concrete with turf.

Council's Assets and Infrastructure Section must advise in writing with Work As Executed Plan prepared and signed by registered surveyor 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.

57. **Stormwater drainage works - Works As Executed – OSD Tank and the Above Ground Basin** - Prior to the issue of an Occupation Certificate, the PCA must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards. A works-as-executed drainage plan and works completed certification must be forwarded to the PCA and Council's Development and Building Department, from a professional civil engineer specialising in hydraulic engineering.

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

- (a) Compliance with conditions of development consent relating to stormwater;
- (b) The structural adequacy of the On-Site Detention system (OSD);
- (c) That the works have been constructed in accordance with the approved design and will provide the detention storage volume and attenuation in accordance with the submitted calculations;
- (d) Pipe invert levels and finished surface levels to Australian Height Datum;
- (e) Contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.
- (f) The Work-As-Executed plans are prepared on the copies of the approved drainage plans issued with the Construction Certificate and variations are marked in red ink;
- (g) The works-as-executed drainage plans must be prepared jointly and duly signed by a professional civil engineer specialising in hydraulic engineering and a Registered Surveyor certifying the accuracy of dimensions, invert levels, surface levels, storage volume etc;
- (h) Council' Development and Building Department must be advised in writing with WAE plans that they are satisfied with the Works-As-Executed prior to the issue of an Occupation Certificate.

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

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

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

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

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

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

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

61. **Driveways and parking spaces - Minor Development** - Internal driveways and parking spaces are to be adequately paved with concrete or bitumen, or interlocking pavers to provide a dust-free surface.

62. **Acoustic Compliance** - Prior to the issue of any Occupation Certificate, a report prepared by a suitably qualified acoustic consultant must be submitted to the PCA certifying that the construction has incorporated the recommendations in the Acoustic Report submitted and approved by Council titled 'Acoustical Report prepared by Koikas acoustics Pty Ltd reference 3916R20201110mfc565KingGeorgesRdPenshurst_DAv3.docx revision V3 dated 10/11/2020.

63. **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.

64. **Completion of Landscape Works** -

(a) All landscape works and the planting of three (3) trees must be completed before the issue of the Final Occupation Certificate and in accordance with approved landscape plans and specifications, drawn by Lisound Landscape, Ref No 352019 - Rev C and dated 18/06/21.

(b) A certificate of compliance for the planting of all three (3) 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.

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

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

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

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

Operational Conditions (Ongoing)

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

- (a) The boarding house caretaker shall be responsible for presenting all approved waste and recycling receptacles for collection, and returning all receptacles to the Waste Collection Room, as soon as practicable after they have been serviced.
- (b) The boarding house caretaker shall also be responsible for maintaining all equipment, systems, facilities and storage areas used in conjunction with the provision of waste management services in accordance with all applicable regulatory requirements, relevant health and environmental standards, and to the satisfaction of Council.
- (c) Occupational Health and Safety issues such as slippery floors in waste rooms and the weight of the waste and recycling receptacles will need to be monitored.
- (d) The boarding house caretaker will monitor the bin storage area and all spills will be attended to immediately by cleaners.
- (e) The require number of bins are 4 x 240L red bin, 4 x 240L yellow bin, 1 x 240L green bin.

All bins must be taken to King Georges Road kerbside for collection and removed from kerbside as soon as possible after collection.

Bins can be taken to kerbside for collection.

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

(g) Boarding house caretaker or other contact will be responsible for engaging a private waste collection contractor to provide collection and removal services for any large of bulky waste such as broken or damaged furniture. As no storage space has been catered for, these removal services will need to be organised at the time the waste is generated – immediate removal.

67. **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).

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

Flashing, moving or intermittent lights or signs are prohibited.

69. **Operational Plan of Management** - The boarding house shall operate in accordance to the approved and stamped plan of management prepared by Yousef Services Pty Ltd for 565 King Georges Road Penshurst.

70. **Activities and storage of goods outside building** - There shall be no activities including storing or depositing of any goods or maintenance to any machinery external to the building with the exception of waste receptacles.

71. **Entering & Exiting of vehicles** - All vehicles shall enter and exit the premises in a forward direction. Vehicle waiting bay within the front setback is not to be used as a parking spot at any time.

72. **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.

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

- (a) The boarding house must always be operated and managed in accordance with the approved and stamped Boarding House Plan of Management prepared by Yousef Services Pty Ltd for 565 King Georges Road Penshurst.
- (b) The residential accommodation use approved under this consent constitutes in a 'Boarding House' as defined under State Environmental Planning Policy (Affordable Rental Housing) 2009 and shall not be used for the purposes of a backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment as defined in Hurstville Local Environmental Plan 2012, or the like.
- (c) The total number of persons residing in the boarding house at any one time shall not

exceed eighteen (19) lodgers.

- (d) Not more than two (2) lodgers shall occupy rooms nominated as double lodger room. No more than (1) lodger shall occupy room 3.
- (e) The lodgers must be subject to an occupancy agreement for a term of no less than three (3) months.
- (f) The use and operation of the premises must comply with the requirements of Schedule 2 (Standards for Places of Shared Accommodation) of the Local Government (General) Regulation, 2005 under the Local Government Act, 1993, the Public Health Act, 2010 and Regulations thereunder.
- (g) The operation of the Boarding House shall be in accordance with the Boarding Houses Act 2012 at all times. This includes the registration of the Boarding House, as required by the Act.
- (h) Subdivision of the boarding house is not permitted in accordance with the provisions of the State Environmental Planning Policy (Affordable Rental Housing) 2009.
- (i) The residents of the boarding house are not eligible to participate in Council's Resident Parking Scheme.

74. **Maintenance of Landscaping -**

- (a) All three (3) 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) The following replacement/ planted trees are to be planted prior to the issue of either an Occupation Certificate or Subdivision Certificate (whichever is first). All replacement trees must be replanted a minimum of 3m away from any driveway, building or structure.
- (d) A minimum of 3 x 45 litre size trees, which will attain a minimum mature height of six (6) metres, shall be planted within the property. The trees are to conform to AS2303 – 2018, *Tree stock for landscape use*.
- (e) If the replacement trees are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species. If the trees are found dead before they reach a height where they are protected by Council's Tree Management Controls, they must be replaced with the same species and pot/bag size.
- (f) A copy of the Hsurstville 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.

75. **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.

76. **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

77. **Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued.
78. **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.

79. **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.
80. **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.
81. **Critical Stage Inspections** - The last critical stage inspection must be undertaken by the PCA. The critical stage inspections required to be carried out vary according to Building Class under the Building Code of Australia and are listed in Clause 162A of the [Environmental Planning and Assessment Regulation 2000](#).
82. **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.

83. **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

84. **Clause 97A - BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
85. **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.
86. **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.
87. **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](#).
88. **Clause 98E - Protection & support of adjoining premises** - If the development involves excavation that extends below the level of the base of the footings of a building on adjoining land, this prescribed condition requires the person who benefits from the development consent to protect and support the adjoining premises and where necessary underpin the adjoining premises to prevent any damage.
89. **Clause 98E - Site Excavation** - Excavation of the site is to extend only to that area required for building works depicted upon the approved plans. All excess excavated material shall be removed from the site.

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

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

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

Advice

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

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

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

- (a) Community Justice Centres - free mediation service provided by the NSW Government (www.cjc.nsw.gov.au).
- (b) Department of Environment and Conservation NSW, Noise Policy Section web page (www.environment.nsw.gov.au/noise).
- (c) New South Wales Government Legislation home page for access to all NSW legislation, including the Protection of the Environment Operations Act 1997 and the Protection of the Environment Noise Control Regulation 2000 (www.legislation.nsw.gov.au).
- (d) Australian Acoustical Society - professional society of noise-related professionals (www.acoustics.asn.au/index.php).
- (e) Association of Australian Acoustical Consultants - professional society of noise related professionals (www.aaac.org.au).
- (f) Department of Gaming and Racing - (www.dgr.nsw.gov.au).

95. **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.

96. **Fire and Rescue NSW comments-** Prior to the issue of a Construction Certificate the applicant may be required, under Clause 144 of the Environmental Planning & Assessment Regulation 2000 to seek written comment from FR NSW about any Fire Engineered Solution developed to meet the performance requirements for external combustible cladding.
97. **Council as PCA - Total Conformity with BCA** - Should the Council be appointed as the Certifying Authority in determining the Construction Certificate, the building must comply with all the applicable deemed to satisfy provision of the BCA. However, if an alternative solution is proposed it must comply with the performance requirements of the BCA, in which case, the alternative solution, prepared by an appropriately qualified fire consultant, accredited and having specialist qualifications in fire engineering, must justify the non-compliances with a detailed report, suitable evidence and expert judgement.

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

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

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

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

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

99. **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.


100. **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.
101. **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).
102. **Stormwater & Ancillary Works - Applications under Section 138 Roads Act and/or Section 68 Local Government Act 1993** - To apply for approval under Section 138 of the Roads Act 1993 and/or Section 68 Local Government Act 1993:
 - (a) Complete the Stormwater Drainage Application Form which can be downloaded from Georges River Council's website at www.georgesriver.nsw.gov.au.
 - (b) In the Application Form, quote the Development Consent No. (eg. DA2018/0***) and reference this condition number (e.g. Condition 23)
 - (c) Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Council's adopted Fees and Charges for the administrative and inspection charges associated with stormwater applications.

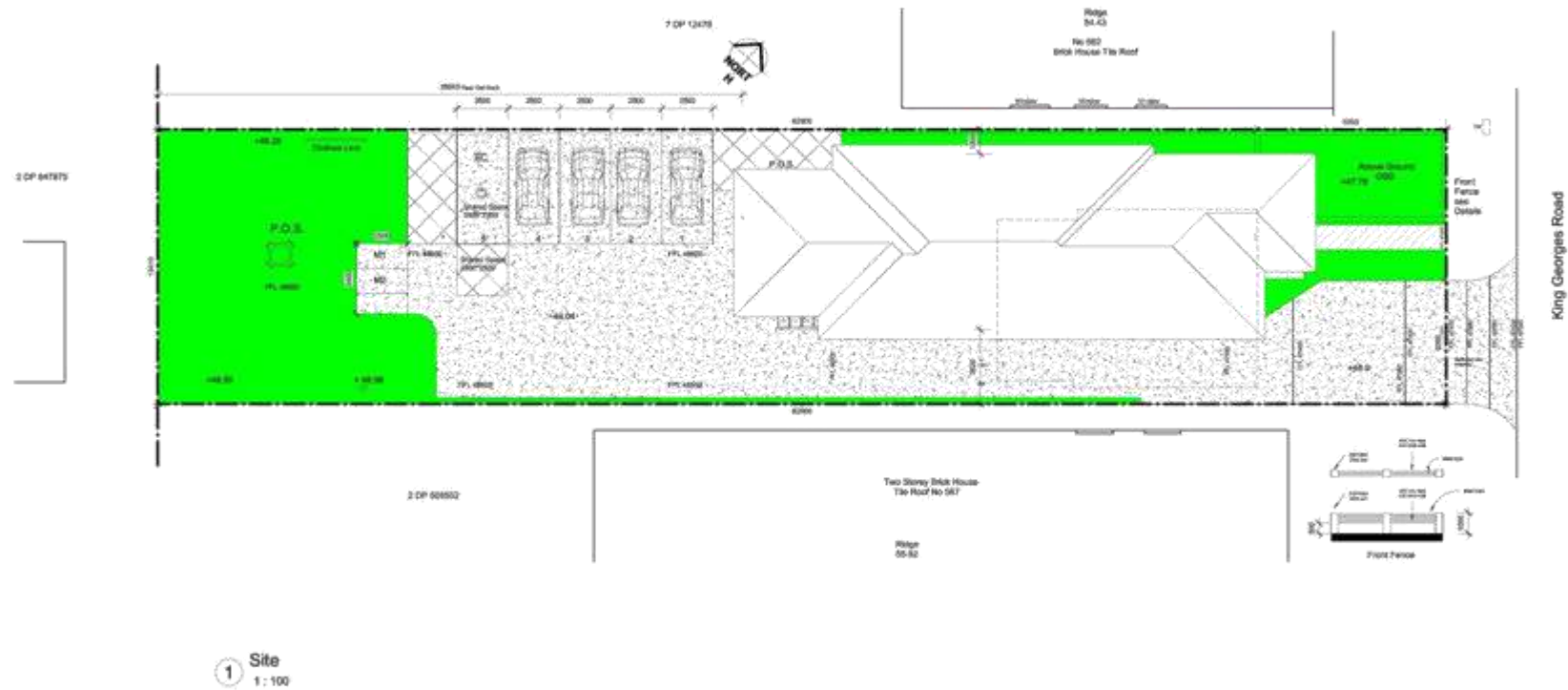
The developer must meet all costs of the extension, relocation or reconstruction of any part of Council's drainage system (including design drawings and easements) required to carry out the approved development.

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

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

ATTACHMENTS

Attachment 1  Site plan, Elevations plan, and Schedule of colours and finishes - 565 King Georges Rd Penshurst



A to Z Building Consultants
 95B Bonds road
 Peakhurst



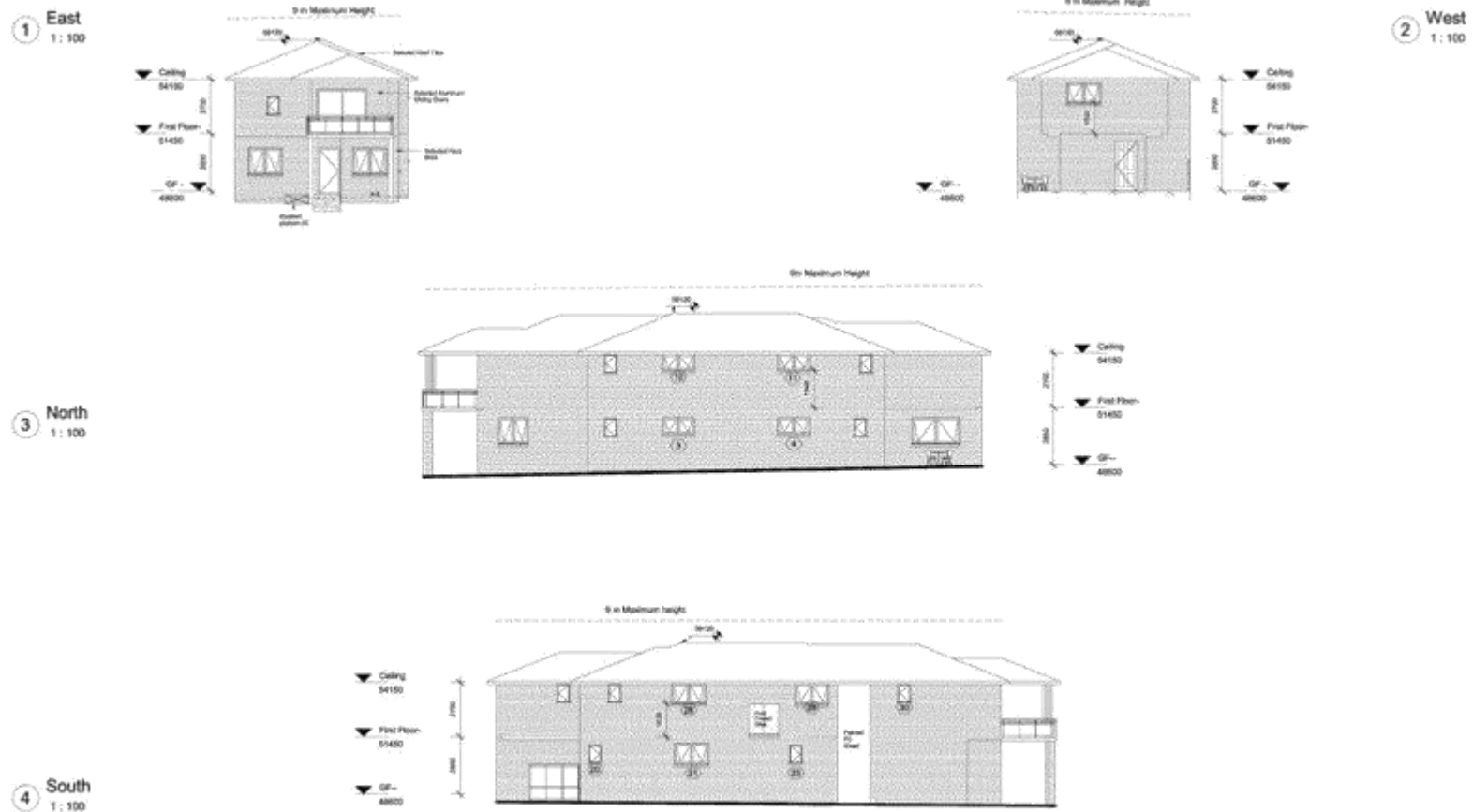
Site Address
 565 King Georges RD
 Penshurst

Client
 A. Hanna



Date
 Drawn by
 A01A

17-06-2021
 I Yousef
 1:100 @ A1





Schedule of Finishes

565 King Georges Road Penhurst

NO	Item	Material Description	Supplier	Material Finish
1	Wall External 01	Face Brick Velour- Cream Standard	PGH	 <p>Velour Cream Standard</p>
2	Wall External 02	Render	Dulux	 <p>Spiced Nutmeg</p>
3	Roof	Concrete Tiles	Boral	 <p>Twilight : Macquarie</p>
4	Windows	Aluminium Woodland grey	Builder	
5	Gutter	COLORBOND	Blue scope steel	 <p>Powdercoat/Painted</p>
6	Facia	COLORBOND	Blue scope steel	 <p>Tan 3 : Painted Fascia</p>
7	Driveway	Plain Concrete	Boral Colori	

REPORT TO GEORGES RIVER COUNCIL LPP MEETING OF THURSDAY, 05 AUGUST 2021

LPP034-21

LPP Report No	LPP034-21	Development Application No	REV2020/0024
Site Address & Ward Locality	608 Forest Road Penshurst Mortdale Ward		
Proposed Development	Review of Determination of DA2019/0135 for the demolition of existing structures and construction of a three (3) storey mixed use building		
Owners	Three Olives Pty Ltd		
Applicant	Mr Dimitri Tsagaris		
Planner/Architect	Planner: Ludvik & Associates Pty Ltd / Architect: Lyle Marshall & Partners Pty Ltd		
Date Of Lodgement	11/11/2020		
Submissions	No submissions		
Cost of Works	\$3,170,000.00		
Local Planning Panel Criteria	The application is subject to SEPP 65 (Design Quality of Residential Apartment Development) and a variation to a development standard by more than 10%		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy No 55 - Remediation of Land, State Environmental Planning Policy BASIX 2004, State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development, State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, Draft SEPP (Environment) 2017, Draft Remediation SEPP, Draft Design and Place State Environmental Planning Policy; Draft Georges River Local Environmental Plan 2020, Greater Metropolitan Regional Environmental Plan No 2 - Georges River Catchment, Hurstville Local Environmental Plan 2012, Hurstville Development Control Plan No 1, Draft Georges River Development Control Plan		
List all documents submitted with this report for the Panel's consideration	Architectural Plans, Landscape Plans, Stormwater Plans, Statement of Environmental Effects, Traffic Report, Acoustic Report, Costing Report, Fire Engineering Report, BASIX Certificate, Survey plan, Geotechnical Report, Preliminary Site Investigation Report, Waste Management Plan, Design Verification Statement, Structural Engineering Statement, Plan of Management, DRP minutes original plans (DA2019/0135), DRP minutes amended plans (DA2019/1035)		
Report prepared by	Development Assessment Planner		

Recommendation	That the application be approved in accordance with the conditions included in this report.
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Summary of matters for consideration under Section 4.15 Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
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Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed and relevant recommendations summarised, in the Executive Summary of the assessment report?	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Yes - Clause 4.3 - Height of buildings
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	Not Applicable
Conditions Have draft conditions been provided to the applicant for comment?	No, the conditions can be reviewed when the report is published.

Site Plan



Figure 1 Aerial photo with the allotment outlined in red (Intramaps 2021)

Executive Summary

Proposal

- The application seeks to review the decision to refuse DA2019/0135 which sought consent for the demolition of existing structures and construction of a three storey mixed use building with two levels of basement parking. The works proposed under this application are substantially similar to those proposed under DA2019/0135.

2. The application is accompanied by a clause 4.6 statement seeking a variation to clause 4.3 (Height of Building) of Hurstville Local Environmental Plan 2012 (HLEP).

Site and Locality

3. The site is legally identified as Lot B in DP 404106, and has the street address of 608 Forest Road, Penshurst.
4. The site is located on the north eastern side of Forest Road, adjacent to a petrol station (located north) and is 40m south of the intersection with George Street with a signalised intersection adjacent to the frontage of the site; being the Forest Road and Junction Street intersection. The site currently contains a single storey weatherboard dwelling with vehicular access along the south eastern boundary.
5. The wider locality features a mix of land uses including shop top housing, commercial, food and drink premises, residential accommodation, and a service station immediately north of the site.

Zoning and Permissibility

6. The site is zoned 'B2 Local Centre' under the Hurstville Local Environmental Plan 2012 (HLEP). The development is defined as shop top housing under the HLEP which is a permissible use with consent.

Submissions

7. The development application was publicly exhibited in accordance with the provisions of the Hurstville Development Control Plan No.1. The notification period commenced on 03 December 2020 and concluded on 17 December 2020. No submissions were received.

Conclusion

8. 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 Section 8.2 Review (REV2020/0024) is recommended for approval in accordance with the reasons included in this report.

Report in Full Proposal

9. The application seeks to review the decision to refuse DA2019/0135 which sought consent for the demolition of existing structures and construction of a three storey mixed use building with two levels of basement parking.
10. In detail, the review application seeks consent for the demolition of existing structures and construction of a three (3) storey shop top housing development over two (2) levels of basement parking. The development consists of one (1) retail tenancy fronting Forest Road along the ground level, two (2) commercial tenancies at the rear of the ground floor and vehicular access from Forest Road to the north-western portion of the site. The first and second storeys contain eight (8) residential units (8 x 1 bedroom units with one being nominated as accessible). Communal open space is provided on the rooftop.
11. The breakdown of the proposal is as follows:
 - Basement Level 2 – Stepped basement level containing seven (7) residential parking spaces (one of which is accessible), three (3) bicycle spaces, eight storage cages

for each unit, lift and stair access to the levels above. A waiting bay and signalized system is proposed to manage vehicle movements.

- Basement Level 1 – Stepped basement level containing one (1) x residential parking space being an accessible space, two (2) x retail parking spaces, two (2) commercial parking spaces and three (3) visitor parking spaces (one doubling as a car wash bay), 3 x bicycle spaces, plant room, lift and stair access to the levels above. A waiting bay and signalized system is proposed to manage vehicle movements.
- Ground floor - contains a retail tenancy (with bathroom) at the front of the building fronting Forest Road, booster assembly within the front, an access corridor providing pedestrian movement to the residential lobby, waste storage room, and the two (2) commercial tenancies (each with a bathroom) and a deck and landscaped open space at the rear of the site and a driveway to the basement parking levels including a passing bay at the top of the ramp.
- First floor - contains four (4) single bedroom residential units. Balconies are located to the front and rear of the site, lift and stairs. Planter boxes are located along the side elevations.
- Second floor - contains four (4) single bed residential units (one of which is accessible). Balconies are located to the front and rear of the site, lift and stairs. Planter boxes are located along the side elevations.
- Rooftop - contains a communal open space and a non-trafficable green roof, a covered pedestrian deck, lift and lift overrun and a services room.
- Ancillary works – The development proposes excavation, landscaping and stormwater works. The development proposes an awning over the footpath adjacent to the retail tenancy (subject to S138 approval). The proposal intends to remove and relocate the drainage lintel fronting the site.

The Site and Locality

12. The site is legally identified as Lot B in DP 404106, and is commonly identified as 608 Forest Road, Penshurst. The site observes a 15.24m south western frontage to Forest Road, a site area of 495sqm, and a gentle slop to the street.
13. The site is located on the north eastern side of Forest Road, adjacent to a petrol station (located north) and is 40m south of the intersection with George Street with a signalised intersection adjacent to the frontage of the site, being the Forest Road and Junction Street intersection. The site currently contains a single storey weatherboard dwelling with vehicular access along the south eastern boundary.
14. The site is void of any significant vegetation or topographic features. A Sydney Water sewer pipe traverses under the site at the rear.
15. The wider locality features a mix of land uses including shop top housing, commercial, food and drink premises, residential accommodation, and a service station immediately north of the site.
16. Land to the east of the site is residential zoned land characterised by one (1) and two (2) storey dwelling houses. The site immediately south is occupied by a single storey building most recently operating as a food and drink premise. Further south is another

single storey dwelling and a recent two (2) storey shop top housing development with basement car parking.

17. The lands opposite to the site across Forest Road are residential zoned land characterised by one (1) and two (2) storey dwelling houses. Further south opposite to the site is a business zone containing a commercial building.



Figure 2 Street view of site from Forest Road



Figure 3: 606 Forest Road (adjacent to the site along the southern boundary)



Figure 4: Development further south along Forest Road



Figure 5: Service Station on the corner of Forest Road and George Street



Figure 6: 27 Carruthers Street Penshurst (directly behind the site)

Background

18. Development Application (DA2019/0135) which sought consent for the demolition of existing structures and construction of a three storey mixed use building with two levels of basement parking was refused by the Georges River Local Planning Panel on 20 August 2020 for the following reasons:

"Pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act 1979, as amended, Development Application No. DA2019/0135 for the demolition works and construction of a three (3) storey mixed use development over two (2) levels of basement parking at 608 Forest Road, Penshurst, is determined by refusal for the following reasons:

- 1. The Clause 4.6 written request is not well founded and does not justify a contravention of the development standard in relation to height and there are insufficient environmental planning grounds to justify the non-compliance of the height development standard in the circumstances.*
- 2. The proposed development is contrary to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, as amended, in that the proposal provides inadequate setbacks which will detrimentally impact on the spacing of development on adjoining lots and future development of neighbouring sites and the amenity of future residents. In particular the proposal will encourage a continuous development form across multiple sites.*
- 3. The proposed development is contrary to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, as amended, in that the proposal is inconsistent with the design quality principles of State Environmental Planning Policy 65 – Design*

Quality of Residential Apartment Development relating to Context and Neighbouring Character, Built Form and Scale, Density, Amenity, and Aesthetics.

4. *The proposed development is contrary to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as amended, in that the proposed development does not contribute to the creation of a distinct, attractive landscape character for streets and neighbourhoods.*
 5. *The proposed development is contrary to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as amended, in that the proposed development does not present well to Forest Road as the narrowness of the site necessitates half of the frontage to be utilised as a driveway which does not contribute to orderly street activation.*
 6. *The proposed development is contrary to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, as amended, in that the built form is considered to be an overdevelopment for the site given the nature of the proposal and the size of the site.”*
19. The subject Section 8.2 application (REV2020/0024) was lodged on 11 November 2020 seeks to review the decision to refuse DA2019/0135. The review period lapses on 20 August 2021 pursuant to period granted by Environmental Planning and Assessment Act 1979 No 203 (COVID-19 provisions).

Section 8.2 Review

20. Section 8.2 of the Environmental Planning and Assessment Act requires the following provisions (section 8.3) be considered in the assessment of an application to review a determination:
- (1) *An applicant for development consent may request a consent authority to review a determination or decision made by the consent authority. The consent authority is to review the determination or decision if duly requested to do so under this Division.*
 - (2) *A determination or decision cannot be reviewed under this Division:*
 - (a) *after the period within which any appeal may be made to the Court has expired if no appeal was made, or*
 - (b) *after the Court has disposed of an appeal against the determination or decision.*
 - (3) *In requesting a review, the applicant may amend the proposed development the subject of the original application for development consent or for modification of development consent. The consent authority may review the matter having regard to the amended development, but only if it is satisfied that it is substantially the same development.*
21. Officer comments: The Statutory considerations pursuant to Section 8.3 have been met. The application has been lodged within an appropriate timeframe given its acceptance for assessment by the NSW Planning Portal.
22. The development as lodged represents substantially the same development as that of DA2019/0135. The development still proposes for a three storey mixed use building with two levels of basement parking.
23. The development although similar in concept has been amended in response to the reasons for refusal issued by the Panel. The main changes include the following:

- (a) Design: The design of the development has been amended in that the building's bulk was reduced by incorporating stepped planter boxes along the external side façades.

The secondary fire stair fronting Forest Road was removed (through the support of a Fire Engineer's Advice) and the space was utilised to extend the shop front of the retail component.

The previously proposed side courtyards have been deleted and converted to a non-trafficable roof area.

The height has remained as existing, however the rooftop area has been reduced in scale whereby the previously roofed deck was removed, and the rooftop bathroom was removed. The degree of non-compliance is limited to the lift overrun, covered stairs, services room, parts of the balustrading and minor portions of the parapet.

- (b) Layout: The internal layout of the building has been amended to respond more appropriately to the site's constraining features (site area and width). The two previously proposed two bedroom units have been converted to one bedroom units in order to free up space to incorporate the planter boxes along the external façade of the building. Although there will be an ADG non-compliance arising with respect to apartment mix, the non-compliance in this case was considered acceptable and has been justified below.

The three previously proposed commercial tenancies at the rear of the ground floor have been combined to create two larger tenancies, to better suit the needs of future tenants.

- (c) Landscaping and Private Open Space: The amended plans have reduced the bulk of the building by incorporating planter boxes along the side façades of the building. Planter boxes have also been added along the front façade adjacent to the street facing balconies. The communal open space area on the roof contains a large landscaped area in the form of a non-trafficable green roof.

24. In response to the refusal reasons issued by the Panel, the below table summarises how the amended design has taken into consideration the Panel's reasons for refusal.

Refusal Reasons	Response
<i>1. The Clause 4.6 written request is not well founded and does not justify a contravention of the development standard in relation to height and there are insufficient environmental planning grounds to justify the non-compliance of the height development standard in the circumstances.</i>	<p>The height has remained as existing, however the rooftop area has been reduced in scale whereby the previously roofed deck was removed together with the bathroom. The degree of non-compliance is limited to the lift overrun, covered stairs, services room, parts of the balustrading and minor portions of the parapet.</p> <p>A Clause 4.6 variation statement has been lodged. The encroachment of the lift overrun and rooftop structures associated with the communal open space will not create any unreasonable environmental or amenity impacts. The proposed development satisfies the objectives of the height control and the zone</p>

	<p>objectives and is therefore considered to be in the public interest.</p> <p>A detailed assessment of the clause 4.6 variation to the height of building development standard is addressed in detail below.</p>
<p><i>2. The proposed development is contrary to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, as amended, in that the proposal provides inadequate setbacks which will detrimentally impact on the spacing of development on adjoining lots and future development of neighbouring sites and the amenity of future residents. In particular the proposal will encourage a continuous development form across multiple sites.</i></p>	<p>The proposed development being a mixed use building is located in a B2- Local Centre zone. Mixed use buildings in this zone do not require a minimum lot size or frontage requirement. Given the business zoning and as a result of clause 6.6 of Hurstville LEP, the notion of building abutting the boundary and providing for continuous build form is acceptable.</p> <p>Development of this will not be dissimilar to existing development at 598-602 Forest Road, and the continuous commercial building across Forest Road.</p> <p>The development will not hide the sites at 604 and 606 Forest Road being developed.</p> <p>In order to reduce the potential of multiple driveways being proposed in future development further south, the development has been designed to allow for its basement to be connection point to the adjoining development. A letter from a structural engineer has accompanied this review application.</p>
<p><i>3. The proposed development is contrary to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, as amended, in that the proposal is inconsistent with the design quality principles of State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development relating to Context and Neighbouring Character, Built Form and Scale, Density, Amenity, and Aesthetics.</i></p>	<p>It is considered that the amended design adequately responds to the design quality principles of State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development. The proposal has taken into consideration the initial DRP advice, and the LPP refusal reasons. A SEPP 65 design verification statement accompanies this proposal.</p>
<p><i>4. The proposed development is contrary to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as amended, in that the proposed development does not contribute to the creation of a distinct, attractive landscape character for streets and neighbourhoods.</i></p>	<p>The amended plans have reduced the bulk of the building by incorporating planter boxes along the side elevations of the building. Planter boxes have also been added along the front façade of the street facing balconies. The roof contains a large landscape area in the form of a non-trafficable green roof.</p>
<p><i>5. The proposed development is contrary to Section 4.15(1)(a)(iii) of</i></p>	<p>The proposal has been amended by removing the previously proposed fire stair to the street</p>

<p><i>the Environmental Planning and Assessment Act 1979, as amended, in that the proposed development does not present well to Forest Road as the narrowness of the site necessitates half of the frontage to be utilised as a driveway which does not contribute to orderly street activation.</i></p>	<p>façade. This results in a larger shop front area which better achieves the objectives of clause 6.6 (Active Street frontage) of the Hurstville LEP 2012.</p> <p>In order to reduce the potential of multiple driveways being proposed in future development further south, the development has been designed to allow for its basement to be used to access a future basement associated with the future development to the south. A letter from a structural engineer has accompanied this review application.</p> <p>It is noted that the original development proposed a single 3.5m driveway; however Transport for NSW mandated a passing bay within the access driveway. The current driveway is the minimum width required by Transport for NSW, a passing bay has been incorporated.</p>
<p><i>6. The proposed development is contrary to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, as amended, in that the built form is considered to be an overdevelopment for the site given the nature of the proposal and the size of the site."</i></p>	<p>The proposed development has a floor space ratio of 1.42:1 with the maximum permitted FSR applicable to the site is 1:5:1.</p> <p>Although a variation is proposed to the maximum building height, the main area of non-compliance is recessed and is minor in scale. The proposal satisfactorily addresses the issues of setbacks, the ADG in relation to the shop top housing, vehicular access and car parking.</p> <p>The proposal provides the required deep soil landscaping required by the ADG (7%) and has incorporated several planter boxes to increase the landscaping within the development.</p>

PLANNING ASSESSMENT

25. The subject site has been inspected and the development has been assessed under the relevant Section 4.15, Matters for Consideration of the Environmental Planning and Assessment Act 1979.

Environmental Planning Instruments State Environmental Planning Policies

26. Compliance with relevant State Environmental Planning Policies is summarised in the table as follows and discussed in more detail thereafter.

State Environmental Planning Policy	Complies
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)	Yes

2017	
State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development	Yes
State Environmental Planning Policy – Infrastructure	Yes

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State Environmental Planning Policy No 55 - Remediation of Land

27. SEPP 55 aims to promote the remediation of contaminated land in order to reduce the risk of harm to human health or any other aspect of the environment.
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. A Preliminary Investigation Report was submitted with the application, which concludes:

“The data quality objectives of the report have been fulfilled. Therefore, the findings of this report, and the results of the chemical analyses indicate the site is suitable for the proposed development in a ‘standard residential with garden/accessible soil’ (‘A’) setting, which is considered suitable for Residential properties with garden/accessible soil (home grown produce <10% fruit and vegetable intake (no poultry), also includes childcare centres, preschools and primary schools, and does not require any remediation works.”
30. The findings of the assessment determined the site is suitable for its intended use and therefore satisfies the requirements of SEPP 55.

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

31. The State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 aims to ensure consistency in the implementation of a scheme to encourage sustainable residential development throughout New South Wales (also referred to as the ‘BASIX scheme’).
32. A BASIX certificate accompanies the review application verifying that the relevant water, energy and thermal comfort targets have been met by the proposal. Conditions of consent have been included in the recommendation to ensure the commitments required under the BASIX certificate will be satisfied by the proposed development.

State Environmental Planning Policy (Infrastructure) 2007

33. The aim of the Infrastructure SEPP is to facilitate the effective delivery of infrastructure across the State.
34. The DA was referred to Ausgrid in accordance with Clause 45 of State Environmental Planning Policy (Infrastructure) 2007. Ausgrid has provided a response and recommended a condition in relation to overhead powerlines.
35. The DA was referred to Transport for NSW (RMS) due to the site having a frontage to a classified road.
36. Transport for NSW raised no objection with the proposal subject to the imposition of conditions.
37. In relation to clause 101 (Development with frontage to classified road) Council as the consent authority is satisfied that the development will not compromise the effective and

ongoing operation and function of classified roads, and subject to compliance with the submitted acoustic report, the development will incorporate design parameters to reduce noise impacts to the occupants. Subject to compliance with the conditions of the RMS, Council considered that the development is acceptable in that regard.

38. In relation to clause 102 (Impact of road noise or vibration on non-road development) the submitted acoustic report demonstrates that the proposal will achieve the required acoustic measures. Conditions for compliance with acoustic report are imposed.

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

39. The State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 ('Vegetation SEPP') regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.
40. The Vegetation SEPP applies to clearing of:
- a) Native vegetation above the Biodiversity Offset Scheme (BOS) threshold where a proponent will require an approval from the Native Vegetation Panel established under the *Local Land Services Amendment Act 2016*; and
 - b) Vegetation below the BOS threshold where a proponent will require a permit from Council if that vegetation is identified in the council's development control plan (DCP).
41. The Vegetation SEPP repeals clauses 5.9 and 5.9AA of the *Standard Instrument - Principal Local Environmental Plan*, with the regulation of the clearing of vegetation (including native vegetation) below the BOS threshold being through any applicable DCP.
42. No issues arise in terms of the provisions of the Vegetation SEPP, as there is no significant vegetation on the site or within the footpath area or immediately fronting the site. Two minor trees will be removed and have been supported for removal by Council's Consultant Arborist. Further, there is no significant vegetation on immediately adjoining properties in close proximity to the site. The proposal was referred to Council's Consultant Arborist and specific conditions have been recommended in that regard.

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

43. The State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development ('SEPP 65') aims to improve the design quality of residential apartment development in New South Wales.
44. The proposed development meets the pre-requisites for the application of the SEPP 65 in that it constitutes development for the purpose of 'shop top housing' in a proposed building of more than three (3) storeys and having more than four (4) dwellings. Therefore, it must be assessed against the provisions of SEPP 65 and the Apartment Design Guide (ADG).
45. A design verification statement dated 5 July 2021 has been provided by Erica Marshall-McClelland Registered Architect (Registration No. 6513) in accordance with Clause 50 of the Environmental Planning and Assessment Regulation 2000.

Design Quality Principles

46. The original DA plans that accompanied the application were referred to the Design Review Panel (DRP) on 11 July 2019. The plans of this Review application were not referred to the DRP.
47. The design quality principles of SEPP 65 are addressed as follows, in the context of the DRP comments. Commentary in response has been provided by the Assessment Officer where necessary. The comments in italics relate to the original plans submitted with the DA and the comments below the italicised text relate to the revised plans which were the subject of the refusal.
48. No DRP comments have been included given this Review application was not referred to the DRP. Notwithstanding, the previous DRP comments with respect to the original DA have been made available to the Panel as part of this report.

SEPP 65 – Design Quality of Residential Flat Buildings	General comment on the review plans
<p>Context and Neighbourhood Character</p> <p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>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.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p>The proposed design considers possible future development by providing solid walls and voids to the side boundaries. Future development can be accommodated on the adjacent site with a similar footprint. This development is not indifferent to the development constructed at 598-602 Forest Road.</p> <p>Landscape maintenance plans have been submitted demonstrating that the side façade planter boxes will be capable of being maintained without access from the neighbouring properties.</p> <p>Previously proposed side courtyards have been removed. The balconies have been amended in design to reduce future amenity impacts from potential developments south of the site.</p>
<p>Built Form and Scale</p> <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings. Good design also achieves an appropriate built form for a site</p>	<p>The amended design responds to the zone objectives and achieves an acceptable form that is not dissimilar to developments further south of the site.</p> <p>Transport for NSW have reviewed the plans the subject of the review and raised no concerns from a road safety perspective.</p>

<p>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>The shopfront has been improved with regards to active street frontage, with the glazed element increased as a result of removal of the fire stairs. (fire engineered solution)</p> <p>The floor to ceiling heights and slab thickness which was a concern raised by the DRP is similar to that of the DA amended development which was endorsed by the DRP. The current floor to ceiling heights are compliant.</p> <p>The rear setback is 6.0m as per the ADG. Council's Development Engineer supports the design the subject of the review application.</p> <p>Previously proposed side courtyards have been removed. The balconies have been amended in design to reduce future amenity impacts from potential developments south of the site.</p> <p>A clause 4.6 variation statement has accompanied this proposal. The height is identical to the original design; however the building elements above the height limit have been reduced.</p> <p>The landscape treatment and layout is acceptable and provides for a balance between the commercial, retail and residential uses.</p> <p>A Fire Safety Report has been submitted that confirms the non-compliances with egress, fire separation and services and equipment will be the subject of a fire engineered design.</p> <p>The amount of deep soil is acceptable and compliant with the ADG. The proposal is supported by Council's Consultant Arborist.</p>
<p>Density</p> <p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>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</p>	<p>The proposal complies with the maximum FSR development standard for the site, in addition to the non-residential floor space control.</p>

environment.	
<p>Sustainability</p> <p>Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</p>	<p>The proposal is BASIX compliant and meets ADG controls for solar access and ventilation as skylights have been included in the plans the subject of the review application.</p>
<p>Landscape</p> <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</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, and respect for neighbours' amenity and provides for practical establishment and long term management.</p>	<p>A consolidated area of deep soil is provided at the rear of the site which equates to 7% of the site area.</p> <p>Planter boxes along the roof surround the centralised services area. The previously proposed habitable areas exceeding the height limited have been removed.</p> <p>Amended Landscape Plans have been submitted with the review application and supported by Council's Consulting Arborist subject to conditions.</p> <p>The ground level landscaped area is now nominated for the use of the commercial tenants and the rooftop communal open space is provided for the residents.</p>

<p>Amenity</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. 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>A condition of consent has been included requiring compliance with the recommendations of the Acoustic report.</p> <p>The second floor balconies have increased in size and are roofed.</p>
<p>Safety</p> <p>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 clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	<p>Safety and security has been adequately addressed in the design and public and private areas are defined acceptably.</p> <p>Surveillance of public and communal areas is achieved. A condition requiring CCTV has been imposed.</p> <p>The separation of the retail entry and the pedestrian entry to the commercial tenancies and residential lobby defines the different uses.</p>
<p>Housing Diversity and Social Interaction</p> <p>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</p>	<p>The proposal the subject of the review application has been amended to convert all units to 1 bedroom units in order to provide space for planter boxes to be incorporated along the external side facades. Although the apartment mix does not include studio, 2 and 3 bedroom units. The floor plate does facilitate combining spaces to become 2 bedroom units if the market requires this. The development has resolved the external building design while still providing for an acceptable level of internal amenity.</p>

and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.	
Aesthetics Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures. 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.	Timber battens are provided screening the lobby area. Side courtyards have been deleted. Additional stepping and planter boxes have been incorporated into the design the subject of the review application. A revised Landscape Plan has been submitted with the revision application. A maintenance plan (within landscape plan) accompanied the proposal.

49. The review plans are considered to adequately respond to the design quality principals and are an improvement when compared to the plans the subject of the refusal.

Apartment Design Guide

50. An assessment of the proposed development against the relevant design criteria of the Apartment Design Guide (ADG) is detailed in the compliance table as follows.

Section	Design Criteria	Proposed	Comply
Part 3 Siting the development			
3A – Site analysis	Each element in the Site Analysis Checklist should be addressed (see Appendix 1)	A satisfactory site analysis plan accompanies the proposal.	Yes
3B – Orientation	Building types and layouts respond to the streetscape and site while optimising solar access within the development	The building is oriented towards the street (south-west), with lightwells and skylights proposed through the development to maximize solar access.	Yes
3C – Public domain interface	Transition between private and public domain is achieved without compromising safety and security	Given the site is in a business zone, the building includes a shop front along the street elevation at ground level with a pedestrian awning above. The site includes a main driveway with a waiting	Yes

		bay as per the Transport for NSW requirements. A pedestrian lobby also fronts the main street providing access to the rear commercial tenancies and the residential lobby.	
3D – Communal and public open space	Communal open space has a minimum area equal to 25% of the site (495 x 0.25 = 123.75sqm)	Two communal open space areas provided: Rooftop: 119sqm Rear setback area: 62.18sqm 181.1sqm or 36%	Yes
	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)	2 hours of sunlight is achieved to all of the communal open space areas, with the roof top area receiving direct sunlight all day.	Yes
3E – Deep soil zones	Deep soil zones are required at a sliding scale in this clause. For a site area of 495sqm, the deep soil zone requirement is 7% with no minimum dimensions.	39.71sqm (8%) of deep soil is provided on the site.	Yes
3F – Visual privacy	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	Sides: Nil setback with solid wall; and 3.115m and 3.110m with frosted glass block windows; and Privacy screens to balcony edges (front units only). Open balcony edges towards north (service station), walls to balcony edges towards south Rear: 6m	Sides: Refer to comments below Yes

Comments on visual privacy:

The proposal requires setbacks of between 3m (non-habitable rooms) and 6m (habitable rooms and balconies) to the side boundaries. The development proposes nil setbacks for a majority of the building and setbacks of 3.115m and 3.110m to provide the internal façade indentations and light wells for the residential units.

Despite the numerical non-compliance, the proposed setbacks are acceptable on merit as the design of the building meets the objectives for the visual privacy control, in that future development to the south-east is not compromised as the two (2) allotments known as 604 and 606 Forest Road are in the same family ownership, therefore the two (2) allotments could be redeveloped as an amalgamated site and able to adopt a similar 'boundary to boundary' built form without compromising development potential. Possible future redevelopment of the petrol station site to the north west is not compromised as it has the benefit of a substantially larger site area and dual frontage enabling building separation to the subject site to be more easily achieved.

The boundary construction is considered acceptable in this case given the business zoning. The building has provided architectural relief elements such as planter boxes along the side facades to soften the built form. The landscape maintenance plan demonstrates that the planter boxes can be maintained without need for access from the neighboring properties.

3G – Pedestrian access and entries	<p>Building entries and pedestrian access connects to and addresses the public domain</p> <p>Access, entries and pathways are accessible and easy to identify</p>	The main pedestrian access is oriented towards the street. The access way is accessible and easy to identify.	Yes
3H – Vehicle access	Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes	The proposed driveway is as per the requirements of Transport for NSW. The driveway is considered acceptable.	Yes
3J – Bicycle and car parking	<p>For development in the following locations:</p> <ul style="list-style-type: none"> on sites that are within 800m of a railway station or light rail stop in the Sydney Metropolitan Area; or on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre <p>the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating</p>	<p>DCP parking rates apply in this case as the Guide to Traffic Generating Development required higher parking rates.</p> <p>The following are the DCP controls for car parking:</p> <p><u>DCP Controls:</u></p> <p>- Dwelling (1-2 bedrooms): 1 space – 8 required</p> <p>Visitor spaces: 1 space per 4 dwellings – 2</p>	Yes

	<p>Developments, or the car parking requirement prescribed by the relevant council, whichever is less</p> <p>The car parking needs for a development must be provided off street</p>	<p>required</p> <ul style="list-style-type: none"> - Business Premises: 1 space per 60sqm – 2 spaces required - Retail premises: 1 space per 50sqm – 2 spaces required <p>Accessible parking (Class 2 BCA): One accessible parking space for every adaptable dwelling (1 accessible dwelling required per 10 rooms)</p> <p>Commercial Accessible: 1 per 20 spaces</p> <p>-----</p> <p>Proposal:</p> <p>Residential: for 8 1B units, 8 spaces are provided (2 of which are accessible spaces)</p> <p>Visitor: 3 spaces provided</p> <p>Commercial: 2 spaces provided</p> <p>Retail: 2 spaces provided</p>	
Part 4 Designing the building			
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 and in the Newcastle and Wollongong local government areas	87.5% of units (7 of 8) achieve minimum 2 hours sunlight in mid-winter. These include units 2, 3, 4, 5, 6, 7, and 8.	Yes
	A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid-winter	One unit (12.5%) (Unit 1) receives no direct sunlight). Although Unit 5 is located directly above Unit 1, Unit 5 will receive the required solar amenity as a result on the skylight windows proposed within that unit.	Yes
4B – Natural ventilation	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the	All of units are cross ventilated by having at least two facades with	Yes, by condition

	<p>building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</p>	<p>openings to allow for the air to circulate within.</p> <p>A condition has been imposed requiring the addition of high-sill bathroom windows to Units 3, 4, 7, and 8 in order to allow windows on opposing facades of those units.</p>	
	<p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p>	<p>All of the proposed units are less than 18m in depth.</p>	Yes
4C – Ceiling heights	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <ul style="list-style-type: none"> • Habitable rooms 2.7m • Non-habitable rooms 2.4m • For 2 storey apartments: 2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area • Attic spaces: 1.8m at edge of room with a 30 degree minimum ceiling slope • If located in mixed use areas - 3.3m for ground and first floor to promote future flexibility of use <p>These minimums do not preclude higher ceilings if desired.</p>	<p>All of the proposed units have ceiling heights of minimum 2.8m.</p> <p>The commercial and retail tenancies have 2.8m and 3.4m floor to ceiling heights respectively.</p>	Yes
4D – Apartment size and layout	<p>Apartments are required to have the following minimum internal areas:</p> <p>Studio – 35sqm 1 bedroom – 50sqm 2 bedroom – 70sqm 3 bedroom – 90sqm</p> <p>The minimum internal areas include only one bathroom.</p>	<p>All apartments meet the minimum internal size requirements.</p> <p>Minimum 50sqm for 1 bedroom units and calculated accordingly.</p> <p>N/A</p>	<p>Yes</p> <p>Yes</p>

	Additional bathrooms increase the minimum internal area by 5sqmeach		
	A fourth bedroom and further additional bedrooms increase the minimum internal area by 12sqmeach.	N/A	N/A
	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.	All within the prescribed range. It is noted that all bathrooms are internal.	Yes
	Habitable room depths are limited to a maximum of 2.5m x the ceiling height.	All within the 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	All within the prescribed range.	Yes
	Master bedrooms have a minimum area of 10sqm and other bedrooms 9sqm (excluding wardrobe space)	All bedrooms comply.	Yes
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	All bedrooms comply.	Yes
	Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments 	All living rooms comply.	Yes
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	All of the proposed units are in excess of 4m in width internally excluding entrance areas.	Yes

4E – Private open space and balconies	<p>All apartments are required to have primary balconies as follows:</p> <ul style="list-style-type: none"> • Studio apartments require 4sqm with no min depth • 1 bedroom apartments require 8sqm with min depth 2m • 2 bedroom apartments require 10sqm with min depth 2m • 3+ bedroom apartments require 12sqm with minimum 2.4m depth 	All primary balconies achieve the minimum area and depth requirements.	Yes
	<p>The minimum balcony depth to be counted as contributing to the balcony area is 1m.</p>	All balconies exceed this criterion.	Yes
	<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>	There are no ground floor residential units proposed.	N/A
4F – Common circulation and spaces	<p>The maximum number of apartments off a circulation core on a single level is eight.</p>	A maximum of 4 units at each level.	Yes
	<p>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.</p>	NA	NA
4G – Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <ul style="list-style-type: none"> • Studio apartments require 4m³ • 1 bedroom apartments require 6m³ • 2 bedroom apartments require 8m³ • 3+ bedroom apartments require 10m³ 	All units have compliant total storage volumes as per the Apartment Design Guide (ADG) volumes.	Yes
	<p>At least 50% of the required storage is to be located within the apartment.</p>	At least 50% of storage is located within the apartments.	Yes
4H – Acoustic privacy	<p>Noise transfer is minimised through the siting of buildings and building layout</p>	The proposal was accompanied by an Acoustic Report demonstrating	Yes

		compliance with the relevant standards.	
4J – Noise and pollution	In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings	Units are separated from Forest Road by way of balconies. The proposal was accompanied by an Acoustic Report demonstrating compliance with the relevant standards.	Yes
4K – Apartment mix	A range of apartment types and sizes is provided to cater for different household types now and into the future	<p>Although the initial design incorporated 1 and 2 bedroom units, the plans the subject of the revision application contains only 1 bedroom units.</p> <p>In order to respond to the refusal reasons raised by the Panel in relation to scale of walls along the boundary, the design has reduce the GFA by incorporating 1.2m wide side façade planter boxes along the first and second storeys. This results in a better articulated building.</p> <p>The floor plates of the building enable units to be amalgamated should the market forces necessitate this. The change will not require additional car parking given the DCP car parking rates are the same for 1 and 2 bedroom units.</p>	Supported on Merit.
4L – Ground floor apartments	Street frontage activity is maximised where ground floor apartments are located	Given the development is a mixed use building; the ground floor interface contains a retail premise.	N/A
4M – Facades	Building facades provide visual interest along the street while respecting the character	The façade incorporates a range a materials and finishes that provide a	Yes

	of the local area	sense of identify to the building.	
4N – Roof design	Roof treatments are integrated into the building design and positively respond to the street	The building's street façade includes timber and clad roof elements over the front facing balconies. The lift overrun incorporates a dark metal roof in an approach utilized to visually suppress the elements above the height limit.	Yes
4O – Landscape design	Landscape design is viable and sustainable Landscape design contributes to the streetscape and amenity	The proposal was assessed by Council's Consultant Arborist and was found to be acceptable subject to conditions.	Yes
4P – Planting on structures	Appropriate soil profiles are provided	The proposal was assessed by Council's consultant Arborist and was found to be acceptable subject to conditions.	Yes
4Q – Universal design	A variety of apartments with adaptable designs are provided (Adaptable housing should be provided in accordance with the relevant council policy)	The development provides for 1 accessible unit as required by the DCP.	Yes
4S – Mixed use	Mixed use development should be concentrated around public transport and centres	The development is located in a business zoned local centre.	Yes
	Residential circulation areas should be clearly defined. Landscaped communal open space should be provided at podium or roof levels	The residential lobby extends off the main building lobby and leads directly to the lift and stairs.	Yes
4T – Awnings and signage	Awnings should be located along streets with high pedestrian activity and active frontages	An awning is proposed over the footpath.	Yes
4U – Energy efficiency	Development incorporates passive environmental design	A compliant BASIX accompanied this review application.	Yes
4V – Water management and	Water efficient fittings, appliances and wastewater reuse should be incorporated	A compliant BASIX accompanied this review application.	Yes

conservation			
4W – Waste management	<p>Adequately sized storage areas for rubbish bins should be located discreetly away from the front of the development or in the basement car park.</p> <p>A waste management plan should be prepared</p>	<p>An adequately size waste room is proposed with clear delineation between residential and commercial waste facilities. A space for bulky waste is provided.</p> <p>A satisfactory waste management plan accompanied the proposal.</p>	Yes
4X – Building maintenance	Building design detail provides protection from weathering	A satisfactory plan of management and a landscape maintenance plan accompany the application.	Yes

Draft Environmental Planning Instruments

Draft Environment SEPP

51. The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018.
52. This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property.
 - Changes proposed include consolidating the following seven existing SEPPs:
 - State Environmental Planning Policy No. 19 – Bushland in Urban Areas
 - State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
 - State Environmental Planning Policy No. 50 – Canal Estate Development
 - Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
 - Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)
 - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
 - Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property.
53. The proposal is consistent with the provisions of this Draft Instrument given there is no vegetation impacted by the proposed development.

Draft Remediation of Land State Environmental Planning Policy

54. The Draft Remediation of Land SEPP was exhibited from 31 January 2018 to 13 April 2018. The proposed remediation of land SEPP will:
 - Provide a state-wide planning framework for the remediation of land;
 - Maintain the objectives and reinforce those aspects of the existing framework that have worked well;
 - Require planning authorities to consider the potential for land to be contaminated when determining development applications and rezoning land;
 - Clearly list the remediation works that require development consent;
 - Introduce certification and operational requirements for remediation works that can be undertaken without development consent.

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

Draft Design and Place State Environmental Planning Policy

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

57. The New South Wales Department of Planning, Industry and Environment is exhibiting an Explanation of Intended Effect between 26 February 2021 and 28 April 2021 for the proposed Design and Place State Environmental Planning Policy.

58. The Design and Place SEPP 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 SEPP No 65 – Design Quality of Residential Apartment Development and SEPP (Building Sustainability Index: BASIX) 2004 (BASIX SEPP)
- Consolidate design and place requirements in other SEPPs in the future.

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

Hurstville Local Environmental Plan 2012

Zoning and Permissibility

60. The site is located within the 'B2 Local Centre' zone under the Hurstville Local Environmental Plan 2012.



Figure 7: Zoning map with the site outlined in red

61. The proposed development is defined as shop top housing, which is permissible in the zone. Namely a ground floor retail space fronting Forest Road and two (2) commercial tenancies at the rear of the development with two (2) levels of residential units above, over two (2) levels of basement carpark.
62. The objectives for development in the B2 Local Centre zone are as follows:
- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
 - To encourage employment opportunities in accessible locations.
 - To maximise public transport patronage and encourage walking and cycling.
 - To maintain a commercial and retail focus for larger scale commercial precincts.
63. The proposed development is consistent with the above objectives in that it provides for additional residential accommodation and compatible commercial tenancies at the ground floor level within close proximity to a range of services and facilities including public transport options.
64. An assessment of the proposed development against the relevant provisions of Hurstville LEP 2012 is detailed in the compliance table below.

Clause	Objectives/Provisions	Comment	Complies
Part 2 Permitted or prohibited development			
2.7 – Demolition requires development consent	The demolition of a building or work may be carried out only with development consent	Consent if sought for demolition of existing structures.	Yes
Part 4 Principal development standards			

4.3 – Height of buildings	The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map: 9m	The proposal has a building height of up to 11.4m.	No – refer to Clause 4.6 variation assessment following this table.
4.4 – Floor space ratio	The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map: 1.5:1.	The proposal has a floor space ratio of 1.42:1 or 704.22sqm.	Yes
4.4A – Non-residential floor space ratios	(1) Despite clause 4.4, development consent must not be granted for development on land in Zone B1 Neighbourhood Centre or Zone B2 Local Centre unless the non-residential floor space ratio is at least 0.3:1.	150.01sqm or 0.3:1.	Yes
Part 5 Miscellaneous provisions			
5.10 – Heritage Conservation	Consider the effect of development on heritage significance of heritage items and heritage assessment may be required.	The site is not listed as a heritage item in schedule 5 or within a heritage conservation area.	Yes
Part 6 Additional local provisions			
6.1 – Acid sulfate soils	The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.	The subject site is not identified on the Acid Sulfate Soils Map as being affected by any particular class of acid sulfate soils.	N/A
6.6 – Active street frontages	(2) This clause applies to land identified as “Active street frontage” on the Active Street Frontages Map. (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	Site is within land requiring an active street frontage. The building will include a full height street front glazed retail tenancy with a pedestrian awning over the footpath. The other portions of the frontage include an entrance and a driveway.	Yes Yes

	<p>authority is satisfied that the building will have an active street frontage after its erection or change of use.</p> <p>(4) Despite subclause (3), an active street frontage is not required for any part of a building that faces a service lane or is used for any of the following—</p> <p>(a) entrances and lobbies (including as part of mixed use development),</p> <p>(b) access for fire services,</p> <p>(c) vehicular access.</p>	Building does not include a lane.	N/A
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 essential services are available to the site.	Yes
6.9 – Airspace operations	<p>(2) The consent authority must not grant development consent to development that is a controlled activity within the meaning of Division 4 of Part 12 of the Airports Act 1996 of the Commonwealth unless the applicant has</p>	Development is not located within prescribed airspace. Development was referred to Sydney Airport and no objection was received.	Yes

	obtained approval for the controlled activity under regulations made for the purposes of that Division.		
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LPP034-21

Detailed assessment of variation to Clause 4.3 Height of Buildings

65. The proposed development seeks a variation to the development standard relating to height (Clause 4.3 of the Hurstville Local Environmental Plan 2012) (LEP). The LEP permits a maximum height of 9m for the site. Building height is calculated in accordance with the definition in the HLEP which states:

building height (or height of building) means:

- (a) in relation the height of a building in metres – the vertical distance from ground level (existing) to the highest point of the building, or
- (b) in relation to the RL of a building – the vertical distance from the Australian Height Datum to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

66. Having regard to the above definition, the non-compliance with the height of buildings development standard relates to the lift overrun, fire stairs, services room, and balustrading shown on the architectural drawings to have a max RL of 65.78m AHD (11.4m).

67. On this basis, the proposed development will exceed the height up to 2.4m which comprises of the lift overrun, fire stairs, services room, and balustrading. This is a 26.7% variation to the control. Any variation to the height can only be considered under Clause 4.6 – Exceptions to Development Standards of the HLEP. Below are to figure showing the original design versus the amended design proposed under this review application.

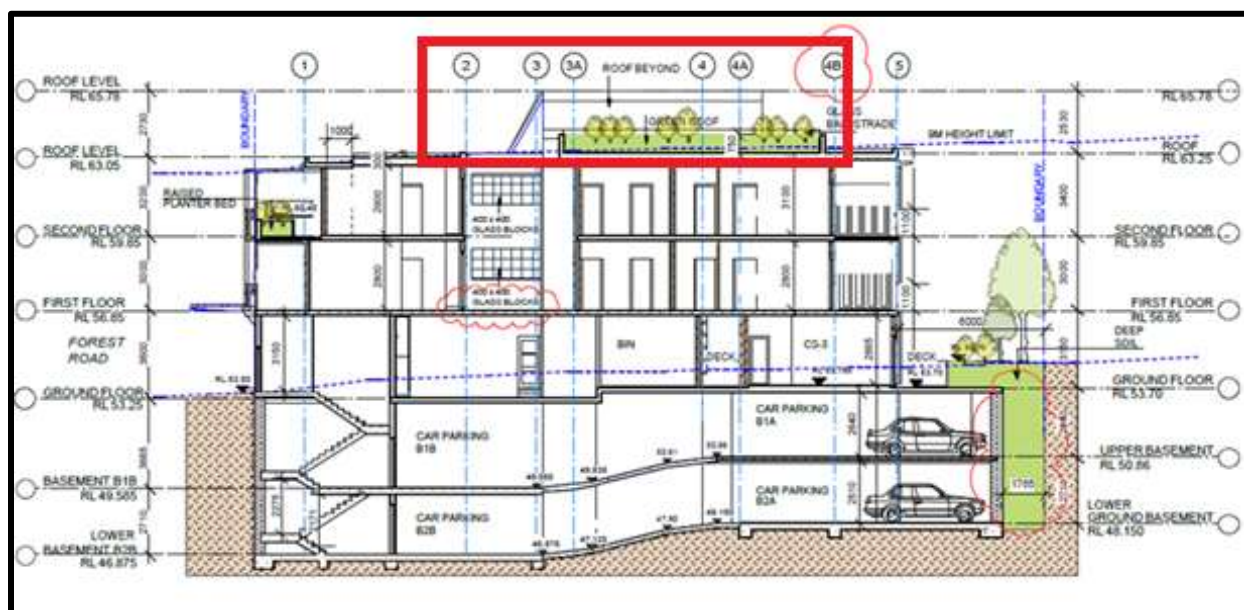


Figure 8: Extent of height show in red (original plans)

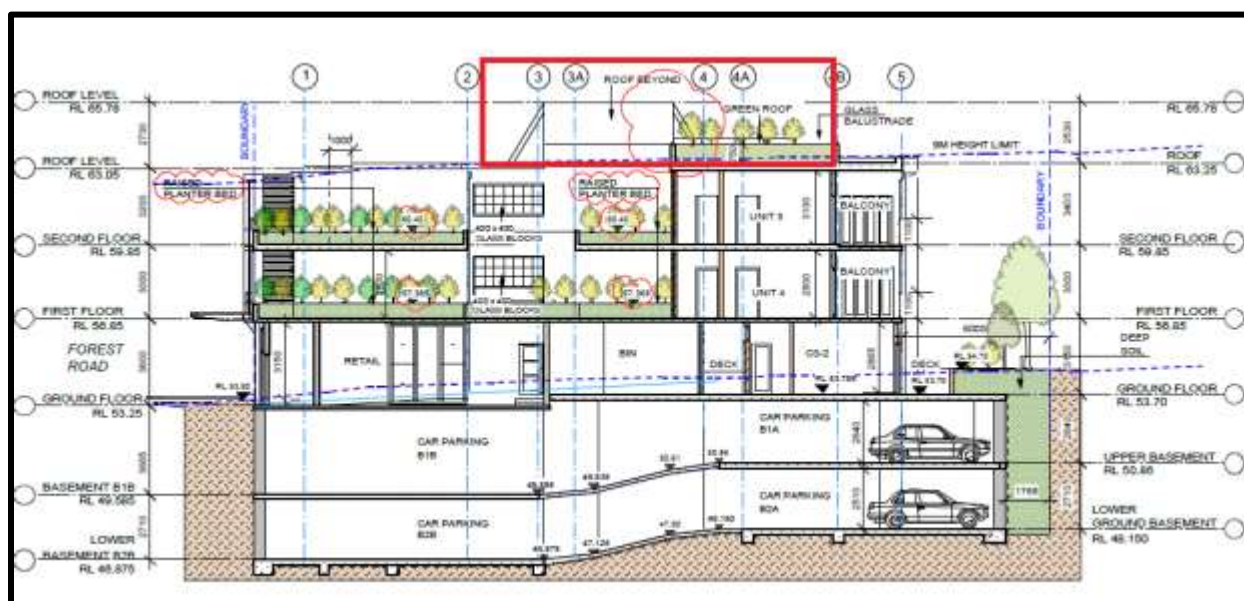


Figure 9: Extent of height show in red (review plans)

68. As can be seen in the figures above, although the numerical height variation is still the same, the amount of built form breaching the height has been reduced and the degree of roofed elements has been largely consolidated and centralised to reduce overall bulk and overshadowing impacts.
69. Clause 4.6(1) outlines the objectives of the standard which are to “provide an appropriate degree of flexibility in applying certain development standards to particular development” and “to achieve better outcomes for and from development by allowing flexibility in particular circumstances”.
70. 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”*
71. To support the non-compliance, the applicant has provided a request for a variation to Clause 4.3 prepared by Ludvik & Associates Pty Ltd in accordance with Clause 4.6 of HLEP 2012. The Clause 4.6 request for a variation is assessed in detail below.

Is the planning control in question a development standard?

72. Height of Buildings limitation under Clause 4.3 of the HLEP 2012 is a development standard.

What are the underlying objectives of the development standard?

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

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

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

74. Applicant's comments: "The rooftop communal open space was included in the amended plans as a result of Council's Design Review Panel having raised the issue that the development had not provided communal open space when it originally reviewed the proposal on 11 July 2019.
75. When the Panel reviewed the current plans on 12 March 2020 with the rooftop communal open space, it indicated that the proposal had resulted in a positive outcome. The sections of the building that exceeds the height standard are largely restricted to the central part of the building that accommodates the facilities associated with the communal open space to be used by residents of the shop top housing, such as:
- landscape planters and a glass balustrade defining the area; and
 - a core area which contains the lift and stairway accessing it, a toilet and an outdoor kitchenette.
76. These facilities are setback from the principal elevations of the building as follows:

Rooftop Element	Setback from Principal Elevation of the Building			
	Forest Road	Rear	North-West Side	South-East Side
Landscape planters	13m	2.6m to 4.4m	Nil to 1.3m	Nil to 4.6m
Glass balustrade	11.9m to 13m	4.415m	1.3m	4.6m
Core Area: Lift, stairs, toilet	11.9m	6.25m	7.3m	4.6m

77. The sections of the building that exceed the height standard represent a minor proportion of the overall building form. The sections of the building which exceed the standard do not result in any adverse effects on the amenity enjoyed by occupiers or residents of surrounding properties in terms of:
- privacy;
 - overshadowing;
 - view loss; or
 - visual impact, but will, in fact, have a positive outcome for the prospective residents of the shop top housing to be established. In these circumstances, the standard is both unreasonable and unnecessary in terms of the proposed development.

78. *A summary assessment of the proposal in terms of the objectives of the height standard contained in Clause 4.3(2) of HLEP 2012 is as follows.*

Objective of Standard	Proposal's Response	Consistency
To ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality	The height, bulk and scale of the proposal will be consistent with existing contemporary buildings in this local business centre and its desired future character	✓
To minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development and to public areas and public domain, including parks, streets and lanes	The proposal in terms of its height will not have any unplanned visual impact or effect on privacy or solar access to surrounding development or public domain areas	✓
To minimise the adverse impact of development on heritage items	There are no heritage items on the land or in its vicinity	✓
To nominate heights that will provide a transition in built form and land use intensity	The building will comply with the height standard at its interface with the residential area to the north-east of the site and provide an appropriate transition in built form. The height in excess of the standard does not facilitate any increase in land use intensity	✓
To establish maximum building heights that achieve appropriate urban form consistent with the major centre status of the Hurstville City Centre	The land is not located in the Hurstville Town Centre. The built form of the proposal is consistent with this area's secondary business centre status	✓
To facilitate an appropriate transition between the existing character of areas or localities that are not undergoing, and are not likely to undergo, a substantial transformation	The proposal establishes an appropriate relationship between development in this local centre which is planned for future development and development on the residential land to the north-east that is unlikely to undergo any substantial change	✓
To minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain	The building in terms of its height will not have any undue or unreasonable effect on the use or enjoyment of adjoining properties and the public domain	✓

79. *The proposal is consistent with the objectives of the standard.*

80. *A summary assessment of the proposal in terms of the objectives for development in the B2 Local Centre zone is as follows.*

Zone Objective	Proposal's Response	Consistency
To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area	The proposal will include an active retail tenancy fronting Forest Road and 3 x commercial suites designed to serve the local community	✓
To encourage employment opportunities in accessible locations	This area is well served by public transport services using Forest Road and will facilitate employment opportunities	✓
To maximise public transport patronage and encourage walking and cycling	This area is well served by public transport services using Forest Road and the proposed development will foster and promote the use of those services	✓
To maintain a commercial and retail focus for larger scale commercial precincts	The land is located in a secondary commercial precinct and will not affect the commercial and retail focus of larger scale commercial precincts in the LGA	✓

81. *The proposal is consistent with the objectives for development in the B2 Local Centre zone."*

82. Council's comments: In respect to Prestons CJ judgement the NSW Land and Environment Court and in accordance with a decision (Initial Action Pty Ltd v Woollahra Council [2018] NSWLEC 118), the NSW Land and Environment Court has established a "five part test" for consent authorities to consider when assessing a DA proposing a Clause 4.6 request for variation. The Applicant has justified above that the development satisfies the purpose and intention of the five part test. It is considered that the proposal satisfies the five part test for the following reasons:

- The accessible area of the communal open space is setback over 9m from the rear boundary in accordance with the ADG separation control which will minimise privacy impacts to adjoining residential properties.
- The visual impact of the structure has been minimised as it is an ancillary structure that is centrally located and treated with dark recessive colours and finishes. The scale and intensity of development, as proposed is consistent with the desired future character for new development in this precinct. The areas in breach are also located largely in the middle of the roof area which is almost at the centre of the site. As a result of the proposed planter boxes forward of the areas in breach, it is anticipated that shrubs will provide additional screening to those areas.
- The objectives of the height standard are considered to be satisfied despite the non-compliance as there is no overshadowing created by the rooftop structures affecting the public domain or adjoining properties due to the central location of the structures on the building and their setback from the street façade walls.
- The underlying objective of the height standard remains relevant and therefore compliance is necessary and warranted. The majority of the building sits within the height limit with lift overrun, fire stairs, services room, and some balustrading being the structures encroaching the height limit. No habitable area extends above the 9m permitted height limit.
- In this case the underlying objective will not be defeated or thwarted by the approval of the building. The height control will not be abandoned or destroyed through this or any recent approvals for similar mixed use developments.

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

83. Applicant's comments: *"The underlying purpose of contemporary town planning practice to encourage shop top housing in business centres is to achieve highly desirable urban design outcomes given:*

- *it creates an increased level of vitality and activity in centres;*
- *it reinforces demand and viability of shops and commercial services and facilities in centres; and*
- *it fosters and promotes the use of public transport, walking and cycling as the principal modes of private transport.*

84. *However, such mixed-use development presents challenges in providing appropriately designed communal open space for the residents of shop top housing because of the extent of the site required to be given over to parking and vehicular access and the needs and impacts of the retail/commercial uses at the ground floor level.*

85. *These competing demands for the use of areas at the ground floor level result in communal open space associated with shop top housing being more appropriately located on building rooftops.*
86. *The provision of the proposed rooftop communal open space is designed to achieve a positive environmental planning outcome, resolving the competing demands of the uses to be established on the site.*
87. *In terms of the building's design, the proposed rooftop communal open space:*
- *has resulted in a positive outcome for the development according to Council's Design Review Panel; and*
 - *is consistent with the design guidance in the ADG which indicates that, where communal open space cannot be provided at ground level, it should be provided on a podium or roof. In this context, the nature, extent and location of the parts of the building that exceed the height standard:*
 - *will not have any adverse effect on the amenity enjoyed by occupiers or residents of surrounding properties in terms of privacy, overshadowing, view loss or visual impact;*
 - *will not have any adverse effects on the Forest Road streetscape when viewed from the public domain;*
 - *will not be inconsistent with the existing or desired future character of development in this business centre; and*
 - *are satisfactory and suitable for approval.*
88. *The proposed building:*
- *is consistent with the existing and desired future character of development in this locality;*
 - *represents an appropriate and satisfactory design response to the opportunities and constraints offered by the site and its setting; and*
 - *will result in the orderly and economic use and development of the land in accordance with Section 1.3(c) of the EP&A Act.*
89. *Consequently, there are sufficient environmental planning grounds to justify the variation from the standard as proposed."*
90. Council's comments: Based on the discussion above, it is considered that there are sufficient environmental planning grounds to justify contravening the development standard. Key environmental planning grounds to support the variation include:
- Despite the lift overrun, fire stairs, services room, and balustrading exceeding the height of buildings development standard, the remainder of the building is below the 9m height limit. As such, the overall bulk and scale of the building is considered to be acceptable in terms of its scale and built form and the relationship of the building to the street and adjoining development;
 - The amended design of the building further reduces the overall bulk of the building by incorporating planter boxes along the side facade and along the street façade. The result is a highly articulated building with a recessed communal roof area which is screened by way of raised planter boxes along its edges.
 - The lift overrun and rooftop structures maintain a building of a scale and form that is appropriate for the location will not be readily visible from street level as it is setback

from the street frontage and located centrally within the roof, 10.1m from the street edge providing visual interest and a varied building profile.

- When travelling along in either direction along Forest Road, the rooftop structures and lift overrun will be screened by the rooftop landscaping around the communal open space area, with the dark colours chosen for the finish of these rooftop elements further assisting in them being viewed as recessive elements.
- Despite the height of the lift overrun and rooftop structures above the statutory height limit, the proposed development will not have an unreasonable impact on adjoining residential properties in terms of loss of privacy or views or overshadowing (606 Forest Road is a restaurant and 604 Forest Road is a dwelling house: the dwelling on 604 Forest Road will retain sunlight between 9am and 1pm during midwinter, satisfying the DCP controls of solar access);
- Despite the breach to the building height standard, the lift overrun and rooftop structures are located so that they will not be easily seen from the street frontage or from Forest Road when travelling due to the recessive colour palette and setback from the roof edges, in addition to the surrounding landscaping which will result in a positive contribution to the streetscape character and visual amenity of the area.

Will the development be in the public interest despite the non-compliance?

91. Applicant's comments: *The building height standard is both unreasonable and unnecessary in the circumstances of this case and there are sufficient environmental planning grounds to justify variations from it.*
92. *The proposal is in the public interest because it is consistent with:*
 - *the objectives of the standard; and*
 - *the objectives for development in the B2 Local Centre zone.*
93. *The development, with the variation from the standard as proposed:*
 - *will not result in any adverse environmental impacts;*
 - *will not have any undue or unreasonable effect on the amenity enjoyed by occupiers or residents of surrounding properties in terms of privacy, solar access, visual impact or view loss; and*
 - *will promote the orderly and economic use and development of the land in accordance with Section 1.3(c) of the EP&A Act.*
94. *The proposal is, therefore, suitable for approval under the terms of Clause 4.6(2) of HLEP2012, despite its variation from the numerical value of the building height standard contained in Clause 4.3(2) of the Plan."*
95. Council's comment: The proposed built form is acceptable given the context of the site, the planning controls applicable to the site and its local centre zoning, existing patterns of subdivision, site orientation, area and dimension. The development makes sufficient accommodation for the required building services and infrastructure.
96. The proposed development will be in the public interest because it is consistent with the objectives of the height standard and the objectives for development within the zone. The

development will provide additional commercial/retail floor space for the neighbourhood and will provide new housing stock.

Concurrence of the Director-General has been obtained

97. In accordance with clause 64 of the Environmental Planning and Assessment Regulation 2000, Council may assume the Secretary's concurrence for exceptions to development standards for applications made under clause 4.6 of the LEP. This was further confirmed by directions provided within Planning Circular PS 18-003 issued on 21 February 2018.

Non-compliance does not hinder the attainment of the Objects of the Environmental Planning and Assessment Act 1979

98. The Wehbe decision identifies that in assessing a variation to a development standard, consideration must be given to Objects (a)(i) and (a)(ii) in Section 5 of the Environmental Planning and Assessment Act 1979. These are:

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,
- (ii) the promotion and co-ordination of the orderly and economic use and development of land.

99. It is not considered that the proposed variation to the building height standard will contravene either of these objects. The proper management of the existing urban environment in order to achieve better social and community outcomes, as well as the orderly and economic use and development of land, will be realised through the provision of a high quality mixed use development in a location with good access to public transport and in proximity to shops, services and recreational facilities and educational establishments.

Whether contravention of the development standard raises any matter of significance for State or regional environmental planning (Clause 4.6(5)(a))

100. Contravention of the maximum height development standard proposed by this application does not raise any matter of significance for State or regional environmental planning.

Any other matters required to be taken into consideration by the Director-General before granting concurrence

101. Despite exceeding the statutory maximum building height, the proposed redevelopment of the site will facilitate the orderly and economic redevelopment of the site for the purposes of a mixed use development that will positively contribute to the achievement of the objectives of Hurstville Local Environmental Plan 2012.

Conclusion – Assessment of Clause 4.6 Request for Variation

102. Despite the non-compliance in terms of the height, the proposal is considered to be acceptable and satisfies the provisions of Clause 4.6. The encroachment of the lift overrun and rooftop structures associated with the communal open space will not create any unreasonable environmental or amenity impacts. The proposed development satisfies the objectives of the height control and the zone objectives and is therefore considered to be in the public interest.
103. 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 in this particular case.

Draft Georges River Local Environmental Plan 2020

104. Consideration is given to the provisions of Draft Georges River Local Environmental Plan 2020 in the assessment this application.
105. 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

Hurstville Development Control Plan No 1

106. An assessment of the proposed development against the relevant controls in the HDCP No 1 is detailed in the compliance table below.

Development	Requirements	Proposed	Complies
3.0 General Planning Considerations			
3.1 – Vehicle access and car parking rates	Underground parking areas are to be concentrated under building footprints so as to maximise deep soil landscaping.	The basement design allows for a deep soil area along the rear boundary and northern rear corner of the site.	Yes
	Driveways to underground car parks are to be designed so as to minimise the visual impact on the street, and to maximise pedestrian safety.	The driveway is suitably located in accordance with the requirements of the Transport for NSW.	Yes
	Pedestrian access to the development should be separate and clearly defined.	Pedestrian and vehicular access points are separate.	Yes
	Access ways to underground car parking areas is to be located away from doors and windows to habitable rooms wherever possible.	Access to the basement parking area is via the central lift and stair core.	Yes
	Basement car parking is preferable in commercial and residential flat buildings.	Basement parking is proposed.	Yes
Car Parking Rates	Residential:		

(Table 1 – business zones)	<p>a. 1 resident space for every studio, 1 or 2 bedroom dwelling</p> <p>8 spaces required</p> <p>b. 2 resident spaces for every 3 or more bedroom dwelling</p> <p>c. for developments of 4 dwellings or more, one visitor space per 4 dwellings or part thereof</p> <p>2 visitor spaces required</p> <p>Business/Office: 1/60sqm</p> <p>73.57sqm requires 1.2 spaces rounded up to 2</p> <p>Retail: 1/50sqm</p> <p>76.44sqm requires 1.52 spaces rounded to 2</p>	<p>8 spaces are provided (2 of which are accessible spaces)</p> <p>Visitor: 3 spaces provided (one within a carwash bay)</p> <p>2 spaces provided</p> <p>2 spaces provided</p>	<p>Yes,</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
3.3 – Access and Mobility	<p><u>RFB component:</u> In developments containing five or more dwellings, a minimum of one adaptable dwelling, designed in accordance with relevant Australian Standards must be provided for every ten dwellings or part thereof. Access to required adaptable dwellings and relevant parking spaces Appropriate access for all persons through the principal entrance of the building and access to any common facilities shall be provided.</p> <p>One accessible space is dedicated to each adaptable apartment</p> <p><u>Commercial/business component:</u> Access is required to a</p>	<p>Unit 6 is accessible.</p> <p>All parts of the building are accessible.</p> <p>Two (2) accessible spaces are provided.</p> <p>All parts of the</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

	<p>principal entrance and to public areas in existing buildings or developments if it is proposed to carry out a substantial intensification of use or substantial alterations. In no case shall alterations result in a decrease in a decrease in access.</p> <p>General access for all persons to appropriate sanitary facilities and other common facilities including kitchens, lunch room, shower facilities, indoor and outdoor recreational facilities.</p> <p>One space per 20 spaces or part thereof, where parking areas have more than 20 spaces but less than 50 spaces. 2% of parking spaces where 50 or more parking spaces provided in accordance with AS 2890.</p> <p>0.7 spaces required rounded to 1</p>	<p>building are accessible.</p> <p>All parts of the building are accessible.</p> <p>Given the proposal does not provide for an accessible commercial space (accessible space within level B1B is residential); a condition will be imposed requiring the shared space in level B1B be relocated to car space 5. In doing so, two car spaces will share a shared space. The result is one residential accessible space, and one business/commercial in level B1B.</p>	<p>Yes</p> <p>Yes, by condition</p>
3.4 – Crime Prevention through Design	<p>Ensure that the way in which the site, and the buildings within the site, are laid out enhance security and feelings of safety</p>	<p>The development has been well considered to cater for CPTED principles in terms of lighting the location, accessibility and legibility of services and uses. The corridor accessing the commercial tenancies at the rear of the building has an open form vertical</p>	<p>Yes</p>

		<p>timber screen element along the north-western side to allow for light and casual surveillance.</p> <p>A condition requiring CCTV has been imposed.</p>	
3.5 – Landscaping	Development contributes to the creation of a distinct, attractive landscape character for streets and neighbourhoods	<p>The development proposes rooftop planters and planters on the uppermost street facing balconies, together with green walls which will be seen from the street at certain angles.</p> <p>The application was supported by Council's Consultant Arborist subject to conditions.</p>	Yes
3.6 – Public Domain	Development contributes to the creation of attractive, comfortable and safe streets that comprise consistent and high quality paving, street furniture and street tree plantings.	The proposal presents well to Forest Road and will activate the streetscape in this location as a result of the glazed shopfront, pedestrian awning, and a step free entry.	Yes
3.7 – Stormwater	<p>Stormwater discharge for development sites is not to exceed the 5 year ARI storm event.</p> <p>An on-site stormwater detention system is provided that reduces the flow rate of stormwater discharge. Stormwater quality</p> <p>The quality of stormwater leaving development sites is consistent with water quality standards set by the Environment Protection Authority and ANZECC.</p>	Council's Development Engineer supported the proposed stormwater management system and conditions have been recommended accordingly.	Yes
Chapter 4.1 Residential Flat Buildings			

The DCP does not contain controls for shop-top housing. The controls below relate to Residential Flat Buildings and have been included as they are relevant to the proposed development.			
Solar Access	Development allows for at least 3 hours of sunlight on the windows of main living areas and adjoining principal private open space of adjacent dwellings between 9.00 am and 3.00 pm on 22 June.	All adjoining residential development to the east will continue to receive at least 3 hours to living areas and private open space during midwinter. The adjoining southern allotment known as 606 Forest Road is a commercial tenancy and will be overshadowed by the proposal; however will received 2 hours of direct solar access between 9am and 11am midwinter. The dwelling located at 604 Forest Road will continue to receive the required amount of sunlight.	Yes

IMPACTS

Natural Environment

107. The proposed development is unlikely to result in adverse impacts on the natural environment.

Built Environment

108. The proposed development is unlikely to result in adverse impacts on the built environment.

109. In particular, the proposal complies with the FSR standard contained in Hurstville LEP 2012, and proposes an acceptable bulk and scale in the context of the site.

110. The variation to the height of building development standard was accompanied by an adequate clause 4.6 request and has been supported due to the limited environmental impact arising from the breach, and due to the areas in breach being centralised within the roof and screened from the public domain.

111. The proposed built form is acceptable given the context of the site, the planning controls applicable to the site and its local centre zoning, existing patterns of subdivision, site orientation, area and dimension. The development makes sufficient accommodation for the required building services and infrastructure.

Social Impacts

112. The development will provide additional housing stock to the area and cater to the needs of the local community. The development will also increase the amount of commercial and retail floor space available to the local community.

Economic Impacts

113. The development will have a positive short term economic benefit associated with construction employment and minimal adverse economic impacts over the longer term.

Suitability of the site

114. The subject site is suitable for the proposed development having regard to the existing and desired future character of the surrounding locality which features multi-level mixed use buildings and residential accommodation in a location in close proximity to public transport options and a wide range of services and facilities. Further, there are no natural or man-made environmental constraints (e.g. flooding/bushfire risks) that would render the site unsuitable for the proposed development.

SUBMISSIONS

115. The development application was publicly exhibited in accordance with the provisions of the Hurstville Development Control Plan No.1. The notification period commenced on 03 December 2020 and concluded on 17 December 2020. No submissions were received.

REFERRALS

Council Referrals

Consultant Arborist/Landscaping

116. No objections were raised to the proposed landscape plan subject to conditions. These conditions have been incorporated into the recommended conditions at the end of this report.

Stormwater

117. No objections were raised to the drainage design and stormwater discharge subject to conditions. The conditions have been incorporated into the recommended conditions at the end of this report.

Environmental Health

118. No objections were raised to the proposal subject to conditions. These conditions have been incorporated into the recommended conditions at the end of this report.

Waste

119. No objections were raised to the proposal, subject to conditions. These conditions have been incorporated into the recommended conditions at the end of this report.

Driveways

120. No objections were raised to the proposal, subject to conditions. These conditions have been incorporated into the recommended conditions at the end of this report.

Traffic

121. No objections were raised to the proposal, subject to conditions. These conditions have been incorporated into the recommended conditions at the end of this report.

External Referrals

Transport for NSW

122. Given the frontage to a classified road, the application was referred to Transport for NSW for comment. No objection has been raised subject to conditions of consent.

Ausgrid

123. The DA was referred to Ausgrid in accordance with Clause 45 of SEPP (Infrastructure) 2007. No objection has been raised subject to conditions of consent.

Sydney Airport

124. The application was referred to Sydney Airport and no objection was received. A maximum height of 66m AHD was approved. A condition was imposed in relation to height of cranes.

Public Interest

125. The proposal is not considered to be contrary to the public interest.

Section 7.11 Contributions

126. Monetary contributions are required under Section 7.11 of the Environmental Planning and Assessment Act 1979, with respect to the proposed development. These contributions have been calculated appropriately and a suitable condition of consent has been included in the recommendation in this respect:

DEVELOPMENT CONTRIBUTIONS	
Hurstville Section 94 Development Contributions Plan 2012 – Residential (Community Facilities)	\$7,354.49
Hurstville Section 94 Development Contributions Plan 2012 – Residential (Open Space, Recreation, Public Domain)	\$52,010.37
TOTAL CONTRIBUTIONS	\$59,364.86

CONCLUSION

127. The proposal has been assessed using the matters for consideration listed in Sections 8.2 and 4.15 of the Environmental Planning and Assessment Act 1979. Based on this assessment, the proposal is considered to be an acceptable form of development and is recommended for approval subject to conditions.

DETERMINATION AND STATEMENT OF REASONSStatement of Reasons

128. The reasons for this recommendation are:

- The proposed development generally complies with the requirements of the relevant environmental planning instruments and development control plan.
- The proposal is an acceptable response to the zoning, context, site area, dimension and orientation of the allotment.
- The proposed development is well considered and sensitively designed so that it will not result in any unreasonable impact on the natural and built environment.
- The building will not adversely affect the amenity of any immediately adjoining properties in terms of unreasonable overlooking, overshadowing or view loss.
- The proposal aims to provide a high-quality, contemporary mixed use development in an accessible location in accordance with the planning and design requirements for development of this nature in this precinct.

Determination

129. THAT the Georges River Local Planning Panel, as the consent authority, support the request for variation pursuant to Clause 4.6 of Hurstville Local Environmental Plan 2012,

in relation to the Height of Buildings (Clause 4.3) control as the variation is considered to be well founded and compliance in this case is unreasonable and unnecessary.

130. THAT the Georges River Council Local Planning Panel, as the consent authority, pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 (as amended) grant development consent to Review Application REV2020/0024 for demolition works and construction of a three (3) storey shop top housing development over two (2) levels of basement parking, site works and landscaping at Lot B in DP 404106 and known as 608 Forest Road, Penshurst, 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 Analysis Plan	Job 5144-18, sheet 03	09.04.19	A	Lyle Marshall & Partners Pty Ltd
Site Control Plan	Job 5144-18, sheet 04	09.04.19	A	Lyle Marshall & Partners Pty Ltd
Privacy Plan	Job 5144-18, sheet 05	09.04.21	E	Lyle Marshall & Partners Pty Ltd
GFA Plan	Job 5144-18, sheet 06	01.07.21	G	Lyle Marshall & Partners Pty Ltd
Lower Basement Floor Plan B2	Job 5144-18, sheet 07	01.07.21	G	Lyle Marshall & Partners Pty Ltd
Basement Floor Plan B1	Job 5144-18, sheet 08	01.07.21	G	Lyle Marshall & Partners Pty Ltd
Ground Floor Plan	Job 5144-18, sheet 09	01.07.21	G	Lyle Marshall & Partners Pty Ltd
First Floor Plan	Job 5144-18, sheet 10	01.07.21	G	Lyle Marshall & Partners Pty Ltd
Second Floor Plan	Job 5144-18, sheet 11	01.07.21	G	Lyle Marshall & Partners Pty Ltd
Landscape Calculation Plan	Job 5144-18, sheet 12	09.04.19	E	Lyle Marshall & Partners Pty Ltd
Proposed Roof Plan	Job 5144-18, sheet 13	09.04.19	F	Lyle Marshall & Partners Pty Ltd

Proposed Sections Sheet 1	Job 5144-18, sheet 14	30.06.21	G	Lyle Marshall & Partners Pty Ltd
Proposed Sections Sheet 2	Job 5144-18, sheet 14a	01.07.21	E	Lyle Marshall & Partners Pty Ltd
Proposed Elevations	Job 5144-18, sheet 15	01.07.21	G	Lyle Marshall & Partners Pty Ltd
Streetscape Elevations	Job 5144-18, sheet 16	09.04.21	F	Lyle Marshall & Partners Pty Ltd
Typical Unit Layouts Sheet 1	Job 5144-18, sheet 29	01.07.21	G	Lyle Marshall & Partners Pty Ltd
Typical Unit Layouts Sheet 2	Job 5144-18, sheet 30	01.07.21	F	Lyle Marshall & Partners Pty Ltd
Typical Unit Layouts Sheet 3	Job 5144-18, sheet 31	01.07.21	G	Lyle Marshall & Partners Pty Ltd
Proposed Materials and Finishes	Job 5144-18, sheet 32	09.04.21	F	Lyle Marshall & Partners Pty Ltd
Storage Allocation Plan	Job 5144-18, sheet 33	09.04.21	E	Lyle Marshall & Partners Pty Ltd
Proposed Excavation Plan	Job 5144-18, sheet 34	20.05.20	D	Lyle Marshall & Partners Pty Ltd
Vehicular access and driveway longitudinal Sections	Job 21-0120 drawing 21-0120 C01 and C02	07.07.21	A	D.T Civil Engineering Consultants
Landscape Plan	L1130 1819 Drawings L01 and L02	06.07.21	D	Susan Read Landscapes
SEPP 65 Statement	608 Forest Road Penshurst	05.07.21	-	Lyle Marshall & Partners Pty Ltd
Structural Design Statement	608 Forest Road Penshurst	07 2021	-	D.T Civil Engineering Consultants
Plan of Management	POM – 21/022	01.07.21	-	D.T Civil Pty Ltd
Acoustic Report	2019-080 rev 1	06.07.21	1	Acoustic Noise and Vibration Solutions P/L
Geotechnical Investigation Report	DD-822	28.02.19		Dirt Doctors Pty Ltd

Traffic Impact Assessment Report	Job 5144-2-18 Report 5/19	April 2019	-	Lyle Marshall & Partners Pty Ltd
Stage 1 Environmental Investigation	Report DD3-450_1	16-03-2019	0	Dirt Doctors Pty Ltd
Fire Safety Engineering Design Review Report	256120	19 April 2021	1	Scientific Fire Services
Waste Management Plan	Job 5144-18, Report 08B/19	June 2021	-	Lyle Marshall & Partners Pty Ltd

2. **Fit-out of retail premises and signage** - No approval is granted for the use or fit-out of the retail/commercial premises including any signage. Separate Development Consent for the use and fit-out is required prior to the occupation of the retail component of the development.

Separate Approvals Required Under Other Legislation

3. **Vehicular Crossing - Major Development** - The following vehicular crossing and road frontage works will be required to facilitate access to and from the proposed development site:
- (a) Construct a full width - boundary to kerb - footpath for the full length of the frontage of the site in Forest Road 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) Construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontage(s) of the site in Forest Road in accordance with Council's Specifications for kerb and guttering, applying at the time construction approval is sought.
 - (d) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath areas shall be restored at the expense of the applicant. The work shall be carried out in accordance with Council's specification, applying at the time construction approval is sought.

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

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

An application for this work under Section 68 of the Local Government Act 1993

<http://www.legislation.nsw.gov.au/> and the Roads Act 1993 must be submitted for approval to Council.

The following information is to be submitted with a Hoarding Application under Section 68 of the Local Government Act 1993 <http://www.legislation.nsw.gov.au/> and Section 138 of the Roads Act 1993 <http://legislation.nsw.gov.au/> :

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

5. **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's roadways/footways, an application must be lodged with Council under Section 68 of the Local Government Act 1993 <http://www.legislation.nsw.gov.au/> and the Roads Act 1993 <http://legislation.nsw.gov.au/> for approval, prior to commencement of those works. The following details must be submitted.

- a) That cable anchors will be stressed released when the building extends above ground level to the satisfaction of Council.
- b) The applicant has indemnified Council from all public liability claims arising from the proposed works, and provide adequate insurance cover to the satisfaction of council.
- c) Documentary evidence of such insurance cover to the value of \$20 million.
- d) The applicant must register a non-terminating bank guarantee in favour of Council for the amount of [\$50,000].
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.
- e) That 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.

6. **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 (including construction of awning over public footpath).

Separate approval is required under Section 138 of the Roads Act 1993 and/or Section 68 of the Local Government Act 1993 for any of the following activities carried out in, on

or over a public road (including the footpath) listed below.

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

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

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

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

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

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

An approval for a new or modified driveway crossing will contain the approved access and/or alignment levels which will be required to construct the crossing and/or footpath.

Once approved, all work shall be carried out in accordance with Council's specifications applicable at the time, prior to the issue of an Occupation Certificate.

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

8. **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

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 (Business and Commercial Services).
10. **Trade Waste Agreements** - A Trade Waste Agreement with Sydney Water may be required. Details of any work required to comply with the agreement must be detailed on the plans lodged with the Construction Certificate. If no trade waste agreement or grease trap is required, a letter from Sydney Water to this effect must be submitted with the application for the Construction Certificate.
11. **Transport for NSW Conditions** -
 - (a) All buildings and structures other than pedestrian footpath awnings, together with any improvements integral to the future use of the site are wholly within the freehold property unlimited in height or depth along the Forest Road boundary.
 - (b) The proponent will be required to provide an updated traffic control signal (TCS) plan to demonstrate the removal of the current driveway (replaced with kerb and gutter to match existing) and reflect the newly proposed driveway. The updated TCS plans shall be drawn by a suitably qualified person and endorsed by a suitably qualified practitioner.

The submitted design shall be in accordance with Austroads Guide to Road Design in association with relevant TfNSW supplements (available on www.rms.nsw.gov.au). The certified copies of the TCS design and civil design plans shall be submitted to TfNSW for consideration and approval prior to the release of a Construction Certificate and commencement of the works. Please send all documentation to development.sydney@rms.nsw.gov.au.

- (c) The design and construction of the gutter crossing on Forest Road shall be in accordance with TfNSW requirements. Details of these requirements should be obtained by email to DeveloperWorks.Sydney@rms.nsw.gov.au.

Detailed design plans of the proposed gutter crossing are to be submitted to TfNSW for approval prior to the issue of a Construction Certificate and commencement of any road works. Please send all documentation to development.sydney@rms.nsw.gov.au.

A plan checking fee and lodgement of a performance bond is required from the applicant prior to the release of the approved road design plans by Roads and Maritime.

- (d) All vehicles are to enter and exit the site in a forward direction.
- (e) All vehicles are to be wholly contained on site before being required to stop.
- (f) Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to TfNSW for approval, prior to the commencement of any works. Please send all documentation to development.sydney@rms.nsw.gov.au.

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued.

- (g) The developer is to submit design drawings and documents relating to the excavation of the site and support structures to TfNSW for assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by TfNSW. Please send all documentation to development.sydney@rms.nsw.gov.au

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) day notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

- (h) “No Stopping” restrictions shall be implemented along the full Forest Road frontage of the development site at no cost to TfNSW.
- (i) All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Forest Road.
- (j) A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on Forest Road during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>

12. **Sydney Water - Tap in™** - The approved plans must be submitted to a Sydney Water Tap in™ to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately endorsed. For details please refer to 'Plumbing, building and developing' section of Sydney Water's web site at www.sydneywater.com.au then see 'Building', or telephone 13000 TAP IN (1300 082 746). The Certifying Authority must ensure that a Tap in™ agent has appropriately stamped the plans prior to the issue of the Construction Certificate.
13. **Notice of Requirements for a Section 73 Certificate** - A Notice of Requirements of what will eventually be required when issuing a Section 73 Compliance Certificate under

the Sydney Water Act 1994 <<http://legislation.nsw.gov.au/>> 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.

Prior to the Issue of a Construction Certificate

14. **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.
15. **Overhead Powerlines (Ausgrid Conditions)** - Safe work NSW Document – Work Near Overhead Powerlines: Code of Practice, outlines the minimum safety separation requirements between these mains/poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction. Special consideration should be given to the positioning and operating of cranes and the location of any scaffolding.

The "as constructed" minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website, www.ausgrid.com.au

It remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.

"Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost.

It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected be entering and leaving the site."

16. **Electricity Supply to Development** - The electricity supply to the Development must be underground.
17. **Building - (Structural Certificates prior to Construction Certificate)** - The proposed structure must be designed and certified by a practising qualified structural engineer with details submitted at Construction Certificate stage demonstrating this to the satisfaction of the Principal Certifying Authority.
18. **Engineering - Required design changes**

Drawing Reference	Date	Revision	Description	Prepared by
Job No.2019080 Drawing 2019080 HO1	16/5/2020	1	Roof Plan and Ground Floor Plan Hydraulic Details	ANA Civil Pty Ltd
Job No.2019080 Drawing 2019080 HO2	16/5/2020	1	Basement 1 & 2 Hydraulic Details	ANA Civil Pty Ltd

The following changes are required to be made to the Detailed Hydraulic Plans included with the Construction Certificate application:

- i. The existing kerb inlet pit in the Forest Road kerb and gutter is to be supplemented by an additional kerb inlet pit, contained to the frontage of the subject development site, with stormwater inlet capture to be no less than the existing structure;
- ii. Outlet pipes from external grated inlet pits and grated trench drains are to be 150mm (min.).

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

- (a) Stormwater & ancillary works in the road reserve. This includes connections to council's drainage system.
- (b) Stormwater & ancillary to public infrastructure on private land

The Stormwater Drainage Application approval must be obtained and evidence of the approval provided to the Certifying Authority prior to the issue of the Construction Certificate.

The Application Form for this activity can be downloaded from Council's website www.georgesriver.nsw.gov.au. For further information, please contact Council's Customer Service Centre on (02) 9330 6400.

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

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

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

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

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

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

Full details shall accompany the application for the Construction Certificate.

21. **Detailed Stormwater Drainage Design** - The submitted stormwater plan has been assessed as a concept plan only. A detailed drainage design supported by a catchment area plan and drainage calculations (including a Hydraulic Grade Line Analysis) must be submitted with the Construction Certificate application.
22. **Pump-Out System Design for Stormwater Disposal** - The design of the pump-out system for stormwater disposal will be permitted for drainage of basement areas only, and must be designed in accordance with the following criteria:
 - a) The pump system shall consist of two pumps, connected in parallel, with each pump being capable of emptying the holding tank at the rate equal to the rate of inflow for the one-hour duration storm. The holding tank shall be capable of holding one hour's runoff from a one-hour duration storm of the 1 in 20 year storm;
 - b) The pump system shall be regularly maintained and serviced, every six (6) months; and
 - c) Any drainage disposal to the street gutter from a pump system must have a stilling sump provided at the property line, connected to the street gutter by a suitable gravity line.

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

23. **Driveway Construction Plan Details** - Detailed engineering plans for the driveway shall be submitted with the Construction Certificate application for approval that show:
 - (a) A Longitudinal section, with gradients, prepared in accordance with AS/NZS2890.1-2004
24. **Council Property Shoring** - Prior to the issue of the Construction Certificate, plans and specifications prepared by a professional engineer specialising in practising structural engineering must detail how Council's property shall be supported at all times.

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

25. **Pre-Construction Dilapidation Report - Private Land** - A professional engineer specialising in structural or geotechnical engineering shall prepare a Pre-Construction Dilapidation Report detailing the current structural condition of adjoining premises including but not limited to:
- a) All neighbouring buildings likely to be affected by the excavation as determined by the consulting engineer.
 - b) The report shall be prepared at the expense of the applicant and submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.
 - c) A copy of the pre-construction dilapidation report is to be provided to the adjoining properties (subject of the dilapidation report), a minimum of 5 working days prior to the commencement of work. Evidence confirming that a copy of the pre-construction dilapidation report was delivered to the adjoining properties must be provided to the PCA.
 - d) Should the owners of properties (or their agents) refuse access to carry out inspections, after being given reasonable written notice, this shall be reported to Council to obtain Council's agreement to complete the report without access. Reasonable notice is a request for access in no sooner than 14 days between 8.00am-6.00pm.
26. **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.
27. **Structural details** - Engineer's details prepared by a practising Structural Engineer being used to construct all reinforced concrete work, structural beams, columns and other structural members. The details are to be submitted to the Principal Certifying Authority for approval prior to construction of the specified works. A copy shall be forwarded to Council where Council is not the PCA. In the design requires changes to the height of the building this will need to be considered as a modification.
28. **Access for Persons with a Disability and Adaptable Housing** - Access for persons with disabilities must be provided throughout the site, including to all common rooms, lobby areas, commercial premises and sanitary facilities in accordance with the requirements of the Premises Standards, the Building Code of Australia and AS 1428.1. Details must be submitted with the Construction Certificate Application other than a construction certificate for demolition, excavation, shoring and piling. In regards to the above, pedestrian access throughout basement levels shall be highlighted/line marked and sign posted to safeguard egress.
29. **Commonwealth Disability (Access to Premises) Standard** - The Commonwealth Disability (Access to Premises - Buildings) Standards 2010 (the Premises Standards) applies to all applications (i.e. Construction Certificate). This requires any new building, part of a building and the affected part of the existing building to comply with the

Premises Standards, the Building Code of Australia and AS 1428

30. **Landscape Plans** - All landscape works shall be carried out in accordance with the approved landscape plans and specifications, drawn by Susan Read Landscapes, Ref No – L1130/1819 – L01 – L02 issue D and dated 07/07/21. The landscaping shall be maintained in accordance with the approved plans in perpetuity,
- The proposed six (6) trees and plant species, pot/ bag size and quantities of plants shall be in accordance with the proposed plant schedule upon the landscape plan. If plant species, pot/ bag size and quantities cannot be sourced, Council shall be contacted for alternatives.
 - 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.
 - 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.
 - A certificate of compliance for the planting of all six (6) trees and shrubs proposed for the site. An AQF 5 Horticulturist shall be engaged and in writing certify that all trees have been planted as per landscape plan and specifications and forwarded to the PCA – Principal Certifying Authority.
31. **Tree Removal & Replacement** - Permission is granted for the removal of the following trees:

Tree Species	Number of trees	Location
<i>Yucca Spp</i> x 2	X2	Front and back yard of subject site

General Tree Removal Requirements

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

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.

32. **Geotechnical report** - The Construction Certificate plans shall demonstrate compliance with the submitted Geotechnical Report reference DD-822 dated 28.02.2019 prepared by Dirt Doctors Pty. Ltd.
33. **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.

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

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

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

The report shall be submitted with the Construction Certificate application.

35. **Slip Resistance** - All pedestrian surfaces in areas such as foyers, public corridors/hallways, stairs and ramps as well as floor surfaces in the wet rooms in any commercial/retail/residential apartments must have slip resistance classifications, as determined using test methods in either wet or dry conditions, appropriate to their gradient and exposure to wetting. The classifications of the new pedestrian surface materials, in wet or dry conditions, must comply with AS/NZS4586:2004 - Slip Resistance Classifications of New Pedestrian Materials and must be detailed on the plans lodged with the application for the Construction Certificate.
36. **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).
37. **Construction Traffic Management Plan** - A Construction Traffic Management Plan detailing but not limited to the following:
- (a) Construction vehicle routes;
 - (b) Anticipated number of trucks per day;
 - (c) Anticipated number of staff per day
 - (d) Hours of construction;
 - (e) Duration of construction;
 - (f) Traffic Control Plans to manage construction vehicles;
 - (g) Access arrangements; and
 - (h) Proposed traffic measures to minimise impacts of construction vehicles must be submitted for the approval of Council's Traffic Engineer. Council's Traffic Engineers must specify in writing that they are satisfied with the Traffic Management Plan prior to the issue of the Construction Certificate.
38. **Compliance with submitted Acoustic Report** - The Construction Certificate plans shall demonstrate compliance with the Acoustic Assessment submitted to Council, titled

“Acoustic Report – Traffic and Environmental Noise” dated 6 July 2012¹ with Reference No.: 2019-080 Rev 1 prepared by Acoustic Noise and Vibration Solutions Pty Ltd.

This means that a review of glazing design and mechanical plant must be undertaken to ensure that acoustic objectives will be met. Written verification from a suitably qualified acoustic consultant must be submitted to Council validating that the acoustic objectives contained within the aforementioned report will be met, must be submitted to Council for approval.

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

39. **Acoustic Requirements - Acoustic Report - 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.

An Acoustic Report shall be prepared by a suitably qualified acoustic consultant demonstrating that the operation of the premises and plant equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background LA₉₀, 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 LA_{eq}, 15 min in accordance with the NSW Environment Protection Authority's NSW Industrial Noise Policy.

40. **Planter Boxes** – All planter boxes, rooftop landscape area, and the green wall are to have an automatic irrigation system. Details to be submitted to the satisfaction of the PCA prior to the release of the construction certificate.
41. **SEPP 65 Design Verification Statement** - A design verification statement, prepared by a qualified designer, shall be submitted to the Certifying Authority 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.
42. **Waste Room Construction** - The construction certificate drawing shall show the waste room containing the following to minimise odours, deter vermin, protect surrounding areas, and make it a user-friendly and safe area:
- (a) waste room floor to be sealed;
 - (b) waste room walls and floor surface is flat and even;
 - (c) all walls painted with light colour and washable paint;
 - (d) equipment electric outlets to be installed 1700mm above floor levels;
 - (e) bin storage rooms will be mechanically exhausted as required by AS 1668.2;
 - (f) light switch installed at height of 1.6m;
 - (g) waste rooms must be well lit (sensor lighting recommended);
 - (h) optional automatic odour and pest control system installed to eliminate all pest
 - (i) all personnel doors are hinged and self-closing.
 - (j) adequately ventilated (mechanically or naturally) so that odour emissions do not cause offensive odour as defined by the Protection of the Environment Operations Act 1997;
 - (k) provided with a hose tap connected to the water supply;
 - (l) paved with impervious floor materials;
 - (m) coved at the intersection of the floor and the walls;

(n) graded and drained to a waste disposal system in accordance with the requirements of the relevant regulatory authority (Sydney Water).

43. **Traffic Design Certificate** - A detailed “design” certificate from an experienced and qualified traffic engineer with tertiary qualifications is to be submitted to and approved by the Principal Certifying Authority confirming the following:

- (a) The car parking layout and loading areas associated with the development (including, driveway grades, headroom clearance turn paths, aisle widths, aisle lengths and parking bay dimensions) should be in accordance with AS2890.1:2004, AS2890.6:2009 and AS2890.2:2018.
- (b) Bicycle parking associated with the development is provided in accordance with AS2890.3 design requirements.
- (c) Driveway access complies with Figure 3.3 of AS2890.1:2004 minimum sight lines for pedestrian safety.
- (d) All vehicles shall enter and exit the premises in a forward direction;
- (e) Confirmation that the plans provide for the following allocation of parking facilities:
 - Residential dwellings: 8 car spaces (including the accessible spaces in levels B2B and B1B)
 - Residential visitors: 3 car spaces (including car wash bay)
 - Retail: 2 car spaces (including the accessible space in level B1B)
 - Commercial: 2 car spaces

Note: The above shall take into account the required design change condition which centralised the shared space to be shared between two accessible car spaces in level B1B.

44. **Waste Handling Systems** - All waste handling equipment and systems used in conjunction with the provision of waste and recycling services shall be manufactured, installed and maintained in accordance with any applicable regulatory requirements, relevant Australian Standards, and relevant manufacturer’s specifications.

45. **Lighting** - Downlights must be installed on the pedestrian awning to provide lighting for pedestrians. Lighting must comply with the relevant Australian Standard.

46. **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 (to be separate from commercial waste and labelled accordingly):

- (a) Domestic Waste - 4 x 240 litre mobile bins.

- (b) Domestic Recycling - 4 x 240 litre mobile bins.
- (c) Green Waste - 1 x 240 litre mobile bin.

Commercial Waste

The development will require the provision of the following waste and recycling facilities (to be separate from residential waste and labelled accordingly):

- (a) General Waste – 2 x 240 litre mobile bins.
- (b) General Recycling – 1 x 240 litre mobile bins.

47. **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).

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

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

Please contact Council prior to the payment of Section 7.11 Contributions to determine whether the amounts have been indexed from that indicated below in this consent and the form of payment that will be accepted by Council.

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

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

Fee Type	Fee
GENERAL FEES	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See https://portal.longservice.nsw.gov.au/bci/levy/	
Builders Damage Deposit	\$18,836.64
Inspection Fee for Refund of Damage Deposit	\$371.00

DEVELOPMENT CONTRIBUTIONS	
Hurstville Section 94 Development Contributions Plan 2012 – Residential (Community Facilities)	\$7,354.49
Hurstville Section 94 Development Contributions Plan 2012 – Residential (Open Space, Recreation, Public Domain)	\$52,010.37
TOTAL CONTRIBUTIONS	\$59,364.86

General Fees

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

Development Contributions

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 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.

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

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

The site management measures are to be implemented prior to the commencement of

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

50. **BASIX Commitments** – All energy efficiency measures as detailed in the BASIX Certificate No. 1003366M_03 must be implemented on the plans lodged with the application for the Construction Certificate.

51. **Required design changes** – The following changes are required to be made and shown on the Construction Certificate plans:

- (a) The shared space (labelled as shared zone) within basement B1B shall be relocated to car space 5.

The current location of the shared zone and car space 6 shall be converted accessible car spaces which share a common shared zone.

- (b) The bathrooms of Units 3, 4, 7, and 8 shall incorporate an openable window (as required by the NCC) along the south-western façade of the bathrooms (overlooking external planter boxes).

The windows shall be high-light frosted windows with a minimum of 1.8m floor-to sill height measured from the finished floor levels of the bathrooms.

- (c) All bathrooms shall be mechanically ventilated.

- (d) The external windows of Units 1, 2, 5 and 6 along the lightwells (located along the side facades of the building) shall be openable windows (as required by the NCC).

The above does not include the glass block windows along the hallways of those units. The glass block windows proposed along the lightwell shall remain as proposed.

- (e) Mailboxes are to be allocated for all residential units, retail tenancy, and commercial tenancies. The mailboxes shall not be located along the street façade of the building.

- (f) The external southern walls of Basement B1 shall be designed in a way enabling a future right of way to the neighbouring site to the south (ie: 606 Forest Road Penshurst).

52. **Sydney Airport Approval** – Prior to the release of the construction certificate, approval needs to be obtained from Sydney Airport in relation to the maximum permitted height for cranes (<https://www.sydneyairport.com.au/corporate/planning-and-projects/airspace-protection-tile>).

Application pursuant to airport (protection of airspace) regulations reg 7:

- (a) Pursuant to s. 183 of the Airports Act 1996 and Reg 7 of the Airports (Protection of Airspace) Regulations 1996, the Proponent must apply through the Airport to the Secretary of the Department of Infrastructure and Regional Development for approval of the operation ("controlled activity") set out in the Schedule.

- (b) An Application for approval must be given to the Airport at least 28 days before commencement of the operation.
- (c) The operation must not commence without approval and must only proceed in compliance with any conditions imposed on such approval.
- (d) Sydney Airport has delegated authority from the Secretary to determine "short term" operations (less than 3 months).
- (e) The Airport is required to invite submissions from CASA and Airservices regarding the proposed operation.
- (f) The Secretary and the Airport, as applicable, may request further information before determining an application.
- (g) The "Important Notes" must be read and accepted.
- (h) The Proponent must complete this Application and provide it to Sydney Airport, with a copy to the Council as part of the relevant Development Application

53. **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.

54. **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 underground by gravity to the upper level of Council's kerb inlet /gully pit located in Forest Road directly in front of the subject development 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.

Stormwater Systems with Basement

- (c) The underground basement car park must pump to and all other stormwater must

drain by gravity to:

- i. the upper level of the existing, or new kerb inlet pit required to be constructed directly in front of the development site.

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

Protection of basement from inundation of stormwater waters

- (d) A crest is to be provided in the driveway ramp that provides protection for the underground basement from gutter flow and wave-motion created from passing traffic during a 1:100yr ARI storm event.

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

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

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

56. **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).
57. **Allocation of street addresses** - In order to comply with AS/NZS 4819:2011 Rural and Urban Addressing & the NSW Addressing User Manual (Geographical Names Board of NSW) and Georges River Council's requirements, the street addresses for the subject development must be allocated as follows:

Unit No. on plan	Proposed street address to comply with AS/NZS 4819:2011 and NSW Addressing Manual
Retail	Shop 1/608 Forest Road, Penshurst NSW 2222
CS1	Suite G01/608 Forest Road, Penshurst NSW 2222
CS2	Suite G02/608 Forest Road, Penshurst NSW 2222
Unit 1	Unit 101/608 Forest Road, Penshurst NSW 2222
Unit 2	Unit 102/608 Forest Road, Penshurst NSW 2222
Unit 3	Unit 103/608 Forest Road, Penshurst NSW 2222
Unit 4	Unit 104/608 Forest Road, Penshurst NSW 2222
Unit 5	Unit 201/608 Forest Road, Penshurst NSW 2222
Unit 6	Unit 202/608 Forest Road, Penshurst NSW 2222
Unit 7	Unit 203/608 Forest Road, Penshurst NSW 2222
Unit 8	Unit 204/608 Forest Road, Penshurst NSW 2222

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

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

58. **Hazardous or Intractable Waste - Removal and Disposal** - Hazardous or intractable waste arising from the demolition or construction process shall be removed and disposed of in accordance with the requirements of SafeWork NSW and the NSW Environment Protection Authority and with the provision of:
- Work Health and Safety Act 2011 (NSW) (as amended);
 - Work Health and Safety Regulation 2011 (as amended);
 - Protection Of the Environment Operations Act 1997 (NSW) (as amended); and
 - Protection of the Environment Operations (Waste) Regulation 2014 (as amended)
59. **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.

60. **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.

61. **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.
62. **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.
63. **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.

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

During Construction

65. **Physical connection of Stormwater to site** - No work is permitted to proceed above

the ground floor slab level of the building until there is physical connection of the approved stormwater drainage system from the land the subject of this consent to Council's kerb inlet/gully pit in Forest Road.

66. **Contamination - Unexpected Finds** - Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier and all works on site must cease immediately.
67. **Public Utility and Telecommunication Assets** - The owner shall bear the cost of any relocation or modification required to any Public Utility Authority assets including telecommunication lines and cables and restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site.
68. **Damage within Road Reserve and Council Assets-** The owner shall bear the cost of **restoring** any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site. This may include works by Public Utility Authorities in the course of providing services to the site.
69. **Site sign - Soil & Erosion Control Measures** - Prior to the commencement of works (including demolition and excavation), a durable site sign, issued by Council in conjunction with this consent, must be erected in a prominent location on site. The site sign warns of the penalties which apply to pollution, storing materials on road or footpath and breaches of the conditions relating to erosion and sediment controls. The sign must remain in a prominent location on site up until the completion of all site and building works.
70. **Hours of construction for demolition and building work** - Any work activity or activity associated with the development consent that requires the use of any tools (including hand tools) or any power operated plant and machinery that creates noise on or adjacent to the site shall not be performed, or permitted to be performed, except between the hours of 7.00am to 5.00pm, Monday to Saturday inclusive. No work or ancillary activity is permitted on Sundays, or Public Holidays.

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

71. **Ground levels and retaining walls** - The ground levels of the site shall not be excavated, raised or filled, or retaining walls constructed on the allotment boundary, except where indicated on approved plans or approved by Council.
72. **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.
73. **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.

74. **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.

75. **Demolition and Construction Vehicles (Transport for NSW Condition)** - All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping.

Prior to the issue of the Occupation Certificate

76. **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.

77. **Acoustic Compliance** – Prior to the issue of any Occupation Certificate, a report prepared by a suitably qualified acoustic consultant must be submitted to the PCA certifying that the construction has incorporated the recommendations of the approved acoustic report titled "*Acoustic Report – Traffic and Environmental Noise*" dated 6 July 20121 with Reference No.: 2019-080 Rev 1 prepared by Acoustic Noise and Vibration Solutions P/L

78. **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.

79. **Traffic Certification-** An "as built" certificate from an experienced and qualified traffic engineer with tertiary qualifications is to be submitted to and approved by the Principal Certifying Authority confirming the following:

- (a) The car parking layout and loading areas associated with the development (including, driveway grades, headroom clearance turn paths, aisle widths, aisle lengths and parking bay dimensions) has been constructed in accordance with AS2890.1:2004, AS2890.6:2009 and AS2890.2:2018.
- (b) Bicycle parking associated with the development is provided in accordance with AS2890.3 design requirements.

- (c) Driveway access complies with Figure 3.3 of AS2890.1:2004 minimum sight lines for pedestrian safety.
- (d) All vehicles shall enter and exit the premises in a forward direction;
- (e) Confirmation that the plans provide for the following allocation of parking facilities:
 - Residential dwellings: 8 car spaces (including the accessible spaces in levels B2B and B1B)
 - Residential visitors: 3 car spaces (including car wash bay)
 - Retail: 2 car spaces (including the accessible space in level B1B)
 - Commercial: 2 car spaces

Note: The above shall take into account the required design change condition which centralised the shared space to be shared between two accessible car spaces in level B1B.

- (f) Parking spaces shall be clearly 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* where required.

- (g) The internal traffic control devices function as intended.

80. **Certification – air handling systems (including water-cooling system, hot water systems and warm-water system)-** Certification by a suitably qualified person engineer '2012 must be submitted to the PCA prior to the issue of any occupation certificate verifying that the air handling system has been installed in accordance with:

- (a) [Public Health Act 2010](#) (as amended)
- (b) [Public Health Regulation 2012](#) (as amended)
- (c) AS/NZS 3666.1:2011 *Air-handling and water systems of buildings -Microbial control -Design, installation and commissioning*

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

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

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

82. **Fire Safety Certificate before Occupation or Use** - In accordance with Clause 153 of the Environmental Planning and Assessment Regulation 2000, on completion of building works and prior to the issue of an Occupation Certificate, the owner must cause the issue of a Final Fire Safety Certificate in accordance with Clause 170 of the aforesaid

Regulation. The Fire Safety Certificate must be in the form or to the effect of Clause 174 of the Environmental Planning and Assessment Regulation, 2000. In addition, in relation to each essential fire or other safety measure implemented in the building or on the land on which the building is situated, such a Certificate is to state:

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

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

83. **SEPP 65 Design Verification Statement** - The PCA must not issue an Occupation Certificate to authorise a person to commence occupation of the residential flat development unless the PCA 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.
84. **Completion of Landscape Works** - All landscape works (as per approved landscape plan) must be **completed before the** issue of the Final Occupation Certificate in accordance with approved landscape plans and specifications, drawn by
- (a) The proposed six (6) trees and plant species, pot/ bag size and quantities of plants shall be in accordance with the proposed plant schedule upon the landscape plan. If plant species, pot/ bag size and quantities cannot be sourced, Council shall be contacted for alternatives.
 - (b) All trees proposed upon the approved landscape plan shall comply with AS 2303 – 2018, Tree Stock for Landscape use and NATSPEC Specifying Trees: a guide to assessment of tree quality (2003), and be planted and maintained in accordance with Councils standard specification.
 - (c) If the planted trees and plants are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species. If the trees are found dead before they reach a height where they are protected by Councils Tree Management Controls, they must be replaced with the same species and pot/bag size.
 - (d) A certificate of compliance for the planting of all six (6) trees and shrubs proposed for the site. An AQF 5 Horticulturist shall be engaged and in writing certify that all trees have been planted as per landscape plan and specifications and forwarded to the PCA – Principal Certifying Authority.
85. **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.

86. **Maintenance Schedule - On-site Stormwater Management** - A Maintenance Schedule for the proposed on-site stormwater management measures is to be prepared and submitted to Council. The Maintenance Schedule shall outline the required maintenance works, how and when these will be done and who will be carrying out these maintenance works.
87. **Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the Sydney Water Act 1994 <<http://legislation.nsw.gov.au/>> must be submitted to the PCA prior to the issue of the Occupation/Subdivision Certificate.
88. **Works as Executed and Certification of Stormwater works** - Prior to the issue of an Occupation Certificate, the PCA must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards. A works-as-executed drainage plan and certification must be forwarded to the PCA and Council, from a professional engineer specialising in hydraulic engineering.

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

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

- (a) The location of any detention tank/facility with finished surface levels;
 - (b) Volume of storage available in any detention system;
 - (c) The location, diameter, gradient and material (i.e. PVC, RC etc.) of all stormwater pipes;
 - (d) The orifice size/s;
 - (e) Details of any pumping systems installed (including wet well volumes).
89. **Requirements prior to the issue of the Occupation Certificate** - The following shall be completed and or submitted to the PCA prior to the issue of the Occupation Certificate:
 - (a) All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
 - (b) The internal driveway construction works, together with the provision for all services (conduits and pipes laid) shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
 - (c) Construct any new vehicle crossings required.
 - (d) Replace all redundant vehicle crossing laybacks with kerb and guttering.
 - (e) A Section 73 (Sydney Water) Compliance Certificate for the Subdivision shall be issued and submitted to the PCA prior to the issue of the Occupation Certificate.
 - (f) Work as Executed Plans prepared by a Chartered Professional Engineer or a Registered Surveyor when all the site engineering works are complete shall be submitted to the PCA prior to the issue of the Occupation Certificate.
 - (g) The construction of the kerb inlet pit in Forest Road shall be completed in accordance with the conditions and specifications of the Section 138 Activity

Approval.

90. **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.

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

- (a) Construct a width or full width - boundary to kerb - footpath for the full length of the frontage of the site in Forest Road in accordance with Council's Specifications for footpaths.
- (b) Construct the driveway 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 Forest Road 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 areas shall be restored at the expense of the applicant and in accordance with Council's Specification for Driveway Crossings and Associated Works.
- (e) Construct a kerb inlet pit in Forest Road to supplement the diminished inlet capacity of the modified gully pit coinciding with the proposed vehicular crossing.t works]

A private contractor shall carry out the above work, at the expense of the applicant and in accordance with Council's Specification for Driveway Crossings and Associated Works.

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

92. **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.
93. **Electricity Supply** - Evidence shall be provided demonstrating that the development has been connected to Ausgrid (or relevant electricity provider).
94. **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) 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) New or reinstated kerb and guttering within the road related area; and
- (f) New or reinstated road surface pavement within the road.

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

95. **Stormwater drainage works - Works As Executed** - Prior to the issue of the Occupation Certificate, stormwater drainage works are to be certified by a professional engineer specialising in hydraulic engineering, with Works-As-Executed drawings supplied to Council detailing:
- (a) Compliance with conditions of development consent relating to stormwater;
 - (b) The structural adequacy of the On-Site Detention system (OSD);
 - (c) That the works have been constructed in accordance with the approved design and will provide the detention storage volume and attenuation in accordance with the submitted calculations;
 - (d) Pipe invert levels and surface levels to Australian Height Datum;
 - (e) Contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.
96. **BASIX Certificate** - All energy efficiency measures as detailed in the approved BASIX Certificate in the plans approved with the Development Consent, must be implemented before issue of any Occupation Certificate.
97. **Electricity Supply** - Evidence shall be provided demonstrating that the development has been connected to the Ausgrid, if required.
98. **Allocation of car parking spaces** - Car parking associated with the development is to be allocated as follows:
- (a) Residential dwellings: 8 car spaces (including the accessible spaces in levels B2B and B1B)
 - (b) Residential visitors: 3 car spaces (including car wash bay)
 - (c) Retail: 2 car spaces (including the accessible space in level B1B)
 - (d) Commercial: 2 car spaces
99. **Driveways and parking spaces** - Internal driveways and parking spaces are to be adequately paved with concrete or bitumen, or interlocking pavers to provide a dust-free surface.
100. **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.

101. **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.

102. **Notice to Council - Allocation of street addresses** - Prior to the issue of any Occupation Certificate, 'as-built' drawings detailing the installed and allocated street/unit address and numbering must be submitted to the satisfaction of Council.

Operational Conditions (Ongoing)

103. **No Structures on Street Facing Roof Plane or Awning** - No solar hot water heater storage tanks, collar panels, ventilators, air conditioning units, satellite dishes and antennae or the like are to be placed on roof planes, parapets or street awnings of the building which are visible from a public street.
104. **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).
105. **Mailboxes** - Suitable Mailbox facilities (including Owner's Corporation in the case of strata units) shall be provided within the site in accordance with Australia Post specifications. Mailboxes shall not be located along the street façade.
106. **Air Conditioning / Offensive Noise** - Air conditioning plant and equipment shall be installed and operated so as to not create an offensive noise as defined under the Protection of the Environment Operations Act 1997 and Protection of the Environment Operations (Noise Control) Regulation 2008.
107. **Responsibility of Owners Corporation**- The Owners Corporation shall be responsible for presenting all approved recycling receptacles for collection on the driveway of the site, and returning all receptacles to the Main Waste Collection Room, as soon as practicable after they have been serviced.

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

108. **Activities and storage of goods outside buildings** - There shall be no activities including storing or depositing of any goods or maintenance to any machinery external to the building with the exception of waste receptacles.

109. **Entering & Exiting of vehicles** - All vehicles shall enter and exit the premises in a forward direction.
110. **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.
111. **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.
112. **Compliance with POM for use of Communal Open Space** – Use of the building, communal open space areas, and the rooftop communal area shall be in accordance with the approved plan of management prepared by D.T Civil Pty Ltd reference POM – 21/022 dated 01/07/2021.
113. **Activities and storage of goods outside buildings** - There shall be no activities including storing or depositing of any goods or maintenance to any machinery external to the building.
114. **Crime Prevention** - In order to reduce the risk of crime, the following are to accompany the Construction Certificate application:
- (a) The development is to provide Closed-Circuit Television (CCTV) cameras in and around the development. A Closed-Circuit Television plan is to be prepared in that regard.
 - (b) The number of each level must be prominently displayed adjacent the elevators and fire stairs to assist users of the property identify locations particularly in emergency situations.
 - (c) The CCTV system must continuously at all times.
 - (d) Recordings must be in a digital format and at a minimum of ten frames per second (10 fps).
 - (e) Any recorded image must specify the time and date of the recorded image.
 - (f) The systems cameras must cover the following areas
 - i. All entry and exit points on the premises
 - ii. The footpath immediately adjacent to the premises
 - iii. All publicly accessible areas (other than toilets) within the premises.
 - iv. Throughout the underground car park to monitor activities around these areas
 - (g) Car parking entrance and pedestrian access points - The car parking entrance gate(s) and all pedestrian access points are to be closed and locked when they are not in operation.
115. **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.

116. Waste - Ongoing - Waste management must be in accordance to the below:

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

Residential Waste

- Domestic Waste - 4 x 240 litre mobile bins.
- Domestic Recycling - 4 x 240 litre mobile bins.
- Green Waste - 1 x 240 litre mobile bin.

Commercial Waste

- General Waste – 2 x 240 litre mobile bins.
- General Recycling – 1 x 240 litre mobile bins.

To limit negative amenity (noise, traffic etc.) on neighbouring properties, it is required that on-site storage be reconfigured to enable maximum twice weekly collection of all wastes (general waste and commingled recycling) from the proposed development.

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

Operational Requirements Under the Environmental Planning & Assessment Act 1979

- 117. Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued.
- 118. 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.

119. **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.

120. **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.

121. **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.

122. **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.

123. **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

124. **Clause 97A - BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
125. **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.
126. **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.
127. **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.
128. **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

129. **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.
130. **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.
131. **Access to NSW Legislations (Acts, Regulations and Planning Instruments)** - NSW legislation can be accessed free of charge at www.legislation.nsw.gov.au
132. **Council as PCA - Compliance with the BCA** - Should the Council be appointed as the PCA, 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 air handling, ventilation and car park exhaust system.
- b) Essential fire services and equipment including hydrant systems, hose reels, sprinklers, mechanical air handling system, portable fire extinguishers, emergency lights, exit signs, smoke hazard management and warning systems, etc.
- c) Smoke hazard management system and associated alarm system, stair pressurisation and fire modelling etc.
- d) Emergency lights, exit signs and warning systems.
- e) Energy efficiency report demonstrating compliance with the BCA.
- f) Protection of wall openings that stand less than 3 metres from the boundary or fire source feature.
- g) Fire Separation and Construction between Occupancies
- h) Sound Transmission & Insulation between Occupancies
- i) A new Fire Engineered Building Report prepared by an accredited fire engineer, confirming that the existing alternative solution implemented in the building will not be rendered ineffective by the proposed building alterations and fit-out works.
- j) Floor plan of the whole of the existing building with sufficient details to enable assessment for compliance with the BCA.

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

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

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

135. **Acoustical Engineer Contacts & Reference Material** - Further information including lists of Acoustic Engineers can be obtained from:

- (a) Australian Acoustical Society - professional society of noise-related professionals (www.acoustics.asn.au)
- (b) Association of Australian Acoustical Consultants - professional society of noise related professionals (www.aaac.org.au)
- (c) NSW Industrial Noise Policy - Office of Environment & Heritage (www.environment.nsw.gov.au)

136. **Access for persons with disabilities** - Should the Council be appointed as the PCA, an Access report prepared by an Accredited Access Consultant may be required to be

submitted with the Construction Certificate Application, detailing the existing level of compliance in the building with the above requirements, and to provide details of proposed upgrading work necessary to bring the building into conformity with the Premises Standards and the BCA. All recommendations of the accredited access consultant must be incorporated in the plans to be submitted with the Construction Certificate application.

137. **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.
138. **FR NSW comments** - Prior to the issue of a Construction Certificate the applicant may be required, under Clause 144 of the Environmental Planning & Assessment Regulation 2000 to seek written comment from FR NSW about any Fire Engineered Solution developed to meet the performance requirements for external combustible cladding.
139. **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.

140. **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.

141. **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.

142. **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).

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

- (a) Complete the Stormwater Drainage Application Form which can be downloaded from Georges River Council's website at www.georgesriver.nsw.gov.au.
- (b) In the Application Form, quote the Development Consent No. (eg. DA2019/0135) and reference this condition number (e.g. Condition 23)
- (c) Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Council's adopted Fees and Charges for the administrative and inspection charges associated with stormwater applications.

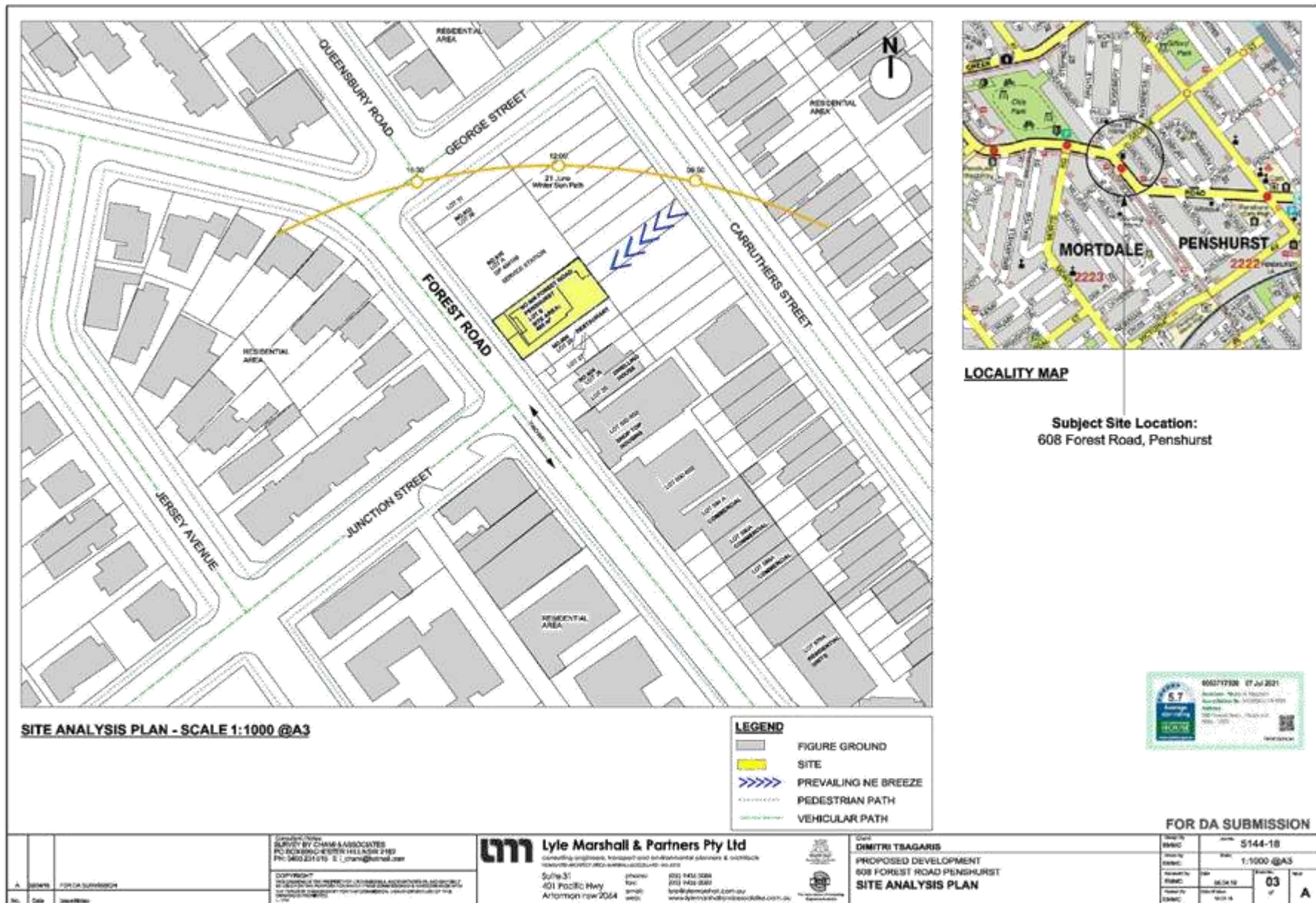
The developer must meet all costs of the extension, relocation or reconstruction of any part of Council's drainage system (including design drawings and easements) required to carry out the approved development.

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

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

ATTACHMENTS

- Attachment [1](#)  Site plan and Elevation plans - 608 Forest Rd Penshurst
- Attachment [2](#)  3D Artist impressions - 608 Forest Rd Penshurst







STREET VIEW (FOREST ROAD)		FOR DA SUBMISSION	
P. 28/03/21 C. 28/03/21 C. 28/03/21 C. 28/03/21	AMENDED TO COUNCIL JUNE 2021 (LPP) AND CENTRAL CORAMINDED FOR BUL REVIEW FOR AMENDMENTS TO COUNCIL AMENDMENTS TO DESIGN AND FSR	Consultant: LYLE MARSHALL & PARTNERS PO BOX 99000 - 4/2010 HILL AVE NSW 2147 PH: 0403 231 515 E: lmarshall@lmpartners.com.au	Lyle Marshall & Partners Pty Ltd Consulting engineers, transport and environmental planners & architects 4/2010 HILL AVE NSW 2147
No. Date: 28/03/21		Copyright: All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording, or by any information storage and retrieval system, without prior written permission from Lyle Marshall & Partners Pty Ltd.	4/2010 Hill Ave 4/2010 Hill Ave 4/2010 Hill Ave 4/2010 Hill Ave
5144-18 NTS @A3 27 F		DIMITRI TSAGARIS PROPOSED DEVELOPMENT 608 FOREST ROAD PENSURST CONCEPT MASSING MODEL IMAGE	



VIEW OF NORTHERN FACADE FROM ADJOINING (7 ELEVEN)



VIEW OF NORTHERN FACADE



STREET VIEW (FOREST ROAD)

FOR DA SUBMISSION

Q	APPROVED TO COUNCIL	Consulting Engineer
C	APPROVED TO DESIGN AND FIRM	SUPPLY BY CHAM & ASSOCIATES
B	DESIGNED AND DRAWN BY ARCHITECT	PO BOX 80000 - 401/101 HILL AVE NSW 2147
A	DESIGNED FOR DA SUBMISSION	PH: 9453 2311 TO 5 L. Tsang@lmp.com.au
A	DESIGNED FOR DA SUBMISSION	
Rev	Date	Drawn/Revised

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 Consulting Engineers, Transport and Environmental Engineers & Architects
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DIMITRI TSAGANIS
 PROPOSED DEVELOPMENT
 608 FOREST ROAD PENSURST
 CONCEPT MASSING MODEL IMAGE®

Project No	5144-18
Client	NTS @A3
Scale	28
Sheet No	D

REPORT TO GEORGES RIVER COUNCIL LPP MEETING OF THURSDAY, 05 AUGUST 2021

LPP035-21

LPP Report No	LPP035-21	Development Application No	DA2021/0125
Site Address & Ward Locality	17-19 Vista Street San Souci Kogarah Bay Ward		
Proposed Development	Alterations and additions to the Heritage Item in the form of a new alfresco dining area, rear pool, filling in the existing pool at the front and associated landscaping works		
Owners	Mrs Camille Cassell		
Applicant	Luxitecture		
Planner/Architect	Luxitecture		
Date Of Lodgement	16/04/2021		
Submissions	No submissions received		
Cost of Works	\$250,000.00		
Local Planning Panel Criteria	Alterations and additions to a Local Heritage Item		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy No.55 – Remediation of Land, State Environmental Planning Policy (Coastal Management) 2018, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, State Environmental Planning Policy (Vegetation on Non-Rural Areas), Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment, Draft Environment State Environmental Planning Policy, Draft Remediation of Land State Environmental Planning Policy, Draft State Environmental Planning Policy – Design and Place, Kogarah Local Environmental Plan 2012, Kogarah Development Control Plan 2013, Draft Georges River LEP 2020, Draft Georges River DCP 2020		
List all documents submitted with this report for the Panel's consideration	Statement of Environmental Effects Architectural Plans Heritage Impact Statement Acid Sulfate Soils Investigation report and management plan		
Report prepared by	Senior Development Assessment Planner		

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

the assessment report?	
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Not Applicable
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	Not Applicable
Conditions Have draft conditions been provided to the applicant for comment?	No, standard conditions have been attached with no design changes

Site Plan



Aerial photo – the site is outlined in blue

Executive Summary

Proposal

1. Council is in receipt of a Development Application No. DA2021/0125 for alterations to the existing dwelling house by infilling the swimming pool within the front setback to create a soft landscaped area, new semi-covered alfresco dining area at the rear, new in-ground swimming pool in the rear, patio, deck and associated landscaping and site works.
2. The subject site is a designated a Local Heritage Item identified as I162 within Schedule 5 of the Kogarah Local Environmental Plan 2012 and known as Lot 1 DP 216929 a dwelling house called "Palmyra".

3. The determination authority in this case is the Georges River Local Planning Panel (GRLPP) as the property is identified as a local heritage item and falls within the category of “sensitive” development in accordance with Schedule 1 of the Minister’s Local Planning Panel Direction dated 30 June 2020.

Site and Locality

4. The subject site is located on the western side of Vista Street adjacent to the foreshore. The site has a frontage of 21.78m to Vista Street, irregular side boundaries with a total site area of 1,277sqm.



Photo 1: Front of the subject site from Vista Street

5. Existing on site is a part two, part three storey detached dwelling house with an in-ground swimming pool within the front setback and a garage and carport located along the southern side of the allotment. The property includes a private jetty. The subject site is identified as a Local Heritage Item and is known as “Palmyra”.
6. The site includes a driveway off Vista Street which provides direct private access to the carport structure which adjoins the main entry to the home. There is also a shared right of carriageway which provides vehicular access to the garage of the subject site and 21 Vista Street.



Photo 2: Rear of the subject site

7. Immediately to the north is a detached two storey dwelling house known as 15 Vista Street. To the south is 21 Vista Street which is a single storey detached dwelling house that is located towards the rear of the block with access off a right of accessway from Vista Street and 21A Vista Street which is a two storey dwelling house at the front with direct access off Vista Street.
8. The site is located within a predominantly residential streetscape.



Photo 3: Rear of the property when viewed from Kogarah Bay

Zoning and Permissibility

9. The subject site is zoned R2 – low density residential in accordance with the provisions of the Kogarah Local Environmental Plan 2012.
10. Alterations and additions to a dwelling house are a permissible use in the zone with consent and also satisfy the objectives of this zone.

Submissions

11. The application was advertised and notified with a sign placed onsite for a 28 day period in accordance with the provisions of Section 1.3.4 of the Kogarah Development Control Plan 2012.
12. No submissions were received.

Conclusion

13. The proposed alterations and additions are considered to be small scale works that aim to improve the functionality, aesthetics, appearance and amenity of the dwelling and its private open space.
14. The proposal was referred to Council's Heritage Advisor who raised no concerns or objections to the proposed works.
15. The proposed development complies with Council's key planning and design controls and is therefore considered to be a reasonable and acceptable planning and design outcome that will improve the appearance of the property and will have a positive contribution to the streetscape without adversely affecting the historic significance and integrity of the property.
16. Having regard to the matters for consideration under section 4.15(1) of the Environmental Planning and Assessment Act 1979, the provisions of the relevant State Environmental Planning Policies, Local Environmental Plans and Development Control Plans, the proposed development application (DA2021/0125) is recommended for approval subject to the conditions referenced at the end of this report.

Report in Full

Proposal

17. The proposal involves the following works;

Front of house

- Infilling of the existing in-ground pool and replace with grass and an in-ground trampoline and associated landscape features.
- New paving to driveway.

Rear of house

- New in-ground pool along the southern side at the rear
- New rear deck
- New partially enclosed alfresco outdoor area adjacent to the kitchen and pool area along the southern side.
- Associated landscaping and site works.
- New side boundary brick fence along the northern and southern side of the site located at the rear.

18. There are no other internal changes proposed to the dwelling. The Landscape Plan in Figure 1 below shows the extent of works proposed.



Figure 1: Landscape Plan showing the scope of new works

The Site and Locality

19. The subject site is located at 17-19 Vista Street Sans Souci and comprises of Lot 1 in DP 216929. The site is located on the western side of the street and adjoins the foreshore of Kogarah Bay with the Bay being its neighbour to the rear. The site includes a private jetty that extends from the property out into the Bay for exclusive use by this site.
20. A small section of the rear yard along with all the part of the water that falls below the Mean High Water Mark (MHW) is Crown Land and the owners have a lease or active licence obtained from Crown Land to utilise this portion of the site. The licence no. is R1588949 and expires on 30 July 2037 and relates to the ramp (timber), pontoon, piles and jetty.
21. The detached two-storey Federation style dwelling house on the property was constructed circa 1910 and includes a carport with independent vehicular access to this structure along the southern side of the allotment. Access off a right of carriageway also exists to service the garage also located along the southern side of the property.
22. Currently the front setback of the allotment is an in-ground swimming pool. The site is a designated heritage item of local significance.
23. The site is located within a residential precinct and all immediately adjoining properties are detached dwelling houses of varying heights, architectural styles and forms.

Background

24. There is no relevant planning history relating to this site.

PLANNING ASSESSMENT

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

ENVIRONMENTAL PLANNING INSTRUMENTS

Environmental Planning and Assessment Act, 1979 (EP&A Act)

26. The proposal is considered to be consistent with the aims and objectives of the Act.

Environmental Planning and Assessment Regulation 2000

27. The proposal is considered to have met the statutory requirements under Schedule 1 of the Regulations.

STATE ENVIRONMENTAL PLANNING POLICIES

28. Compliance with the relevant State Environmental Planning Policies (SEPP's) is detailed below in Table 1 and the associated text.

Table 1: List of State Environmental Planning Policies and Regional Environmental Plans relevant to this site

State Environmental Planning Policies/Regional Environmental Plans	Complies
State Environmental Planning Policy No.55 – Remediation of Land	Yes
State Environmental Planning Policy (Coastal Management) 2018	Yes
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Yes
State Environmental Planning Policy (Vegetation on Non-Rural Areas)	Yes
Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment	Yes
Draft Environment State Environmental Planning Policy	Yes
Draft Remediation of Land State Environmental Planning Policy	Yes
Draft State Environmental Planning Policy – Design and Place	Yes
Water Management Act, 2000	Yes

State Environmental Planning Policy No.55 – Remediation of Land

29. SEPP 55 aims to promote and identify contaminated land/s and whether remediation is required in order to reduce the risk of harm to human health or any aspect to the environment. It aims to ensure land is suitable for its intended use.
30. Clause 7 of the policy 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.
31. The proposed modifications primarily relate to aesthetic changes to the landscaping and the only earthworks proposed are to accommodate the in-ground pool at the rear and backfilling of the pool being removed within the front setback of the site.
32. The subject site has been historically utilised for residential purposes and it is therefore highly unlikely that the site is contaminated in any way. In this regard, no further assessment is warranted with regards to site contamination and the objectives of SEPP 55 are considered to be satisfied.
33. The application is accompanied by an Acid Sulfate Soils investigation report and management plan which will consider and evaluate the type of soil to be removed to construct the pool and will ensure its treated appropriately if it contains ASS in accordance with the Acid Sulphate Management Plan.

State Environmental Planning Policy (Coastal Management) 2018

34. The Coastal Management SEPP 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”*.
35. Under SEPP (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 SEPP:
- (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.*
36. The following Table is an assessment of the matters for consideration listed under the SEPP as applicable to the Coastal Environment Area and Coastal Use Area.

Table 2: Compliance against the provisions of the coastal SEPP

SEPP Control	Proposal	Complies
13. Development on land within the coastal environment area		
(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,	The proposed development will have no adverse impact on the surface ground water conditions and ecological environment.	Yes
(b) coastal environmental values and natural coastal processes,	There will be no affectation for any existing environmental or coastal processes.	
(c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the	The development will not affect the existing water quality of the foreshore.	Yes

cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,		
(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,	The development is setback from the immediate foreshore, therefore not affecting the existing ecological environment.	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,	The proposal will not affect access to the foreshore or any areas of public open space.	Yes
(f) Aboriginal cultural heritage, practices and places,	The site is culturally significant and has been recognised as a Local Item of Heritage. A detailed assessment of the impact of the works on the item is provided later in this report however Council's Heritage Advisor has raised no objections to the works subject to the implementation of conditions.	Yes
(g) the use of the surf zone.	Not applicable to this development as the site does not adjoin a beach.	N/A
(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 proposed works are small scale in nature and will improve the overall use of the land and improve the relationship of indoor and outdoor spaces. There will be no adverse environmental or visual impact on the foreshore.	Yes
(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or		
(c) if that impact cannot be minimised—the development will be managed to mitigate that impact		
14 Development on land within the coastal use area		

(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:	Not applicable as this relates to properties adjoining the coast. The site adjoins a Bay as such the following provisions are technically not applicable but have been considered as part of the assessment for completeness.	N/A
(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,	The development will not affect access to the foreshore or have any impact on the public domain.	Yes
(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,	There will be no view loss or overshadowing created by the proposal as most works are on ground, at grade and recessed and open style structures that will not impeded views and outlook.	Yes
(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,	There is minimal if no impact to the existing visual amenity and scenic qualities of the foreshore and therefore will not be detrimentally affected.	Yes
(iv) Aboriginal cultural heritage, practices and places,	There should be no affectation to any significant cultural places.	Yes
(v) cultural and built environment heritage, and	There should be no affectation on the cultural and built environment.	Yes
(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	Any potential impacts generated by the development have been mitigated and minimised by the design and through the implementation of any conditions.	Yes
(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or		

(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and		
(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.	The design has considered the siting of the adjoining properties and the immediate context of the locality and its characteristics.	Yes

LPP035-21

37. Generally, the proposed development is consistent with the management objectives of the SEPP. The development should not adversely affect any public areas, native flora and fauna, the connectivity to the Georges River foreshore, geological features and hydrology/water quality.
38. The bulk and scale of the proposal is considered acceptable and is a reasonable planning response and outcome and is unlikely to negatively impact upon the visual quality and amenity when viewed from the waterway.
39. The subject site has not been identified as being located in a coastal vulnerability area and a coastal environmental area as per NSW State Environmental Planning Policy (Coastal Management) 2018.

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

40. The objectives of this Policy are to ensure that the performance of the development satisfies the requirements to achieve water and thermal comfort standards that will promote a more sustainable development. No works are proposed to the internals of the building however the cost of work exceeds \$100,000 and is residential works which trigger the BASIX requirements to be considered and satisfied.
41. A BASIX (Building Sustainability Index) certificate No.A403573_02 was prepared on 4 February 2021 and assessed the proposal against the provisions of BASIX and found the proposal to be compliant.

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

42. The intent of the State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 is *“to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation”*.
43. In this instance, the development is consistent with the provisions of the SEPP and the proposal doesn't intend on removing any significant trees or vegetation. The site includes a series of palm trees at the front which will be retained. There is no tree loss at the rear of the site where the majority of the works are proposed. In fact the proposal aims to increase the amount of landscaping and include some trees at the rear.
44. Council's mapping system shows that there are significant and important seagrasses located in the Bay. The proposal doesn't include any works which will affect the bay and waterway and as such the integrity of this environment feature and species will be retained and protected.

45. The proposed development satisfies the intentions, aims and objectives of the SEPP.

Draft Environment SEPP

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

Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment

49. The site is within the area affected by the Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment and until the Draft Environmental SEPP is gazetted then this SEPP is still relevant and needs to be considered in the assessment of the application. The proposal does not affect the existing stormwater and drainage arrangement and the new pool is designed to drain out to the bay. The additional roof to the alfresco dining area will manage runoff and be connected to the drainage system of the existing garage system.
50. The proposed development is considered to be small scale in nature and will not adversely affect stormwater and drainage will be compliant and appropriately managed. Also noting the pool water will be discharged to the sewer system.
51. The proposal satisfies the provisions, aims and objectives of the Plan.

Draft Remediation of Land State Environmental Planning Policy

52. The Draft Remediation of Land SEPP was exhibited from 31 January 2018 to 13 April 2018. The proposed remediation of land SEPP aims to;
- *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 for the 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.
53. The Policy seeks to simplify the controls around contamination and remediation and ensure there is greater clarity and certainty in the process. The proposed development satisfies the intentions of the draft policy and satisfies SEPP 55 as mentioned previously.

Draft State Environmental Planning Policy – Design and Place

54. The Draft Design and Place SEPP aims to simply and consolidate how we deliver new developments and encourage good architectural design and sustainability across the State. The Policy will apply to a large proportion of future developments.
55. The Draft SEPP seeks to replace SEPP 65 by updating the provisions of the Apartment Design Guide (ADG) by creating new urban design guidelines as well as establishing new provisions for sustainability in residential buildings by replacing and consolidating BASIX provisions and controls into the document.
56. The SEPP is currently in its infancy however it has established five (5) pillars and principles that will drive and underpin the policy. These are;
 1. *Design places with beauty and character.*
 2. *Design inviting public spaces.*
 3. *Design productive and connected places.*
 4. *Design sustainable and greener places.*
 5. *Design resilient and diverse places.*
57. Although the SEPP will more specifically relate to larger scaled development it will still make reference to smaller residential projects given that the SEPP will consolidate the BASIX provisions. The final endorsement and implementation of the plan is scheduled for the end of 2021. The proposed development is not considered to be antipathetic to the intentions and purpose of this draft provision and policy.

Water Management Act 2000

58. If proposed development is within 40m of a waterway, and falls within the requirements of Sections 89 (water use approval), 90 (water management work) or 91 (controlled activity approval) then the application is considered to be “integrated” and requires referral to the Natural Resource Access Regulator (NRAR). In this case and due to the minor nature of the works which would be complying or exempt works and only trigger the need for a DA as the site is a Heritage Item the works will not affect s89, 90 or 91 of the water management act and will not require a controlled activity licence.

Kogarah Local Environmental Plan 2012 (KLEP)

59. The subject site is zoned R2 – Low Density Residential in accordance with the provisions of the KLEP. The proposed alterations and additions to the site are permissible land uses and satisfy the objectives of the zone which include the following;
 - *To provide for the housing needs of the community within a low-density residential environment.*
 - *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
60. Figure 2 below shows the subject site within the mapped R2 zone in accordance with the KLEP.

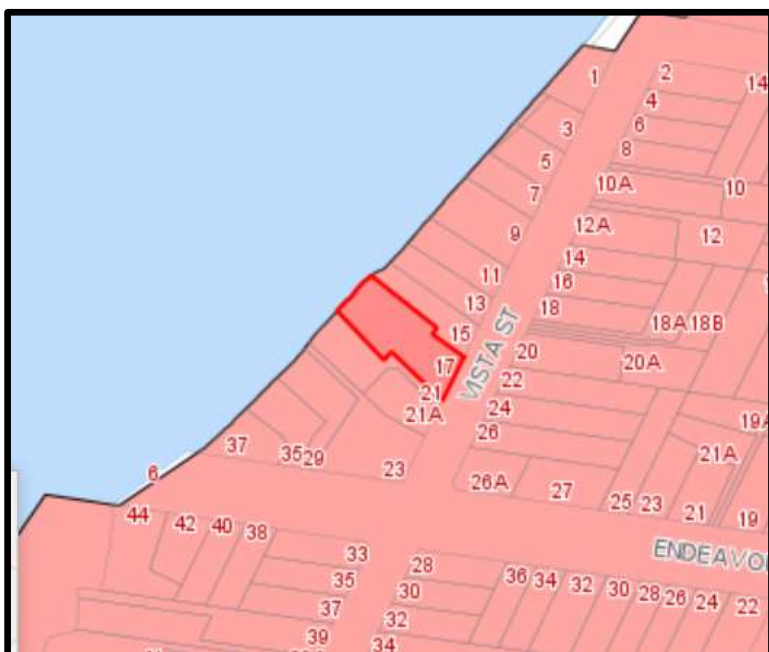


Figure 2: The subject site which is located in the R2 – Low Density Residential zone (courtesy: KLEP zoning map)

61. Table 3 below summarises the proposals compliance against the key LEP provisions and controls.

Table 3: KLEP2012 Compliance Table

Clause	Standard	Proposed	Complies
2.2 Zone	R2 Low Density Residential	The proposal comprises of alterations and additions to a dwelling house which is permissible within the zone.	Yes
2.3 Objectives	Objectives of the Zone	Consistent with zone objectives	Yes
4.3 – Height of Buildings	9m as identified on Height of Buildings Map	The proposed development will not affect the overall height of the building. The dwelling is two storeys and currently below the 9m height line.	Yes
4.4 – Floor Space Ratio	0.55:1 as identified on Floor Space Ratio Map	The proposal includes a small addition area of floor space which creates a total FSR of 0.33:1 and the existing FSR is 0.32:1	Yes
	Clause 4.4A (Exceptions to floor space in the R2 Zone) includes a ratio depending on the size of the site and if the works relate to residential development in the R2 zone.	In accordance with Clause 4.4A the following ratio determines the maximum FSR; $(1,277\text{sqm} - 1,000\text{sqm}) \times 0.15 + 442.5\text{sqm} / 1,277\text{sqm} = 0.38:1$ <p>The maximum FSR for the site is 0.38:1. The proposal complies with the FSR.</p>	Yes

4.5 – Calculation of floor space ratio and site area	FSR and site area calculated in accordance with Cl.4.5	The existing total GFA is 414.4sqm. The proposal has a total GFA of 419.7sqm. The additional 5.3sqm of floor space is from the garage being enlarged slightly.	Yes – refer to further discussions below
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 complies with the key statutory planning controls relating to height and floor space. No Clause 4.6 Statement is required in this case as the works forward of the foreshore building line are exempt works and the Clause is therefore not applicable.	N/A
5.7 - Development below mean high water mark	The objective of this clause is to ensure appropriate environmental assessment for development carried out on land covered by tidal waters. Development consent is required to carry out development on any land below the mean high water mark of any body of water subject to tidal influence (including the bed of any such water).	No works are proposed outside the boundaries and curtilage of the site. The private jetty that forms part of the site will remain as existing and access to it within the mean high water mark area unaltered. No works are proposed on the water that will affect the mean high water mark.	Yes
5.10 – Heritage Conservation	The objectives of this clause are; (i) to conserve the environmental heritage of Kogarah, (ii) to conserve the	The subject site is a designated local item of heritage pursuant to Schedule 5 of the KLEP. The application is supported by a Heritage Impact Statement prepared by Heritage 21 and dated March 2021.	Yes

	heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views.	The proposal was referred to Council's Heritage Advisor who raised no objections to the proposed works on heritage grounds. This issue has been discussed in greater detail below.	
6.1 Acid Sulphate Soils (ASS)	The objective of this clause is to ensure that <i>"development does not disturb, expose or drain acid sulfate soils and cause environmental damage"</i>	The site is mapped as being located within Class 2 Acid Sulphate Soils. The application was accompanied by an ASS investigation report and Management Plan. The proposal is considered to satisfy the provisions of Clause 6.1 of the KLEP however this is discussed in greater detail below.	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 minimal excavation by the construction of an in-ground swimming pool at the rear of the site. This is considered to be minor works and will not adversely affect the character or nature of the foreshore and its associated activities. The proposed filling in of the pool within the front setback will require materials and soil that is clean fill and also the removal of the pool soil and earth shall be in accordance with EPA requirements. A condition will ensure environmental procedures are undertaken for the removal of soils/material and fill for the pool.	Yes
6.3 Flood Planning	The objectives of this clause are as follows— <i>to minimise the flood risk to life and property associated with the use of land,</i> <i>to allow development on land that is compatible with the land's flood hazard,</i>	The site is not impacted by flooding or located within a flood prone land and is not included on the flood planning map.	N/A

	<i>taking into account projected changes as a result of climate change</i>		
6.4 Limited development on the foreshore	<p>The objective of this clause is “to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area.”</p> <p>Development consent must not be granted to development on land in the foreshore area except for the following purposes— the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area, boat sheds, sea retaining walls, wharves, slipways, jetties, works to enable pedestrian access to the waterway, swimming pools, fences, cycleways or walking trails.</p>	<p>The subject site is located fronting the foreshore. There is a foreshore building line that affects the site.</p> <p>The proposed works are listed in the development types that are permitted within the foreshore location, namely landscaping works and an in-ground swimming pool with associated fencing. The works have been designed having regard to the sensitivity of this area.</p> <p>The development requires development consent.</p> <p>This issue is discussed in more detail in the report below.</p>	Yes
6.5 Airspace Operations	<p>The consent authority must not grant development consent to development that is a controlled activity within the meaning of Division 4 of Part 12 of the Airports Act 1996 of the Commonwealth</p>	<p>This control is not applicable to the small scale works especially as the overall height of the dwelling remains unchanged.</p>	N/A

	unless the applicant has obtained approval for the controlled activity under regulations made for the purposes of that Division.		
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LPP035-21

Gross Floor Area

62. Clause 4.4 of the KLEP refers to the Floor Space Ratio controls for particular sites in the LGA. Although the FSR map show the maximum FSR for the site being 0.55:1, Clause 4.4A relates to residential development in the R2 zone and requires this development to be governed by a ratio that is applied to the site depending on its area.
63. In this case the maximum FSR for the proposed works at the site is 0.38:1. The existing dwelling house amounts to an FSR of 0.32:1. The additional 5.3sqm of additional gross floor area comes from the redesign of the garage area and slight enlargement. This brings the total GFA to 419.7sqm and amounts to an FSR of 0.33:1.
64. The alfresco dining area which is a covered patio space with access off the kitchen and which faces the pool area is designed to be an open style entertaining area. However when strictly considering the definition of GFA this space should not be included as the definition states “**gross floor area** means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor”. The walls along two sides of the alfresco area are not considered to be “external walls” as the western side to the alfresco area has no wall at all as it adjoins the pool side deck which is uncovered and the southern side to the BBQ comprises of a brick wall of height of approximately 1.6m but is not considered an “external wall” of the building as the wall to the kitchen (south) or the southern wall to the garage would be considered external walls. In this case the alfresco dining area is not enclosed and does not satisfy the definition of GFA and is therefore excluded from the GFA calculation.
65. If the Panel were to decide that the alfresco area is deemed GFA it amounts to an area of 42.4sqm (5.3m by 8m) and this would create a total GFA of 462.1sqm and amount to an FSR of 0.36:1 which still maintains compliance with the maximum FSR of 0.38:1.
66. Either way the proposed development satisfies the FSR and GFA calculations as stipulated in the KLEP.

Acid Sulphate Soils

67. Acid Sulphate soils are naturally occurring sediments and soils containing iron sulphates (principally iron sulfide, iron disulfide or their precursors). Oxidation of these soils through exposure to the atmosphere or through lowering of groundwater levels results in the generation of sulfuric acid.
68. Most acid sulfate soils are of Holocene age (over 10,000 years old) and their formation requires the presence of iron-rich sediments, sulfate which is usually from sea water, removal of reaction products such as bicarbonate, the presence of sulfate-reducing bacteria and an abundant supply of organic matter. These conditions generally exist in mangroves, salt marshes, inter-tidal areas and on the beds of coastal rivers and lakes.

69. Acid sulfate soil is further sub-divided into Actual Acid Sulfate Soils (AASS) and Potential Acid Sulfate Soil (PASS). The subject site is located within a Class 2 ASS mapped area (refer to Figure 3 below)

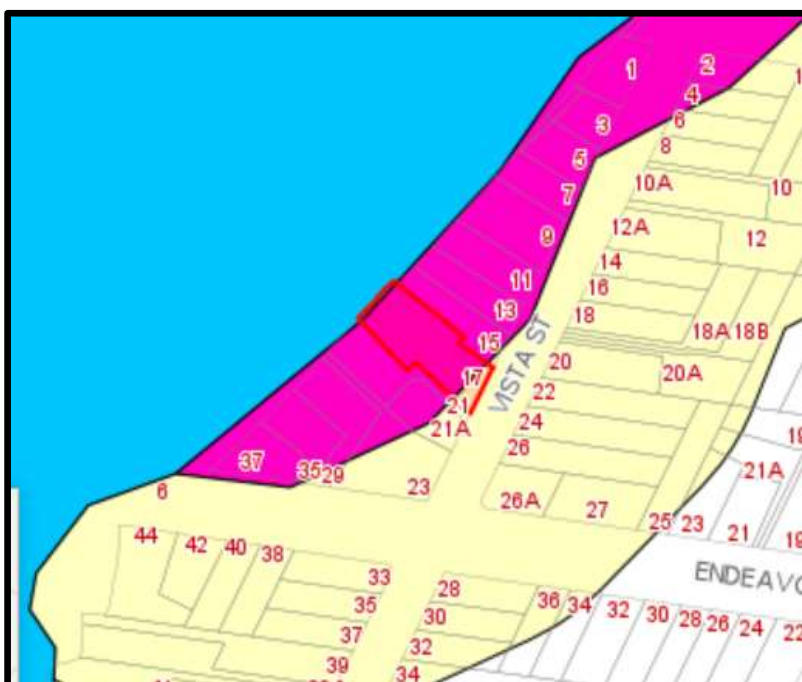


Figure 3: The subject site and its mapped area showing it is affected by ASS (Class 2)

70. Clause 6.1 of the KLEP requires the following considerations to be taken into account in the assessment of the application;
- (3) *Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.*
 - (4) *Despite subclause (2), development consent is not required under this clause for the carrying out of works if—*
 - (a) *a preliminary assessment of the proposed works prepared in accordance with the Acid Sulfate Soils Manual indicates that an acid sulfate soils management plan is not required for the works, and*
 - (b) *the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.*
71. In accordance with Subclause 4(b), the Applicant submitted an Acid Sulphate Soils Investigation Report prepared by Geo-environmental engineering and dated 19 February 2021. The investigation focused on the area where the proposed swimming pool is to be constructed at the rear as this is the only form of excavation and earthworks proposed which could affect ASS.
72. In summary, the investigation found the following;
- The site is underlain by Hawkesbury Sandstone formation.
 - The site is situated on soils of the “Lambert” soil landscape group which are highly permeable with high erosion hazard and fertility.

- Two (2) boreholes were drilled where the pool is proposed to be located and soil samples taken so that testing can focus on ASS levels. Figure 4 below shows the location of the two (2) boreholes as part of the testing.
- Measurements of ground water were also taken.



Figure 4: The two borehole locations at the rear of the site where the proposed pool is to be located

73. Based on the review and assessment conducted by the ASS investigation the report concluded that *“the sandy fill layer encountered is PASS (potential ASS). Considering this layer will be disturbed by the proposed excavation then an acid sulfate soil management plan should be prepared.”*
74. An Acid Sulfate Soil management plan has been prepared for the site by Geo-environmental Engineering and dated 19 February 2021 in accordance with Clause 6.1 of the KLEP and the findings and recommendations of the ASS Investigation report which required a management plan to be prepared.
75. The management plan considered the risk of the identified PASS (potential acid sulfate soils) at the site, outlines management measures to manage risk and also established a management plan which minimises any impact of the works on the surrounding environment. The management plan highlights the process that needs to be undertaken in removing soils which could be ASS and their disposal and the process of sediment control during excavation and stabilisation of any remaining ASS as well as treating the removed material.
76. A number of strategies for the management of PASS to mitigate the impacts are provided in the Acid Sulfate Soil Manual. These are, in order of preference, as follows:
 1. Avoid land where PASS occur,
 2. Avoid disturbing PASS if present on the land,

3. *If disturbed, prevent the oxidation of sulfide, this may be by management onsite or disposal offsite to an appropriately licensed landfill. Often lime is mixed in to neutralise the acid.*
4. *If disturbed, oxidise sulfide in a controlled manner and neutralise acid produced, and*
5. *Separate sulfidic component for treatment.*

77. The management plan details the procedure of safe removal of materials during site setup, construction and disposal. A condition will ensure that all management processes that are included in the report are implemented during the construction phase of the project.
78. By satisfying the management plan recommendations the proposal will satisfy the provisions of Clause 6.1 and fulfill the objective of the clause.

Heritage Conservation

79. Clause 5.10 of the KLEP relates to Heritage Conservation. The subject property known as “Palmyra” is identified as an item of local heritage in accordance with Schedule 5 of the KLEP and identified as I162. The home was built circa 1910 and a photo of the dwelling in 1924 is represented below at Figure 6 below.
80. Figure 5 below shows the site mapped as item of heritage in accordance with KLEP.



Figure 5: The subject site identified as a local heritage item I162

81. The application is accompanied by a Heritage Impact Statement prepared by Heritage 21 and dated March 2021. This report is prepared in accordance with the requirements of clause 5.10. The report states that the site is culturally significant as it represents a later development overlay within the “Ellismere Estate”. It represents a good example of its architectural style – Federation Bungalow which is considered a rare example in the locality. The Heritage Impact statement is comprehensive in its assessment of the works and their impact on the building and its setting. The report concludes;
82. *“It is in our view, the following aspects of the proposal would respect the heritage significance of the subject site:*
 - *The proposal would not alter the historic set back from Vista Street, San Souci.*

- *The proposed works would not include the removal of significant fabric on the subject site.*
- *The proposed works would not be visible from the heritage items in the vicinity.*
- *The proposal is sympathetic to the colour scheme of the Federation Bungalow, and matches the colour scheme of the more recent structures within the subject site; and*
- *The proposed swimming pool associated landscaping works and alfresco dining area would be reversible.”*

83. The report concluded that there are “*no aspects of the proposal which could be detrimental to the significance of the subject site*”.



Figure 6: The subject house Palmyra circa 1924 (courtesy: Heritage 21 report dated March 2021)

84. The proposed application was referred to Council’s Heritage Advisor for comment. No objection was raised in respect to the proposed works.
85. 23 Vista Street is also an old historic home and garden known as “Ellesmere” and also recognised as a Heritage item (I163) (refer to Figure 5 above which shows the location of this site in relation to 17-19 Vista Street). In accordance with Clause 5.10(3) the impact of any development in the vicinity of heritage items needs to be considered. The proposed works are minor and will not be seen from the streetscape and immediate surrounds and therefore will not detrimentally affect the historic significance and integrity of this adjoining heritage item.
86. The alterations whilst not affecting the architectural quality, character and merit of the home will improve the functionality of the outdoor spaces and their relationship to the home and will enhance the amenity and utilisation of spaces without impinging on the historic character of the property. The changes will improve the visual appearance of the site especially when viewed from the Bay and should have a positive contribution to the streetscape.

Foreshore area

87. The subject site is located within a foreshore area and the rear of the property affected by the foreshore building line provisions within the KLEP. The KLEP defines a foreshore area as “*the land between the foreshore building line and the mean high water mark of the nearest bay or river*”.

88. Clause 6.4 (Limited development on the foreshore) is relevant to the development and development consent is required for works within the foreshore which include the construction of a swimming pool. Other ancillary works such as moorings, jetty's, new dwellings, alterations and additions and other structures are also affected by the provisions.



Figure 7 – Location of the foreshore building line relevant to the site – the allotment is outlined in blue and the foreshore building is shaded in red

89. In this case the proposed swimming pool will partially protrude into the Foreshore Building Line which along this part of the foreshore is a 7.6m restriction. The purpose of limiting development on the foreshore is to reduce its impact on this sensitive area and to ensure there is a setback and buffer for development from the water. Clause 6.4 requires the following provisions to be considered when assessing the proposal;

“Development consent must not be granted under this clause unless the consent authority is satisfied that—

- (a) the development will contribute to achieving the objectives for the zone in which the land is located, and*
- (b) the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and*
- (c) the development will not cause environmental harm such as—*
 - (i) pollution or siltation of the waterway, or*
 - (ii) an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or*
 - (iii) an adverse effect on drainage patterns, and*
- (d) the development will not cause congestion or generate conflict between people using open space areas or the waterway, and*

- (e) *opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and*
- (f) *any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and*
- (g) *in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and*
- (h) *sea level rise or change of flooding patterns as a result of climate change has been considered.”*

90. In considering the issues above the following points can be made;

- The proposal satisfies the objectives of the R2 zone in that the residential use of the site remains unchanged and there is no change to the physical nature of the dwelling house. The rear yard will be retained as an area of open space and only a small section of the swimming pool will encroach on the foreshore building line. The pool is at grade and is not considered to be a “building” or structure so it is considered to be part of the landscaping of the site rather than a built form.
- The swimming pool at the rear is consistent with the siting of other pools to immediately adjoining properties. The location of pools at the rear of properties along this side of the foreshore is a predominant form of development.
- The pool and associated features will not be highly dominant when viewed from the foreshore and will not pollute the adjoining waterway or affect the marine life and any natural environmental processes.
- The proposal doesn’t affect public access along the foreshore which is not available along this side of the bay.
- The historic and cultural importance and integrity of the property will remain intact and unaffected by the proposed works.
- The works will not adversely affect the aesthetic appearance of the waterway and any public domain.
- It is unlikely the proposed landscaping and outdoor entertaining areas will be affected by rising sea levels. The risk of rising sea levels is imminent and that would require other measures i.e. an increase in the sea wall or additional retaining methods.

91. The proposed development has been sympathetically designed and sited to have a minimal impact and will not detrimentally affect the foreshore. As such the proposal satisfies the provisions of Clause 6.4 of the KLEP.

Draft Georges River Local Environmental Plan 2020

92. The Draft Georges River Local Environmental Plan 2020 provisions have no significant weight as a result of proposed operation of Clause 1.8A (Savings provisions relating to development applications) which states that *“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”*.

93. The gazettal of the Draft LEP is imminent. The zoning of the site and key planning controls remain unaffected by the draft provisions. The only change is that the minimum lots size is changing from 550sqm to 450sqm.

94. Otherwise, the proposed development remains permissible and will satisfy the draft provisions of the Plan.

DEVELOPMENT CONTROL PLANS

95. The proposed development is subject to the provisions of the Kogarah Development Control Plan 2013 (KDCP). Table 4 below summarises the key planning controls which need to be satisfied and considered in the assessment of the application.
96. The key sections of the DCP that need to be considered include;
- Part B1 – Heritage Items and Heritage Conservation Areas
 - Part B2 – Tree Management and Greenweb
 - Part C1 – Low Density Housing
 - Part C3 – Foreshore and waterfront controls
 - Part C4 – Foreshore Locality Controls

Table 4: Compliance with KDCP

Applicable DCP Controls	Standards	Proposal	Complies
Part B1 – Heritage Items and Heritage Conservation Areas			
Heritage Items – General Controls	(1) The relevant requirements of Clause 5.10 of KLEP 2012 are to be addressed for any development relating to a heritage item. (2) Where a heritage management document and/or heritage conservation management plan is required to be submitted to Council, this is to be prepared by an appropriately qualified professional.	The application has been assessed against the considerations pursuant to Clause 5.10 of the KLEP. A detailed heritage assessment has been undertaken above and the proposal is considered satisfactory and will not affect the significance and integrity of the property.	Yes
Part B2 – Tree Management and Greenweb			
Tree retention	Development consent or a Council permit is required to ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree, whether on private or public land, which has: (i) A height greater than 3.5m, or (ii) A branch spread exceeding 3 metres in diameter An application to ringbark, cut down, top, lop, remove, injure or	The proposal does not seek to remove or affect any existing tree. All existing trees will be retained and protected.	Yes

Green web requirements	<p>wilfully destroy any tree</p> <p>Sites containing remnant bushland, adjacent to existing remnant bushland or within proposed habitat corridors may be located within the Green Web. The Green Web is comprised of Habitat Corridor and Habitat Reinforcement Corridor and these areas have been identified and mapped.</p>	<p>Although the subject site is mapped to be located within the Greenweb the site at the rear adjoining the foreshore is grassed and there is no significant vegetation or remnant vegetation which is what is intended by the Greenweb location and mapping. In this case the plantings and vegetation on the site is not consistent with the character of many foreshore areas where remnant vegetation exists. The site has been urbanised and the considerations required to be taken into account are not relevant given the landscape features of the site.</p>	Yes
Part C1 – Low Density Residential			
1.1 Streetscape Character	<p>(a) Ensure that all elements of a development make a positive contribution to the streetscape.</p> <p>(b) Complement and conserve the visual character of the street and neighbourhood through appropriate building scale, form, detail and finish.</p> <p>(c) Reinforce existing streetscape features such as building setbacks, alignments, heights, landscaping/vegetation and fence design.</p> <p>(d) Ensure that new developments reflect the dominant building rhythm of the streetscape with</p>	<p>Vista Street comprises largely of residential properties of varying styles, forms and character.</p> <p>The proposed contemporary development is considered to reflect the desired future character of the immediate area and streetscape. The development will fit into the streetscape and will provide a positive contribution by updating the landscaping and external entertaining areas and make them more functional and</p>	Yes

	<p>regard to location, spacing and proportion of built elements in the street.</p> <p>(e) Ensure that building elements are integrated into the overall building form and façade design.</p> <p>(f) Ensure development contributes to cohesive streetscapes and desirable pedestrian environments.</p> <p>(g) Ensure that development conserves or enhances significant streetscape items (such as street tree planting) and points of interest (such as views to waterways).</p>	<p>improve their useability.</p> <p>The proposed works will not be visible from Vista Street and at the rear the new alfresco dining area is setback behind the rear building line of the dwelling and is an open structure so its visibility will not be dominating.</p>	
1.2 Building, scale and height	<p>Ensure that new buildings and alterations and additions respect the dominant building forms and scale through the use of innovative architectural responses. Distribute building height and bulk on the site so as to ensure there is no significant loss of amenity to adjacent sites, open space and public streets. Ensure that building heights respond to the scale of the street and surrounding buildings. Ensure that the height of buildings does not overly impact on the streetscape or neighbouring properties.</p>	<p>The proposed alterations and additions are small scale and respect the scale and form of the existing dwelling house.</p> <p>There is no change proposed to the height of the building, it will remain as existing and unchanged.</p> <p>The small open style alfresco dining area at the rear is simple addition and will not be seen from the street as it will be screened by the garage and is an open style structure which will not adversely affect the property's appearance from the rear.</p>	Yes
1.2.1 Floor space Requirements	<p>Notwithstanding compliance with the numerical requirements in Table 1, applicants must demonstrate that the bulk and relative mass of the proposed</p>	<p>The maximum FSR for this site is 0.38:1 based on the calculation in Clause 4.4A in the KLEP and in the KDCP.</p> <p>The development</p>	Yes

	<p>development is acceptable in the street and on adjoining dwellings, in terms of the following impacts:</p> <ul style="list-style-type: none"> (i) streetscape considerations (bulk and scale); (ii) building setbacks; (iii) landscape requirements; (iv) the existence of significant trees/vegetation on site; (v) the size and shape of the allotment; and (vi) topography of the site. <p>Where alterations and additions are proposed, and the existing floor space and/or floor space ratio of the development exceeds the maximum requirements, the application will be considered on merit. In these circumstances, Council will not support any increase in the floor area of the development unless it is satisfied that the development will meet the overall objectives of this part.</p>	<p>complies with this provision and has a maximum FSR of 0.35:1.</p> <p>The increase in the floor space comes from a small amount of the patio being enclosed and converted to a WC and hallway.</p> <p>The mass and form of the existing dwelling remains largely intact and unaffected.</p> <p>The works are considered minor and will update and improve the aesthetics of the landscaped area at the front and rear of the property.</p> <p>The proposed FSR is compliant.</p>	
1.2.2 Building Heights	<p>The following provisions apply;</p> <ul style="list-style-type: none"> 7.2m to the underside of the upper ceiling 7.8m to the top of the parapet 9m to the top of the ridge <p>The maximum number of residential levels is two (2),</p> <p>Foundation areas, garages, basements, storage rooms or the like must not have an external wall height greater than 1m above ground level (existing) at any point on the building.</p>	<p>The proposal does not alter the wall height and overall height of the dwelling house which is compliant with Council's height controls.</p> <p>The existing house comprises of two storeys and the scale of the dwelling will remain unchanged.</p> <p>The alfresco dining area and new amenities areas are small single storey structures which are</p>	<p>Yes</p> <p>Yes</p>

	<p>Where the dominant built form in the streetscape is single level, new buildings and alterations and additions should present as a single level building to the street.</p> <p>Any second level element is to be setback a minimum of 10 metres from the street boundary. Attics are prohibited in flat roofed developments.</p> <p>Rooftop terraces are prohibited in dwelling houses, dual occupancy development and secondary dwellings.</p>	<p>compatible and consistent with the character of the dwelling house.</p> <p>N/A</p> <p>N/A – no attic proposed.</p> <p>N/A – no roof top terrace proposed.</p>	<p>N/A</p> <p>N/A</p> <p>N/A</p>
1.2.3 Rhythm of the Built Elements in the Streetscape	<p>The primary building façade should not exceed 40% of the overall width of the total frontage.</p> <p>The secondary building façade should be set back a minimum of 1.5m from the primary building façade.</p> <p>Where the dominant built form in the streetscape provides for a pitched hip or gable ended presentation to the street, the new buildings and/or additions should reflect that roof form.</p>	<p>This section of the DCP is not applicable to the development as there is no change proposed to the built form, building envelope or building footprint apart from the small alfresco dining area at the rear which is covered and located behind the garage but behind the rear building alignment.</p> <p>There is no change to the rhythm and siting of the building.</p>	N/A
1.2.4.2 Front Setbacks	<p>Where the setback of an adjacent building is greater than 5m, an appropriate setback may be achieved by ensuring development is setback:</p>	<p>No change to the front setback. The dwelling is setback over 17m from the front boundary.</p> <p>This application is seeking to reinstate landscaped area in the front setback as a</p>	Yes

		result of the in-ground swimming pool being removed.	
1.2.4.3 Side and Rear Setbacks	<p>Rear - Buildings are to have a minimum rear setback of 15% of the average site length, or 6m, whichever is greater.</p> <p>Side - For buildings having a wall height of greater than 3.5m, the minimum side boundary setback is 1200mm</p> <p>For buildings having a wall height of 3.5m or less, the minimum side boundary setback is 900mm.</p>	<p>15% of the average of the site length is 8.8m which is greater than 6m.</p> <p>No change is proposed to the existing rear setback which is a minimum of 10m. The alfresco dining area which is setback behind the existing rear building alignment will be setback over 15m and a lightweight structure.</p> <p>N/A</p> <p>No change is proposed to the existing side boundaries. The alfresco dining area will have a solid wall of an approximate height of 1.6m which is lower than the boundary fence and will be setback between 1-1.5m which is compliant.</p>	<p>Yes</p> <p>N/A</p> <p>Yes</p>
1.2.5 Fenestration and External Materials	<p>New buildings and alterations and additions should present a primary building façade and roofing that is constructed of materials, and within a colour range, that is complementary to the dominant character of buildings in the streetscape.</p> <p>The roof should be similar to the angle of pitch, materials and colour of roofs in the streetscape.</p> <p>The colours of garages,</p>	<p>The proposed colours, materials and finishes are suited to the property. The colour palette to be implemented takes into consideration the heritage quality of the dwelling. The colour scheme and proposed materials and fencing details are subtle, modern but sympathetic to the character of the home.</p> <p>The roof to the alfresco dining area is</p>	Yes

	<p>window frames, and balustrading on main facades and elevations are to be integrated with the external design of the building.</p>	<p>flat so as not to compete with the main pitched roof form and to distinguish this new element. No change is proposed to the colours and finishes of the garage.</p>	
1.2.6 Street edge	<p>New developments should provide front fencing that complements fencing within the streetscape. Existing vegetation in the front building line setback or on the street verge that contributes to the character of the streetscape should be preserved.</p>	<p>No change proposed to the front fence</p> <p>No change is proposed to the street edge, vegetation and planting etc. with the exception of turf where the existing in-ground swimming pool is being removed and backfilled.</p>	<p>N/A</p> <p>N/A</p>
1.3 Open Space	<p>15% of the site area must be deep soil landscaped area. 15% of the site amounts to 190sqm</p> <p>Private open space should be adjacent to and visible from the main living and/or dining rooms and be accessible from those areas.</p>	<p>Currently 186sqm (15%) of the site comprises of deep soil area as the front pool and paved area are not considered in this equation as they are not deemed deep soil. The proposal will reinstate all of the front yard to comprise of deep soil approximately 221sqm (13m x 17m) which amounts to 17% in itself. The rear deep soil area (minus the alfresco area and pool) amount to over 96sqm. So in total the deep soil area for the site will be 25% which is a substantial increase in deep soil, grassed areas, and permeable spaces. The front and rear yard areas of open space are directly adjacent to the main</p>	<p>Yes</p> <p>Yes</p>

		living and dining spaces	
1.4 Vehicular access, parking and circulation	<p>Car parking is to be provided in accordance with the requirements in Section B4.</p> <p>Car parking layout and vehicular access requirements and design are to be in accordance with the Australian Standards, in particular AS 2890.1-2004.</p>	<p>No change is proposed to the parking arrangement with one space in the garage and a car space with a carport over which adjoins the main entry. The proposal reduces the dimensions of the garage slightly to accommodate the provisions of a WC and hallway to assist with the functionality of the alfresco dining area.</p> <p>The private driveway through to the house can accommodate a series of additional cars as well. Parking on site is considered compliant with the AS2890 is achieved in terms of the minimum dimensions of the parking spaces (garage and carport) of 2.2m by 5.5m.</p>	Yes
1.5.1 Visual Privacy	<p>Windows from active rooms are to be offset between adjacent dwellings so as to avoid direct overlooking onto neighbouring windows. Where terraces and balconies are proposed and are elevated more than 1.5m above ground level (finished) and are located behind the street front façade, they are restricted to a maximum width of 2.5m and must be setback a minimum 3m from any adjoining property boundary.</p>	<p>The proposal does not include any elevated areas; the new alfresco dining area is an open style area and is located on ground so there will be no overlooking from any of the new works as they are all on ground.</p>	Yes
1.6 Solar Access	At least 50% of the primary private open	There will be no overshadowing from	Yes

	space of the proposed development should have access to a minimum of four hours of sunlight between 9am–3pm on 21 June.	the proposed development as all the proposed works are at ground level and the roofed alfresco dining area is an open style structure which is slightly higher than the side boundary fences which have a height of 1.8m. There will be no unreasonable overshadowing created by the development.	
4.6 Swimming pools, spas and enclosures			
	Swimming pools/ spas should be located at the rear of properties.	The proposal involves filling in the existing pool at the front and relocating it to the rear which is a better urban design outcome and a preferred design and siting option as required by the KDCP.	Yes
	Swimming pools/spas must be positioned a minimum of 900mm from the property boundary with the water line being a minimum of 1500mm from the property boundary.	The new rear pool will be setback a minimum of 1m from the southern boundary and a minimum of 3m from the western side.	Yes
	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.	The top of the pool will be located on ground/grade with a slight rise in the coping.	Yes
	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 1m above natural ground level, provided that the exposed face of the	N/A as the site is flat and level.	N/A

	<p>swimming pool wall is treated to minimise impact. The materials and design of the retaining wall should be integrated with, and complement the style of the swimming pool.</p> <p>Filling is not permitted between the swimming pool and the property boundary. The position of the swimming pool, in relation to neighbours and other residents, must be considered to minimise noise associated with activities carried out in the swimming pool or from the swimming pool equipment, such as cleaning equipment.</p> <p>A pool fence complying with the legislation should separate access from the residential dwelling on the site to the pool.</p> <p>Safety and security measures for swimming pools must comply with the relevant requirements of the Swimming Pools Act and any relevant Australian Standards.</p>	<p>The pool will be setback from the common side boundary and will not have any adverse impact on adjoining properties especially as the dividing fence will have a height of 1.8m. The pool pump will be located on the boundary but screened and shielded by the dividing fence.</p> <p>Pool fencing will be glass and comprise of a solid materials along the southern side which comprises of the solid dividing fence. Fencing will comply with the BCA requirements and the AS.</p> <p>The pool design and location will comply with the requirements of the swimming pool act. A condition will be imposed to ensure compliance. The pool will to comply with NCC and relevant Australian Standard.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
Part C3 – Foreshore Waterfront Controls			
Foreshore Localities	There are 10 designated Foreshore localities. Subject site is located within the foreshore locality of Kogarah Bay.	Noted	N/A

	Specific controls for the locality are in C4 Foreshore Locality Controls		
Development on the foreshore	The provisions of Clause 6.4 for the KLEP need to be considered and taken into account.	The proposal satisfies the provisions of Clause 6.4 of the KDCP. This issue was discussed in greater detail above.	Yes
Development below mean high water mark	<p>Clause 5.7 Development below mean high water mark.</p> <p>The objective of this clause is to ensure appropriate environmental assessment for development carried out on land covered by tidal waters.</p> <p>Development consent is required to carry out development on any land below the mean high water mark of any body of water subject to tidal influence (including the bed of any such water).</p> <p>Where it is proposed to undertake development (generally any development below MHW) or erect any structure over foreshore crown land, owner's consent is required from the Department of Lands prior to lodging a development application with Council.</p>	<p>This issue was addressed in the KLEP assessment table.</p> <p>No works are proposed on the water and therefore will not affect tidal flows or the location of the mean high water mark.</p> <p>N/A as works will not affect the MHW</p> <p>Noted but not applicable in this application.</p>	N/A
Foreshore and waterfront development	Council will not grant consent for residential waterfront structures to land which does not have frontage to the waterway. This includes allotments which only	The allotment has direct access to the waterway.	Yes

	<p>have a right of way to the waterway.</p> <p>Where an existing allotment has a water frontage of less than 9 metres, Council will not permit waterfront structures unless they are shared.</p>		
Swimming pools	<p>Any swimming pool or spa pool is to be sited as close to natural or existing ground level as possible. In this regard, the coping level of swimming pools and spa pools is not to be elevated more than 500mm above natural or existing ground level.</p> <p>Any exposed edge is to have the natural or existing ground level reinstated and be suitably landscaped with mature trees and landscaping so as to reduce the visual impact from the waterway.</p> <p>The construction of swimming pools and spa pools below the FBL and above MHWL should avoid reshaping of the landform and removal of native vegetation and significant trees. In areas where the construction of a pool will necessitate excessive excavation or the removal of significant vegetation, the siting of the pool may be restricted to above the FBL. The Foreshore Locality Controls specify areas where this may be</p>	<p>This has been achieved by this application.</p> <p>There is no step up or step down, the coping is at the finished site level.</p>	Yes

	<p>required.</p> <p>Pool/spa fencing that is visible from the foreshore/water must be open or transparent and must be of a colour that blends into the landscape character of the waterway.</p> <p>With respect to existing swimming pools/spa pools below MHW, Council is unlikely to request that the pool be removed or filled, unless it is considered that its economic life has been reached.</p> <p>In circumstances where it is considered that the economic life of the pool has been reached, and the Department of Lands is in agreement, then Council may require, upon substantial redevelopment, that the pool be removed.</p>		
Landscaping	<p>Natural features along the foreshore are to be retained and the removal of natural rock, trees and vegetation to enable the construction of landscaping will not be supported.</p> <p>Natural ground levels are to be retained with minimal use of retaining walls. Where retaining walls are constructed, materials and colours that blend into the character and landscape of the area shall be used.</p> <p>Endemic native species</p>	<p>This application with does not result in the removal of any natural features. Some turf and an access pathway will be removed to facilitate the in-ground swimming pool.</p>	Yes

	<p>should be used in areas where native vegetation is present or has the potential to be regenerated.</p> <p>Exotic species that have the potential to spread into surrounding bushland should be avoided.</p> <p>Existing mature trees should be retained where possible and incorporated into the design of new developments.</p> <p>Vegetation along ridgelines and on hillsides should be retained and supplemented with additional planting to provide a backdrop to the waterway.</p> <p>A landscape plan is to be submitted for any development between FBL and MHWL. The level of detail required will depend on the level of works being undertaken. Where a landscape plan is submitted it should indicate the existing and proposed changes in contours, existing trees/vegetation to be retained and removed, measures to protect vegetation during construction and proposed planting including species and common names.</p>		
Part C4 – Foreshore Locality Controls			

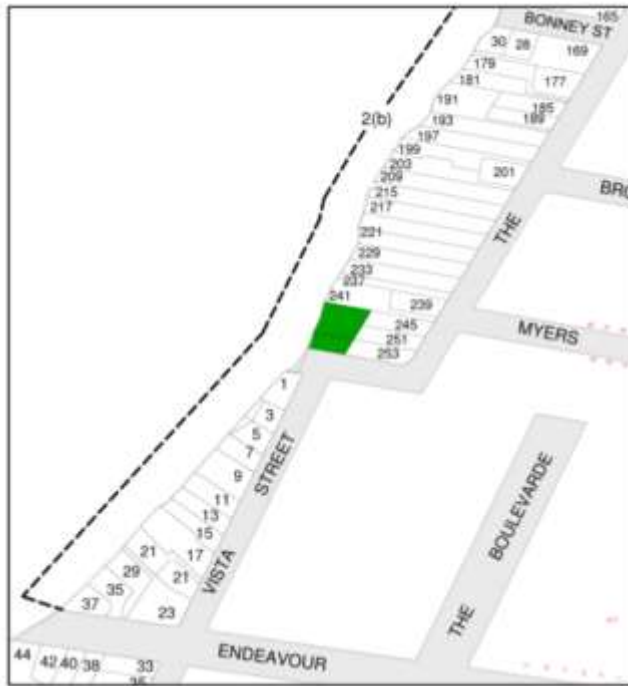


Figure 8: Subject site located within the Kogarah Bay Locality section 2(b)

Kogarah Bay Locality (between Wellington Street and Torwood Street)	Subject site located within this locality.	Noted.	Yes
Locality split up into two areas 2(a) and 2(b)	Subject site within 2(b) area/zone (refer to extract in Figure 7 above)	Location of the site noted.	Yes
Land water interface Development	Works on the water or below the MHWL	No works are proposed lower than the MHWL or within the water.	N/A
Water based development	Table indicates that swimming pools and landscaping works are permissible.	Swimming pool and landscaping works are permitted.	Yes
Land based development	Buildings fronting the waterway, must have a compatible presence when viewed from the waterway and incorporate design elements (such as roof forms, textures, materials, the arrangement of windows, modulation,	The controls mainly relate to new dwellings or more substantial alterations and additions. The proposed works include suitable colours and materials that are recessive and will harmonise with the immediately	Yes

	spatial separation, landscaping etc) that are compatible with any design themes for the locality.	surrounding environment.	
	Blank walls facing the waterfront shall not be permitted.	There are no blank walls facing the water. The alfresco dining area is an open style structure and will be transparent and is recessed building the rear building alignment.	Yes
Subdivision	No subdivision proposed so controls not applicable in this case.	N/A	N/A

97. The proposed development satisfies the key planning controls and considerations of the Kogarah Development Control Plan as noted in the table above.

INTERIM POLICY GEORGES RIVER DEVELOPMENT CONTROL PLAN 2020

98. The interim DCP has been prepared and endorsed by Council to provide consistency in the assessment process and consolidates the controls for residential developments within the LGA. It seeks to create one set of controls. The following table outlines the key controls for residential development – dwelling houses.

Table 5: Interim DCP Compliance Table

Interim DCP – Dwelling Houses		
Control	Proposal	Compliance
Front setback 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	No change is proposed for the front setback and the dwelling house is currently setback well over 10m from the front boundary which is a substantial front setback. The dwelling is setback further than the two immediately adjoining properties.	Yes – no change
Rear setback Buildings are to have a minimum rear setback of 15% of the average site length, or 6m, whichever is greater Where the existing pattern of development displays an established rear setback,	This control is the same as the current rear setback control within the KDCP. No change to the current rear setback is proposed. The dwelling house is setback over 10m from the rear boundary which exceeds the	Yes – no change

development should recognise and respond to site features and cross views of neighbouring properties	minimum required. Also the new covered alfresco dining area is setback further than the rear building alignment so that this element is recessed and substantially setback to be less visible.	
Side setbacks 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.	The existing side setbacks remain unchanged apart from the provision of the alfresco dining area which is setback over 1m from the southern boundary and complies with the interim policy.	Yes
Landscaped area Where located inside the FSPA, a minimum of 25% of the site area is landscaped open space The minimum dimension of landscaped open space is 2m, designed in a useable configuration A minimum of 15m ² of the landscaped open space is provided between the front setback and the street boundary in the form of a front yard	The total amount of landscaped area across the whole site exceeds 25% which complies with the control. The minimum dimension for landscaped area both at the front and rear is 2m. The area of open space at the front is well over 15sqm in area.	Yes
Private open space An area of Principal Private Open Space is to be provided which: a) has a minimum area of 30m ² 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	Both the front and rear yards have areas which is well in excess 30sqm located on ground, adjoining the living area and have a minimum dimension of 5m.	Yes

DRAFT GEORGES RIVER DEVELOPMENT CONTROL PLAN 2020 (GRDCP)

99. Council has prepared the Draft GRDCP 2020 which aims to harmonise controls within the LGA to create an integrated, consolidated document which will compliment the provisions of the Draft GRLEP 2020 (gazetted of which is imminent).
100. The GRDCP 2020 will become effective upon gazetted of the GRLEP 2020. The proposed development would need to generally satisfy the following parts:
- Part 3 – General Planning Considerations
 - Part 4 – General Land use
 - Part 6.1 – Low Density Residential controls
 - Part 6.5 – Foreshore Locality Controls

101. The proposed development is considered to be generally consistent with the draft provisions and controls and not inconsistent with the intent and purpose of the plan.

IMPACTS

Natural Environment

102. The proposed development is not considered to have a detrimental impact on the natural environment. It will generally improve the landscaping features and elements across the site and should therefore have a positive contribution to the streetscape.

Built environment

103. The proposed development will not have an impact on the existing built form at the site. The works are largely on ground and at grade and will not be visible from the streetscape although they aim to improve the amenity and functionality of the property.

Social impacts

104. The proposal will not generate any adverse social impacts. The integrity of the heritage item is maintained.

Economic impacts

105. The proposed works are small scale in nature and are unlikely to result in any unreasonable economic impacts.

Suitability of the site

106. The proposed development is permissible in the zone and involves small scale residential alterations and additions to the dwelling house which are consistent with the context of the area and is in keeping with the low scale residential nature and character of the locality.

SUBMISSIONS, REFERRALS AND THE PUBLIC INTEREST

107. The application was notified and a sign placed on site for a period of 14 days in accordance with the provisions of the KDCP. No submissions were received.

Council referrals

Heritage Advisor

108. The application was referred to Council's Heritage Advisor for comment. No objection was raised in respect to the works subject to the imposition of conditions. The following response was provided.

Reason for the Heritage Referral:

109. *"The Development Application has been referred for heritage advice and comment as the subject site is an item of heritage significance, known as 'Palmyra' (Item No.1162), which is listed on Schedule 5 of Kogarah LEP 2012.*
110. *The site is also situated within the vicinity of numerous items of heritage significance listed under Schedule 5 of Kogarah LEP 2012.*

Statement of Cultural Significance:

111. *It is historically significant as it represents a later development overlay within the "Ellismere Estate". It represents a good example of its architectural style - Federation Bungalow. It is rare within the locality.*
112. ***Consideration of the proposed development:***

1. *Situated on the subject site is a two-storey dwelling known as 'Palmyra'. The dwelling displays an overall form, materiality and characteristics which attribute it to the domestic housing forms of the early 20th century and of the Federation Bungalow architectural style.*
2. *While the overall silhouette and form of the dwelling appears to remain substantially intact, the dwelling exhibits substantial evidence of various cosmetic and structural alterations to both its exterior and interior that have more than superficially obscured and diminished its design integrity.*
3. *This proposal involves minor alterations and additions to the existing dwelling, which are mostly concentrated to the rear (original front elevation) at the alfresco area behind the existing carport structure and involve material changes to previously modified fabric of little significance.*
4. *A Heritage Impact Statement (HIS) has been submitted with this proposal and has been reviewed. It is noted that the HIS is supportive of the development proposal and makes no specific design recommendations to mitigate heritage impacts. I concur with the assessment and findings of the HIS.*
5. *Overall, the proposed alterations and additions will retain the existing quantum of the dwelling and will have a minor and acceptable impact to the significance of the dwelling.* 6. *The proposed landscaping works involve changes to previously modified fabric and will provide for an improved aesthetic to the site and its landscaped setting. These works are considered acceptable."*

113. Conditions are included if approval is to be granted.

Landscape Officer

114. The application was referred to Council's Landscape Officer. No objection was raised in respect to the proposed works subject to the implementation of standard conditions if consent is to be issued.

Health and Building

115. The application was referred to Council's Health and Building Officer for comment. The ASS management plan was assessed and considered. No objection was raised in respect to the proposed works subject to the imposition of conditions.

Development Engineer

116. The proposal was referred to Council's Development Engineer for comment. No objection was raised subject to the implementation of conditions of consent if consent is to be issued.

External referrals

Ausgrid

117. The application was referred to Ausgrid as per Clause 45(2) of the State Environmental Planning Policy (Infrastructure) 2007 for consideration. Ausgrid responded and noted that due to the extent of the works no response is required and the works will not impact on any of their infrastructure or assets.

Public Interest

118. The proposal has been assessed against the relevant planning policies applying to the site having regard to the objectives of the controls and specific numeric standards. This development is considered to be a positive planning and design solution for this site and improve its amenity and functionality. No submissions were received and given the scale and form of the proposal it is considered to be in the public interest and will not adversely affect the amenity of adjoining properties and the streetscape.

Section 7.12 Contributions

119. In accordance with the Georges River Section 94A Contributions Plan 2017, Section 7.12 contributions apply to the proposed works and based on a construction cost of \$250,000 a contribution of \$2,500 is applicable in this instance. A condition is included
120. Council at its meeting on 28 June 2021 resolved to exhibit the draft Georges River Council Local Infrastructure Contributions Plan 2021 – Section 7.11 and 7.12 for a period of 28 days. The Draft plan retains the same S7.12 contributions as currently applicable for this development.

CONCLUSION

121. The application has been assessed having regard to Section 4.15 of the Environmental Planning and Assessment Act 1979, State Environmental Planning Policies and the provisions of the Kogarah Local Environmental Plan 2012 and the Kogarah Development Control Plan 2013 and has considered the provisions of both the Draft Georges River LEP 2020 and Draft Georges River DCP 2020.
122. The proposal on its merits is considered to be an acceptable planning and urban design outcome (subject to the imposition of conditions) for the reasons outlined within this report. The proposal is reasonable and compliant with the key planning controls and will not result in any unreasonable or adverse planning and amenity outcomes. It is for these reasons the proposal is recommended for approval.

DETERMINATION AND STATEMENT OF REASONS

Statement of reasons

123. The reasons for the recommendation are:
- The development complies with the key planning objectives and controls within the KLEP 2012 and the KDCP 2013.
 - The proposal is small scale and seeks to improve the amenity of the dwelling house by creating a more contemporary and functional arrangement of the area of open space at the front and rear of the property. The proposal creates a better relationship between the internal spaces within the home and the outdoor area of open space. The proposed changes are considered minor but will improve the functionality and useability of the property.
 - The proposed alterations will not adversely or detrimentally affect adjoining and neighbouring properties in terms of generating any additional overshadowing, overlooking or view loss.
 - The proposal will retain the significance and integrity of the Heritage Item on site and will not adversely affect the character of the foreshore area in which it is located.
 - The development is in the public interest and will not establish an undesirable precent in the locality.
 - The nature of the works are small scale and are permissible in the zone and satisfy the zone objectives as such the proposal is suitable for the site.

Determination

124. That pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979 (as amended) the Georges River Local Planning Panel, grant development consent to development application DA2021/0125 for Alterations and additions to the Heritage Item in the form of a new alfresco dining area, rear pool, filling in the existing pool at the front and associated landscaping works at Lot 1 DP216929 known as 17-19 Vista Street, Sans Souci subject to the following conditions.

Conditions of consent

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	Drawing No.	Date	Revision	Prepared by
Cover Sheet	A001	3/02/2021	2	Luxitecture
BASIX Commitments	A002	3/02/2021	2	Luxitecture
Landscaping Plan	A008	3/02/2021	2	Luxitecture
Site analysis plan	A009	3/02/2021	2	Luxitecture
Site plan	A010	3/02/2021	2	Luxitecture
Existing floor plan	A100	3/02/2021	2	Luxitecture
Existing ground floor	A101	3/02/2021	2	Luxitecture
Proposed ground floor	A102	3/02/2021	2	Luxitecture
Proposed ground floor	A103	3/02/2021	2	Luxitecture
Proposed first floor	A104	3/02/2021	2	Luxitecture
Pool plan	A105	3/02/2021	2	Luxitecture
Pool section	A106	3/02/2021	2	Luxitecture
Pool section	A107	3/02/2021	2	Luxitecture
Roof plan	A108	3/02/2021	2	Luxitecture
Elevations	A200	3/02/2021	2	Luxitecture
Elevations	A201	3/02/2021	2	Luxitecture
Elevations	A202	3/02/2021	2	Luxitecture
Elevations	A203	3/02/2021	2	Luxitecture
Sections	A300	3/02/2021	2	Luxitecture
Sections	A301	3/02/2021	2	Luxitecture
Finishes schedule	A400	3/02/2021	2	Luxitecture
Additional reports and plans				
Waste Management Plan	N/A	N/A	N/A	Luxitecture
Statement of Environmental Effects	N/A	4/02/2021	N/A	Luxitecture
Stormwater Plans	SW01 and SW02	5/03/2021	N/A	Hyten
Stormwater Design Certificate	N/A	5/03/2021	N/A	Hyten
Heritage Impact Statement	N/A	March 2021	N/A	Heritage 21
BASIX Certificate	A403573_02	4/02/2021	N/A	N/A
Acid Sulfate Soils Investigation Report	N/A	19/02/2021	N/A	Geo-environmental
Acid Sulfate Soils Management Plan	N/A	19/02/2021	N/A	Geo-environmental

SEPARATE APPROVALS REQUIRED UNDER OTHER LEGISLATION

2. **Section 138 Roads Act 1993 and Section 68 Local Government Act 1993** - Unless otherwise specified by a condition of this consent, this Development Consent does not

give any approval to undertake works on public infrastructure.

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

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

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

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

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

REQUIREMENTS OF CONCURRENCE, INTEGRATED & OTHER GOVERNMENT AUTHORITIES

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

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

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

4. **Heritage (Building works to comply with BCA)** - Any building works required to ensure compliance with the BCA or new building standards not specified in the submitted/approved plan must not damage existing fabric and building features. If such upgrading works will potentially impact on existing fabric and features, details of the works must be submitted and approved by Council's Heritage Advisor prior to issue of a Construction Certificate.
5. **Landscape Plans** – All landscape works shall be carried out in accordance with the approved landscape plans and specifications, drawn by Luxitecture, Ref No 2008, A008, Rev 2 and dated 03/02/21. The landscaping shall be maintained in accordance with the approved plans in perpetuity, subject to the following -
 - a) The existing palms and trees within the site are to be retained and protected.
6. **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- 3.0m
All trees and palms are to be retained and protected by tree protection fencing for the entirety of the project.		

- (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 Australian Arboricultural Association or Affiliation, with a letter of engagement forwarded to the nominated PCA, forming compliance.
- (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) The tree protection measures must be undertaken in accordance AS4970 -2009 *Protection of trees on development sites*.
- (d) 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.
- (e) 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.
- (f) The engaged AQF 5 Consulting Project Arborist must be present on-site during the stages of site set up, excavation, demolition and construction when works are

being undertaken that could impact on the tree canopy or root zone within the tree protection zone of each tree.

- (g) In accordance with AS 4970-2009 *Protection of trees on development sites*, a protective fence consisting of 2.4 x 1.8 metres high, fully supported chainmesh fence shall be used. The distance of the fence 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.
- (h) 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.
- (i) 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

- (j) 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.
- (k) 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.
- (l) 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.
- (m) 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).

- 7. **Tree Removal & Replacement** - No tree or palms are to be removed under this consent.
- 8. **Low reflectivity roof** – New roofing materials must be low glare and reflectivity. Details of finished external materials including colours and texture must be provided to the Certifying Authority.
- 9. **Ausgrid - Clearances to electricity mains** - If any part of the proposed structure, within 5m of a street frontage, is higher than 3m above footway level, Ausgrid is to be consulted to determine if satisfactory clearances to any existing overhead High Voltage mains will be affected. If so, arrangements are to be made, at your cost, with Ausgrid for any necessary modification to the electrical network in question. For details visit

www.ausgrid.com.au or call 131365.

10. **Electricity Supply** - An application may be 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
11. **Network Connection** – If connection to the network will be required prior to the release of the Occupation Certificate
12. **Fees to be paid** - The fees listed in the table below must be paid in accordance with the conditions of this consent and Council's adopted Fees and Charges applicable at the time of payment (available at www.georgesriver.nsw.gov.au).

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

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

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

Fee Type	Fee
GENERAL FEES	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See https://portal.longservice.nsw.gov.au/bci/levy/	
Builders Damage Deposit	\$1,900.00
Inspection Fee for Refund of Damage Deposit	\$168.00
DEVELOPMENT CONTRIBUTIONS	
Kogarah Section 7.12 Contribution	\$2,500.00
Total S7.12 Contributions	\$2,500.00

General Fees

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

Development Contributions

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

Timing of Payment

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

Further Information

A copy of the *all current Development Contributions Plans* may be inspected or a copy purchased at Council's offices (Georges River Civic Centre, MacMahon Street,

Hurstville and Kogarah Library and Service Centre, Kogarah Town Square, Belgrave Street, Kogarah) or viewed on Council's website www.georgesriver.nsw.gov.au.

13. **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: **\$168.00**
 - 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.

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

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.

15. **BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No.A403573_02 must be implemented on the plans lodged with the application for the Construction Certificate.

16. **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.

17. **Stormwater System** – 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 from the site is to drain by gravity to the bay, with the provision of a pollution control pit prior to the discharge point, located within the property boundary, to the satisfaction and certification of the PCA.
 - b. The stormwater discharge pipe shall be located within the site boundary.
18. **Compliance with Swimming Pool Act 1992** - The new swimming pool must comply with the provisions of 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.
19. **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.
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. **Tree pruning** - Any necessary pruning of overhanging branches relating to the existing trees and any neighbours tree hanging over into the subject site, are subject to a separate tree pruning approval application prior to any works commencing and shall be conducted in accordance with - AS 4373 - 2007, *Pruning of amenity trees*, Pruning class – “S” – Selective pruning – clause 7.2.4 and completed by a minimum, AQF Level 3 Arborist.

PRIOR TO THE COMMENCEMENT OF WORK (INCLUDING DEMOLITION AND EXCAVATION)

22. **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.

23. **Compliance with acid sulfate soils management plan** – The recommendations and requirements of the acid sulfate soil management plan, “*Acid Sulfate Soil Management Plan – report ID: G21011SS-R02F*” for 17-19 Vista Street Sans Souci NSW prepared by Geo-environmental Engineering, and any related project documentation must be implemented during construction.
24. **Fill matter for the pool** – the proposed material/soil selected to fill the front pool shall be in accordance with EPA requirements and be clean fill or soil. Certification is to be provided to the PCA to ensure that the imported fill is not contaminated and details of the materials shall be to the satisfaction of the PCA.
25. **Photographic Archival Recording** - Prior to the commencement of any works, including the dismantling of fabric or demolition, a simplified Photographic Archival Recording shall be undertaken of the areas of the dwelling and site affected by the approved works and submitted to the satisfaction of Council.

The Photographic Archival Recording shall be prepared and produced in a digital format and shall contain:

- a) A brief report or introduction which explains the purposes of the Photographic Archival Recording and gives a brief description of the subject site, as well as details of the sequence in which images were taken;
- b) A plan of the building and site marked up to indicate where the photographs were taken and the direction of the photograph;
- c) A complete set of digital image files saved as JPEG or TIFF files with associated metadata, and cross-referenced to catalogue sheets.

The Photographic Archival Recording shall be submitted to Council on a suitable portable electronic storage device (such as USB), or uploaded to a suitable file-sharing platform that is freely accessible. The digital version of the Photographic Archival Recording shall be arranged as a single parent folder containing the report, reference plans saved as individual PDF documents. All electronic image files shall be arranged by their file type and saved as individual files, grouped in separate sub-folders, as set out below:

Photographic Archival Recording [Property Address]

- Report and Reference Plans [Property Address]
- Electronic Image Files – JPEG – [Property Address]

26. **Archaeology** – The following policies are to be considered.

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.

27. **General Heritage** – The following conditions need to be complied with at all times:
- (a) The proposed works are to be carried out in a manner that minimises demolition, alterations and new penetrations/fixings to the significant fabric of the existing heritage item.
 - (b) The fabric and features to be retained by the proposal must be properly protected during the process of demolition and construction.
 - (c) All conservation and adaptation works are to be in accordance with the Articles of the Australia ICOMOS Burra Charter (2013).
28. **Uncovering of concealed architectural features or detailing** - Should any concealed architectural features or detailing, not previously noted in the DA documentation, be discovered during demolition or building works, all works are to immediately cease and the architectural features or detailing to be photographically recorded and Council's Heritage Advisor is to be contacted for advice.
29. **Painting** - No painting or rendering of masonry or stone is permitted (other than what is shown on the DA plans). No painting or rendering shall be permitted to masonry or stone surfaces which have not previously been painted or rendered.
30. **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

31. **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.
32. **Road Opening Permit** - A Road Opening Permit must be obtained from Council for every opening of a public road reserve to access services including sewer, water mains, gas mains, connecting of stormwater to the kerb and telecommunication. This is for any work that involves excavation through or within a public road, kerb and gutter, and or the public footway between the road and the property boundary. The permit is to be lodged prior to the commencement of works. Additional approval is required from Roads and Maritime Services for works on a State Road.

33. **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.

34. **Discovery of Additional information/materials** – If any new information is discovered during demolition, excavation or construction (unexpected finds) that has the potential to alter previous conclusions about site contamination, all works must cease the site made secure and the Council and the Principal Certifying Authority (if Council is not the PCA) must be notified as soon as practicable and appropriate action taken, reporting and approvals obtained.

It is mandatory that this information is reported to Council in order to comply with Section 148 of the POEO Act 1997 and Section 60 of the CLM Act 1997.

35. **Hours of construction for demolition and building work** - Unless authorised by Council:

- a. Building construction and delivery of material hours are restricted to: 7.00am to 5.00pm (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.

36. **Ground levels and retaining walls** - The ground levels of the site shall not be excavated, raised or filled, or retaining walls constructed on the allotment boundary, except where indicated on approved plans or approved by Council. All site works and retaining walls are to be constructed wholly on the subject site, including footings.

37. **Cost of work to be borne by the applicant** - The applicant shall bear the cost of all works associated with the construction of the development that occurs on Council property. Care must be taken to protect Council's roads, including the made footway, kerbs, etc., and, where plant and vehicles enter the site, the footway shall be protected against damage by deep-sectioned timber members laid crosswise, held together by hoop iron straps and chamfered at their ends. This construction shall be maintained in a state of good repair and condition throughout the course of construction.

38. **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.

39. **Swimming Pools (Use and Maintenance)** - The following apply to the construction, use and maintenance of swimming pools and spas:

- i. no ground level may be raised or filled except where shown specifically on the approved plans;
- ii. all pool/spa waste water is to be discharged to the sewer according to the requirements of Sydney Water;
- iii. the swimming pool must not be used for commercial or professional purposes;
- iv. drain paved areas to the landscaped areas or a suitable lawful drainage system; and
- v. arrange any external pool/spa lighting to minimise glare nuisance to adjoining owners.

40. **Removal & Filling of Swimming Pools** - The following provisions must be complied with:
- The site of the swimming pool must be filled (if necessary) so as to restore the site to the ground levels (existing) adjacent to the pool, and
 - The swimming pool must not be filled with building demolition waste of any kind and if constructed as a concrete shell must be demolished so as to allow ground water to escape or drain to groundwater and
 - The fill must be certified clean imported soil or virgin excavated material (VENM) and compacted, and
 - Any piping or similar material must be removed from the site before the site is filled.
41. **Swimming Pools (Filling with water)** - The pool/spa shall not be filled until the safety fences have been completed in accordance with the approved plans and specifications and inspected by the PCA.

PRIOR TO OCCUPATION CERTIFICATE

42. **Completion of Landscape Works** - All landscape works must be completed before the issue of the Final Occupation Certificate and to the satisfaction of Council's Tree Management Officers.
43. **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.
44. **Tree Protection Measures** - A final certificate of compliance letter, once all building and landscape works have been completed, from the engaged AQF 5 Consulting Arborist, that tree protection measures have been installed and maintained for the entirety of the project and report on the condition of the trees that as part of this Consent, were to be protected and retained.

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.

45. **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 Certificates before any Occupation Certificate is issued.
46. **Requirements prior to the issue of the Occupation Certificate - Stormwater Works**

The following shall be completed and or submitted to the PCA prior to the issue of the Occupation Certificate:

- (a) All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.

OPERATIONAL CONDITIONS (ONGOING)

- 47. **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.
- 48. **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.
- 49. **Outdoor Lighting** - To avoid annoyance to the occupants of adjoining premises or glare to motorist on nearby roads, outdoor lighting must comply with AS 4282-1997: Control of the obtrusive effects of outdoor lighting.
- 50. **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.
- 51. **Lighting – General Nuisance** - Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill or glare.

Flashing, moving or intermittent lights or signs are prohibited.

- 52. **Activities and storage of goods outside buildings** - There shall be no activities including storing or depositing of any goods or maintenance to any machinery external to the building with the exception of waste receptacles.
- 53. **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.

54. **No Structures on Street-Facing Roof Plane or Awning** - No solar hot water heater storage tanks, solar panels, ventilators, air conditioning units, satellite dishes and antennae or the like are to be placed on roof planes, parapets or street awnings of the building which are visible from a public street (other than rear laneways).
55. **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).

OPERATIONAL REQUIREMENTS UNDER THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

56. **Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued.
57. **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.

58. **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.

59. **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.

60. **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.

61. **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.

62. **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

63. **Clause 97A - BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
64. **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.
65. **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.
66. **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](#).
67. **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

68. **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.

69. **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.
70. **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.
71. **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.
72. **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.

73. **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.

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

- (a) Complete the Stormwater Drainage Application Form which can be downloaded from Georges River Council's website at www.georgesriver.nsw.gov.au.
- (b) In the Application Form, quote the Development Consent No. (eg. DA2020/0338) 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.

75. **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.
76. **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).

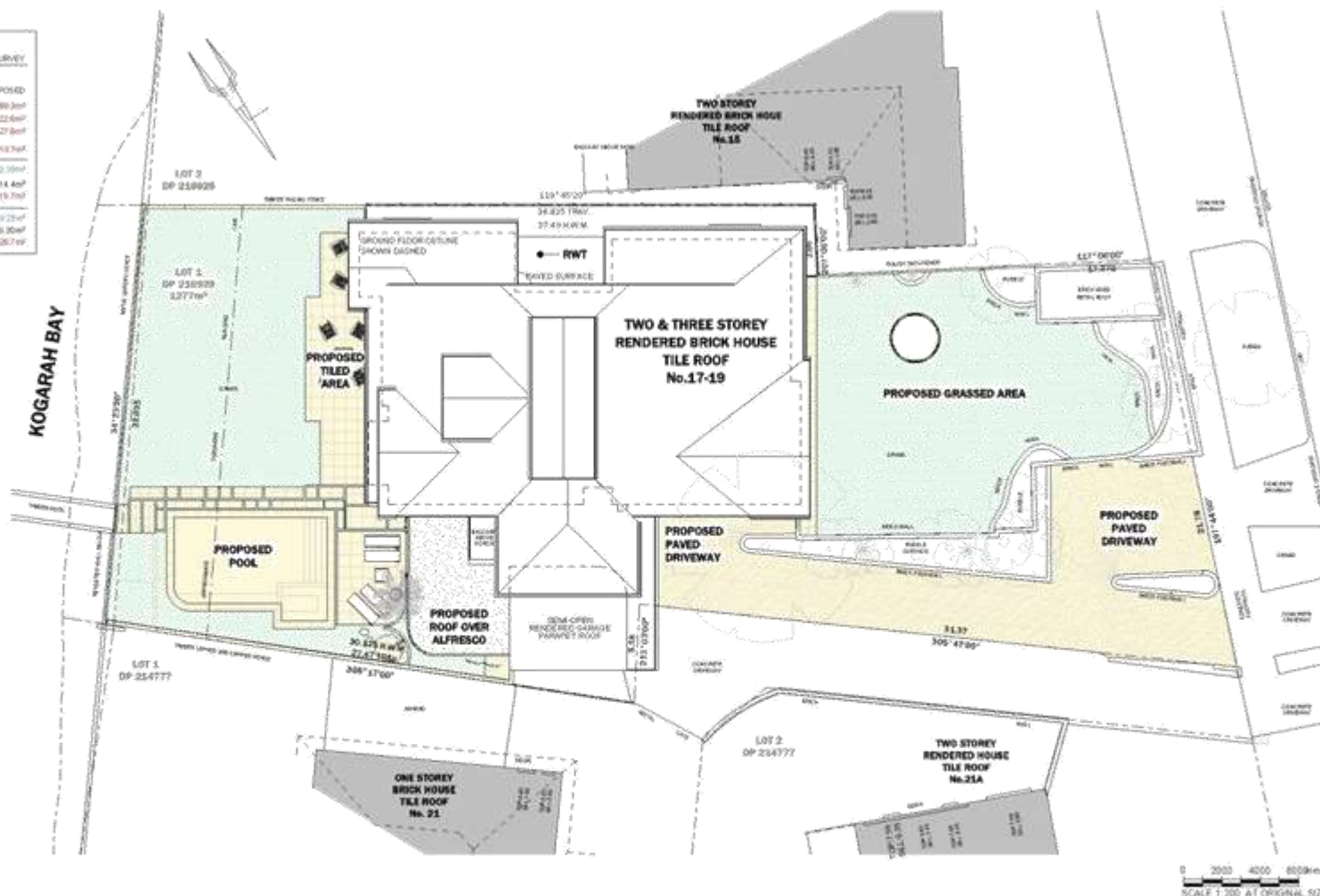
77. **Register your Swimming Pool** - All swimming pools in NSW are required to be registered. Fines apply for pools that are not registered. To register please visit: swimmingpoolregister.nsw.gov.au.

ATTACHMENTS

- Attachment [↓](#) 1  Site plan - 17-19 Vista St Sans Souci
- Attachment [↓](#) 2  Landscaping Plan - 17-19 Vista St San Souci

SITE SUMMARY

GEORGES RIVER COUNCIL		
1:277m PER SURVEY		
SITE AREA		
GROSS FLOOR AREA	EXISTING	PROPOSED
GROUND FLOOR	268.3m ²	268.3m ²
FIRST FLOOR	122.6m ²	122.6m ²
DAMAGE	22.5m ²	27.8m ²
TOTAL	413.4m ²	418.7m ²
FLOOR SPACE RATIO		
EXISTING	0.33 / 11.414.4m ²	
PROPOSED	0.33 / 11.419.3m ²	
LANDSCAPING		
EXISTING	25% / 254.23m ²	
PROPOSED	25% / 255.30m ²	



1 SITE PLAN
A010 SCALE 1 : 200

DEVELOPMENT APPLICATION

Notes

- On half scale plan drawing, use marked dimensions and levels. To be used in conjunction with all construction documentation.
- Constructors to verify all dimensions, coordinate services and components prior to commencement of site work or off-site fabrication and installation.
- All construction must be built to minimum requirement set out by the Building Code of Australia and relevant Australian Standards.
- Constructors to be notified immediately of any discrepancies to the above, and confirmation sought.
- Copyright on this drawing and design retained by Luxitecture.

REV
1
2

DESCRIPTION
TERRACE PAVILION
238929-20-000000-000-00

DATE
23-11-19
09-00-21

LUXITECHTURE

Drawn: JLM
Checked: JLM



True North

PROJECT
2008
17-19 VISTA STREET
CLIENT
MICHAEL & CAMILLE CASSEL
ADDRESS
17-19 VISTA STREET
SAN SOUCI, NSW 2219

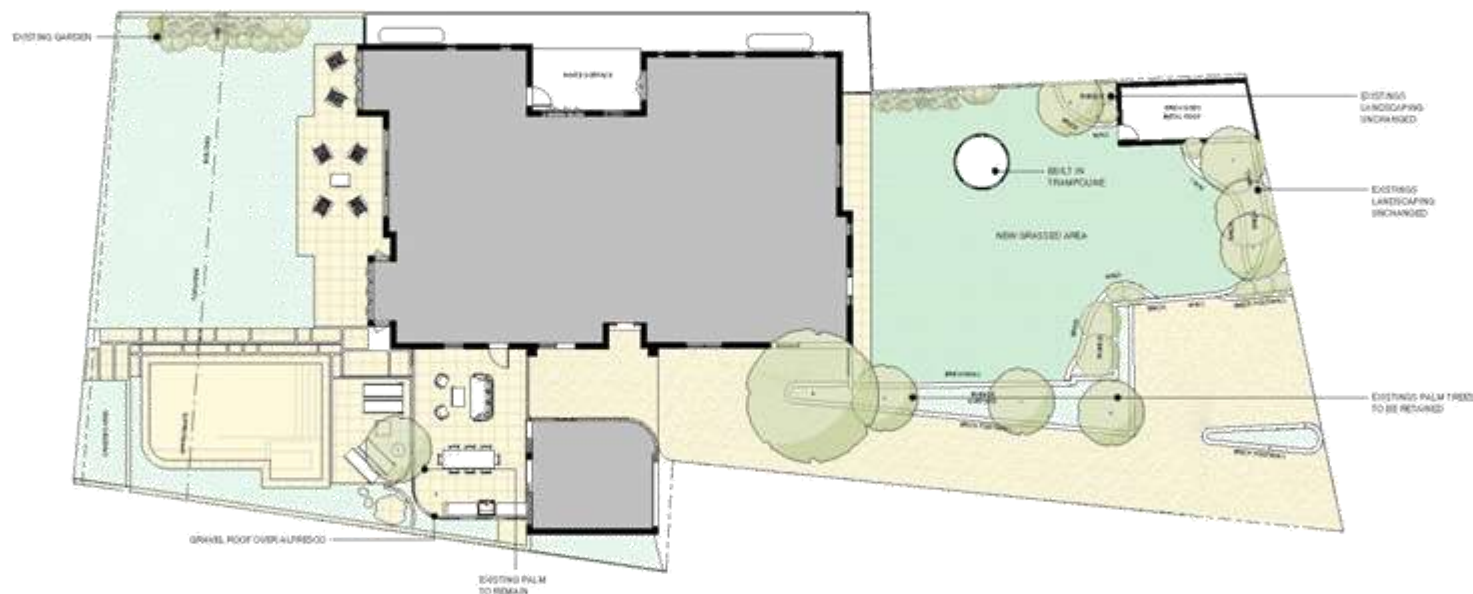
Revised Title
SITE PLAN

NOT FOR CONSTRUCTION

Drawn	SAJ	Date	03.02.21
Project No.	2008	Design Phase	DA
Project No.	A010	Design No.	2

SITE SUMMARY

GEORGES RIVER COUNCIL		
1377m ² PER SURVEY		
SITE AREA		
GROSS FLOOR AREA		
	EXISTING	PROPOSED
GROUND FLOOR	288.3m ²	288.3m ²
FIRST FLOOR	122.6m ²	122.6m ²
GARAGE	23.5m ²	27.8m ²
TOTAL	434.4m ²	438.7m ²
FLOOR SPACE RATIO		
	0.35 / 1	0.35 / 1
EXISTING	0.35 / 1	0.35 / 1
PROPOSED	0.35 / 1	0.35 / 1
LANDSCAPING		
	20% / 20%	20% / 20%
EXISTING	18% / 18%	18% / 18%
PROPOSED	20% / 20%	20% / 20%



1 LANDSCAPING PLAN A008 SCALE 1 : 200

Notes

- On all scale drawings, use marked dimensions and levels. To be used in conjunction with all construction documentation.
- Contractor to verify all dimensions, materials, services and components prior to commencement of site work or off-site fabrication and installation.
- All construction must be built to minimum requirement set out by the Building Code of Australia and relevant Australian Standards.
- Landscaping to be installed immediately after completion of the above, and installation sought.
- Copyright on this drawing and design retained by Luxitecture.

REV	DESCRIPTION	DATE
1	ISSUED FOR REVIEW	23-10-20
2	ISSUED FOR CONSTRUCTION	03-02-21

LUXITECTURE

Drawn: JMM Created: JMM

17-19 VISTA STREET, SAN SOUCI, NSW 2219



True North

PROJECT
 2008
 17-19 VISTA STREET
 CLIENT
 MICHAEL & CAMILLE CASSEL
 ADDRESS
 17-19 VISTA STREET
 SAN SOUCI, NSW 2219

DEVELOPMENT APPLICATION

Drawing Title			
LANDSCAPING PLAN			
NOT FOR CONSTRUCTION			
Drawn	By	Date	Rev
2008	DA	03.02.21	2
Project No.	Drawing Phase	Drawing No.	Rev
		A008	

REPORT TO GEORGES RIVER COUNCIL LPP MEETING OF THURSDAY, 05 AUGUST 2021

LPP036-21

LPP Report No	LPP036-21	Development Application No	PP2017/0005
Site Address & Ward Locality	53A-59A Gloucester Road Hurstville Hurstville Ward		
Proposed Development	Planning Proposal to amend the Hurstville Local Environmental Plan (LEP) 2012 (or Georges River LEP 2020, if gazetted) to permit a residential care facility with a maximum floor space ratio (FSR) of 1.6:1 and a maximum height of buildings (HOB) ranging from 12m, 14m and 16.9m at 53A - 59A Gloucester Road, Hurstville		
Owners	Regis Aged Care Pty Ltd		
Applicant	Regis Aged Care Pty Ltd		
Planner/Architect	Mecone		
Date Of Lodgement	17/11/2017		
Submissions	N/A		
Cost of Works	N/A		
Local Planning Panel Criteria	Direction from the Minister for Planning and Open Spaces under Section 9.1 of the Environmental Planning and Assessment Act 1979 (EP&A Act) and the Charter of the Georges River Council Local Planning Panel (LPP) 2018 which both specify that the Planning Proposal is to be referred to the LPP before it is forwarded for Gateway Determination (approval).		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	N/A to Planning Proposals		
List all documents submitted with this report for the Panel's consideration	Attachment 1 – Report to LPP 6 May 2021; Attachment 2 - Final Response to LPP – 1 July 2021; Attachment 3 – Indicative Architectural Concept – September 2020; Attachment 4 – Draft Site Specific DCP – July 2021 (NOTE: Refer to the Planning Proposals page on Council's website for all the attachments)		
Report prepared by	Senior Strategic Planner		

Recommendation	<ol style="list-style-type: none"> 1. That the Georges River Local Planning Panel recommends that Council endorse the forwarding of Planning Proposal PP2017/0005 to the NSW Department of Planning, Industry and Environment (DPIE) to request a Gateway Determination under Section 3.33 of the EP&A Act 1979 for an amendment to the Hurstville Local Environmental Plan (LEP) 2012 (or Georges River LEP 2020, if gazetted), to permit a residential care facility with a maximum floor space ratio (FSR) of 1.6:1 and a maximum height of building (HOB) ranging from 12m, 14m and 16.9m at Nos. 53A-59A Gloucester Road, Hurstville. 2. That the Georges River LPP further recommends to Council
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	that Council request as a condition of the Gateway Determination that the increase in FSR and maximum building height on the subject site is linked to a residential care facility land use only.
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LPP036-21

Site Plan



Executive Summary

1. This report has been prepared following the deferral of Planning Proposal No PP2017/0005 by the Georges River Local Planning Panel (LPP) on 6 May 2021 for the proponent to submit additional documentation including justification for the implications of heights and setbacks for the adjoining sites and future developments, provisions of the Housing for Seniors or People with a Disability SEPP and the draft Housing Diversity SEPP, and the submission of a draft site specific DCP.
2. The additional information was submitted by the proponent on 1 July 2021.
3. This report has undertaken an assessment of the additional information provided by the proponent to address the deferral reasons.

Report in Full

Background

4. A Planning Proposal request (PP2017/0005) was submitted by the RPS Group on 17 November 2017 that seeks to amend the Hurstville LEP 2012 in relation to 53A – 59A Gloucester Road, Hurstville (Lot 10 in Deposited Plan 1077198 and Lot Y in Deposited Plan 411930). Since lodgement, the proposal has been modified on multiple occasions. The current version submitted by Mecone (who has replaced RPS Group as consultant planner) in April 2021, seeks to permit a residential care facility with a floor space ratio (FSR) of 1.6:1 and a maximum building height ranging from 12m, 14m and 16.9m.
5. The Planning Proposal was accompanied by the following documents:
 - Planning Proposal, prepared by Mecone
 - Indicative Architectural Concept, prepared by O'Neill Architecture
 - Site Survey, prepared by RPS
 - Transport Impact Assessment, prepared by JMT Consulting
 - Urban Design Principles, prepared by Mecone and O'Neill Architecture
 - Landscape Statement, prepared by Arcadia
6. The concept scheme in its amended form was subsequently peer reviewed by Architectus (on behalf of Council) in December 2019 and April 2020. The most recent iteration of the Architectural Concept Scheme was considered appropriate for the site. The Indicative Development Concept, guided by the Indicative Architectural Concept as presently proposed, provides for the following:
 - a. Demolition of existing structures and excavation to facilitate the delivery of a basement;
 - b. Construction of a part 3 and part 4 storey residential aged care facility with a Gross Floor Area (GFA) of 8,203sqm (FSR 1.6:1) comprising:
 - i. 94 residential care beds;
 - ii. 16 dementia beds;
 - iii. Communal facilities;
 - iv. Staff amenities;
 - v. Ancillary uses including a café, hairdresser, day spa and function rooms;
 - c. A basement with 41 vehicular spaces, comprising:
 - i. 20 staff spaces;
 - ii. 11 residential spaces;
 - iii. 10 additional spaces above the minimum requirement; and
 - iv. Provision of outdoor communal areas and landscaping.
7. The LPP considered a report at its meeting held 6 May 2021 that recommended that the LPP support the Planning Proposal to amend the Hurstville LEP 2012 (or Georges River LEP 2020, if gazetted), so as to permit a residential care facility with a maximum FSR of 1.6:1 and a maximum building height ranging from 12m, 14m and 16.9m at Nos. 53A-59A Gloucester Road, Hurstville and that the Planning Proposal be forwarded to the Minister for Planning and Public Places for a Gateway Determination under Section 3.34 of the EP&A Act. The report further recommended that the Gateway Determination include a condition that the increase in FSR and height on the subject site is linked to a residential care facility land use only.

8. A copy of the report that was considered by LPP on 6 May 2021 is contained in **Attachment 1** to this report.
9. A copy of the attachments to the report that LPP considered on 6 May 2021 are contained on Council's website at <https://www.georgesriver.nsw.gov.au/Development/Planning-Controls/Planning-Proposals/Planning-proposals-Hurstville-wards-en/Planning-proposal-for-53a-59a-Gloucester-Rd,-Hurstville>

Outcome of LPP consideration of Report – 6 May 2021

10. In considering the Planning Proposal at its meeting held 6 May 2021, the LPP deferred the matter requesting additional information as detailed below:

The Panel notes:

1. *The proposal results in adhoc zoning outcomes in relation to the surrounding zones (R2, R3, B1 and SP2) and built form uniformity. In particular having regard to a maximum height of the proposal.*
2. *Ideally the consideration of the Planning Proposal and rezoning would apply to the block bounded by Ruby Street, Millet Street, Pearl Street and Gloucester Road Hurstville in relation to the strategic planning intentions for this part of the Local Government Area.*

The Panel defers the Planning Proposal subject to:

1. *Further consideration by the proponent of the Planning Proposal to assess and provide a further submission to the Panel that address the relationship of the future built form/development in regard to:*
 - a. *Distribution of heights and implications for adjoining sites and potential future developments.*
 - b. *Setbacks in relation to the adjoining sites and potential future developments.*
 - c. *The provisions of the Housing for Seniors or People with a Disability SEPP and the draft Housing Diversity SEPP.*
2. *The submission of a Draft Development Control Plan that articulates a, b and c above.*

Response to LPP comments dated 6 May 2021

11. A response to the issues raised by the LPP as notes and deferral reasons has been structured in the following way. A response by the proponent and Council is provided to each of the points raised by the LPP, followed by a recommendation for any change to the Planning Proposal. The supporting documents are listed in the title page of this report and are available on Council's Planning Proposal page.

Panel Note One

The proposal results in adhoc zoning outcomes in relation to the surrounding zones (R2, R3, B1 and SP2) and built form uniformity. In particular having regard to a maximum height of the proposal.

Proponent Response:


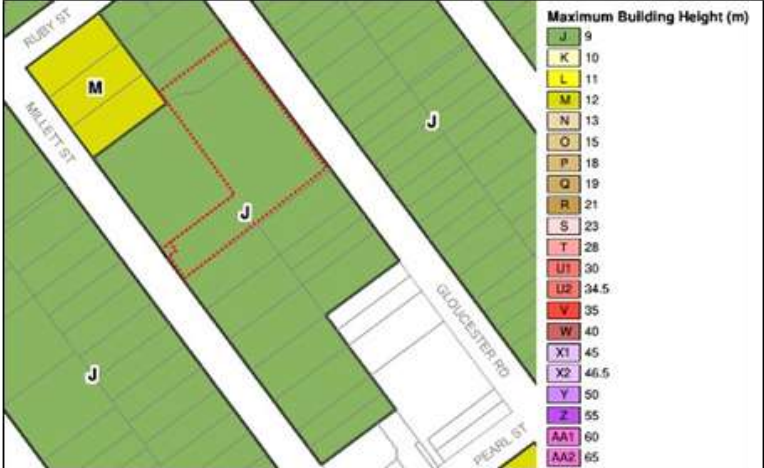
12. The subject site is zoned R2 Low Density Residential and is surrounded predominantly by R2 zoned land with the exception of a R3 medium density zone at the northwest of the subject site (Refer to **Figure 1**).
13. The R2 zone comprises a maximum building height of 9m (Refer to **Figure 2**) which is equivalent to 3 storeys. The proposed building envelope predominantly reaches 14m or three storeys (as a residential care facility, the development is to have a minimum floor height of 3.4m). The fourth storey is proposed in the central portion of the floorplate and reaches 16.33m.
14. The fourth storey is setback from the building line to minimise its visibility from the surrounds. The proposal includes sufficient setback which provides a balanced transition between built forms and the distribution of building heights have been shown in **Figure 3** below.
15. The proposal does not seek to rezone the site however, it does propose an additional permitted use for seniors housing across the site pursuant to Schedule 1 of the LEP. It is not uncommon for health or social infrastructure of a larger scale, such as the proposed development, to be located within low density residential areas provided they remain compatible with the prevailing and desired character of the locality. This is evidenced by the Hurstville Private Hospital immediately to the south of the site.
16. A draft DCP has been prepared (**Attachment 4**) which prescribes the specific design controls and urban design principles that shall govern the future development of the site. This site-specific DCP and controls provided within have been prepared to ensure that any future development of the site would not result in any unreasonable environmental or amenity impacts on surrounding properties. Further, these controls will ensure that the future development of the site achieves an optimal urban design outcome which is compatible with the established and desired future character of the neighbourhood.
17. As illustrated in **Figure 4** below, the draft DCP identifies the location of the allowable built form and maximum number of storeys across the site.
18. Architectus' May 2020 assessment concludes that they are supportive of the indicative internal floor plans and the amenity provided and that the Gloucester Road address is supported in responding to the form and character of the single detached dwellings along Gloucester Road.


Council response:

19. The subject site is zoned R2 Low Density Residential, and the block is zoned a mix of R2 Low Density Residential, R3 Medium Density Residential, B1 Neighbourhood Centre and SP2 Infrastructure - Hospital
20. **Figures 1 and 2** indicate the existing zonings and heights and FSRs applying to the subject site and adjoining lands. **Figure 3** indicates the proposed heights over the subject site. As illustrated in **Figure 3**, the tallest proposed height (16.33m) in the concept scheme; is

located in the central portion of the floorplate. It is setback from the building line to minimise its visibility from the streetscape.

21. The Panel is to note that this part of the Hurstville will be investigated as part of preparing the Stage 2 of the Commercial Centres Strategy and the LEP 2023 and the outcomes may result in amendments in zoning and planning controls and/or identification for investigating future housing supply beyond 2025.

Planning Control	Mapping Extract
<p>Land Use Zone</p> <p>Subject site: R2 Low Density</p> <p>Zones in the block:</p> <p>R2 Low Density</p> <p>R3 Medium Density Residential</p> <p>B1 Neighbourhood Centre</p> <p>SP2 Infrastructure-Hospital</p>	 <p>Figure 1 Existing Zoning Map Source: Mecone/HLEP 2012</p>
<p>Height of Building</p> <p>Subject site: 9m</p> <p>Heights in the block: 9m, 12m and no height</p>	 <p>Figure 2 Existing Height of Buildings Development Standard Map Source: Mecone/HLEP 2012</p>

Planning Control	Mapping Extract
<p>Height for subject site:</p> <p>12m, 14m and 16.9m</p>	 <p>Figure 3 Maximum Building Height Map – 53A-59A Gloucester Road Source: Mecone/HLEP 2012</p>

Panel Note Two

Ideally the consideration of the Planning Proposal and rezoning would apply to the block bounded by Ruby Street, Millet Street, Pearl Street and Gloucester Road Hurstville in relation to the strategic planning intentions for this part of the Local Government Area.

Proponent Response:

22. Mecone, on behalf of Regis, made a submission to the draft Georges River Local Strategic Planning Statement (LSPS) on 7 August 2019. Council confirmed to Mecone that the subject site was to be excluded in their comprehensive LEP update and the pathway of a site-specific planning proposal was recommended.
23. Given the nature of the proposed development as health and social infrastructure and strategic directions for the surrounding residential land, there is no identifiable reason why this proposal cannot be considered and proceed in an isolated manner without inclusion of the surrounding residential land.

Council response:

24. Council has no current plans to investigate the extension of the Hurstville City Centre until mid-2023. This is reflected in the Georges River LSPS which does not identify the site or the immediate surrounds as an area for change, or investigation. In this light, the proponent has opted to proceed with the planning proposal.
25. As discussed in Council response to Panel Note One (above), this part of the Hurstville will be investigated as part of preparing the Stage 2 of the Commercial Centres Strategy and the LEP 2023 and the outcomes may result in amendments in zoning and planning controls and/or identification for investigating future housing supply beyond 2025.

Deferral Reason One (a)

Further consideration by the proponent of the Planning Proposal to assess and provide a

further submission to the Panel that address the relationship of the future built form/development in regard to:

- a. Distribution of heights and implications for adjoining sites and potential future developments.

Proponent Response:

26. The Planning Proposal will facilitate the delivery of a building with a perceptible height of three (3) storeys and a maximum height of four (4) storeys. A Height in Storeys Map has been prepared as shown in **Figure 4**, which illustrates the distribution of heights and the heights of the adjoining properties. This figure has been provided as a building height and distribution control within the draft site-specific DCP prepared (**Attachment 4**).
27. The proposed building height distribution has been developed to minimise overshadowing impacts to the surrounding area and create a perceptible height that is in keeping with the predominant two to three storey heights in the surrounds.
28. The proposed building envelope for the residential care facility includes 12m, 14m and 16.9m building heights as illustrated in **Figure 3**. The building envelope reaches a maximum height of 16.88m in the location of the lift core that occupies the western portion of the floorplate which is not perceptible from street level. The envelope's building height predominantly reaches 14m (3 storeys). A fourth storey proposed in the central portion of the floorplate that reaches 16.33m is setback from the building line to minimise its visibility from the surrounds.

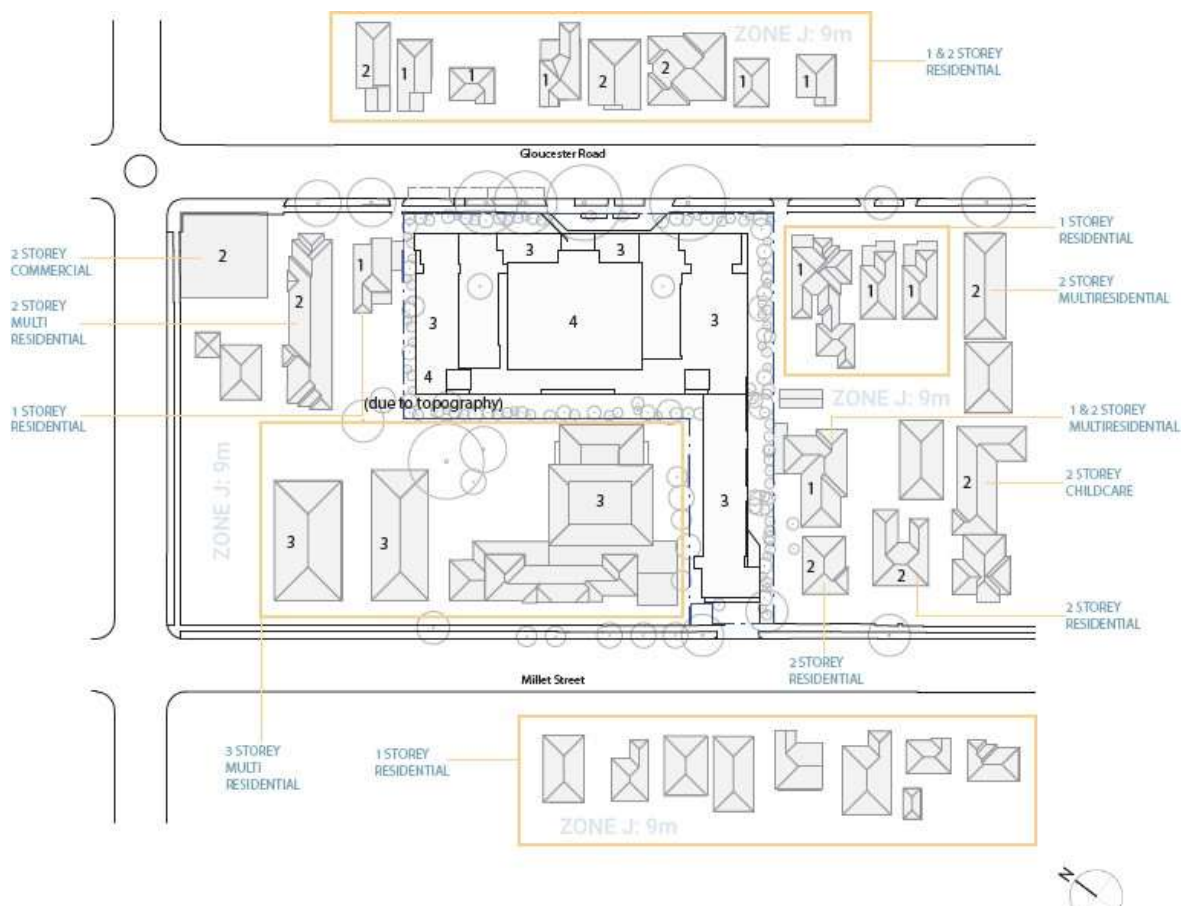


Figure 4 Height in storeys
Source: O'Neil Architecture

29. The indicative massing strategy consists of concentrating the greatest bulk within the site's centre and a reduced scale at the street frontages and sufficient setbacks where the site interfaces with the residential development. Detailed overshadowing analysis was conducted that concludes the surrounding properties will continue to receive adequate solar access at mid-winter.
30. The scheme was reviewed by Architectus in December 2019 and April 2020, who concluded that the scheme is generally satisfactory, subject to the resolution of setbacks, articulation and solar access. Again, the draft DCP includes detailed controls that address these concerns and ensures the amenity of adjoining properties would be protected.
31. As detailed in Deferral Reason One (b) below, Pages 34-41 of the Indicative Architectural Concept (**Attachment 3**) provides elevations, sections and detailed boundary section plans which illustrate the proposed building heights interface and relationship with not only the existing adjoining development, but also potential future development and heights that could be achieved under the current planning controls. In this respect, it is important to note that transition of building heights has been made in these plans, complemented by the setbacks and building separations that will mitigate any potential impacts from the building heights at these interfaces.

Council Response:

32. The design concept scheme for the Planning Proposal has been the subject of detailed review. It was considered by the Georges River Design Review Panel in May 2018 who did not support the scheme in the form it was submitted, due to its inconsistency with the provisions of SEPP 65. The design scheme was amended and peer-reviewed by Architectus (on behalf of Council) in December 2019 and April 2020. The building form facing Gloucester Road is in a W-form (**Figure 4**) and supports the single detached dwellings along Gloucester Road. The gaps between the buildings are proposed to provide opportunities for planted courtyards presenting a green, landscaped streetscape.
33. Subject to the indicative internal floor plans and the amenity provided to the rooms and communal spaces with 70% of the residents' bedrooms achieving 2+ hours of solar access in mid-winter, the additional fourth storey may be supported in the central area of the site with appropriate upper level setbacks. The key to the proposed heights is the premise that as a senior's residential care facility, the development is to have a minimum floor height of 3.4m. This results in 3 storeys within 14m and 4 storeys in 16.9m. As the planning proposal requests an increase in height and FSR specifically linked to a residential care facility, this is acceptable.

Recommendation:

34. No change to the Planning Proposal.

Deferral Reason One (b)

- b. Setbacks in relation to the adjoining sites and potential future developments.*

Proponent Response:

35. A building setback map has been provided in the architectural package and the planning proposal report which provides the minimum street setback, side and rear setbacks as shown in **Figure 5**. The setbacks are as follows:
- Gloucester Road - 4.5m

- Millet Street - 6m
- Eastern Boundary - 6m
- Western Boundary - 3m

36. The site adjoins low density residential dwellings to the east and west which provide varying side setbacks to the site. The northern and southern setbacks align with the established building lines along Gloucester Road and Millett Street and comply with the minimum setback requirements of the DCP.
37. The setbacks allow for the provision of comprehensive landscaping that will soften the appearance of the built form. As the built form along either street frontage does not encroach forward of the adjoining developments, views and vistas down either street frontage will be maintained.
38. **Figures 6 and 7** in the Final response document (refer to **Attachment 2**) and section plans and detailed boundary section plans provided in Pages 34-41 of the Indicative Architectural Concept (**Attachment 3**) demonstrate how the concept scheme provides adequate building separation and a high level of visual and acoustic privacy along with opportunities for landscaping and deep soil zones.
39. These plans provide an analysis of the proposed development's relationship with the existing surrounding development, as well as the potential future development under the existing planning controls.

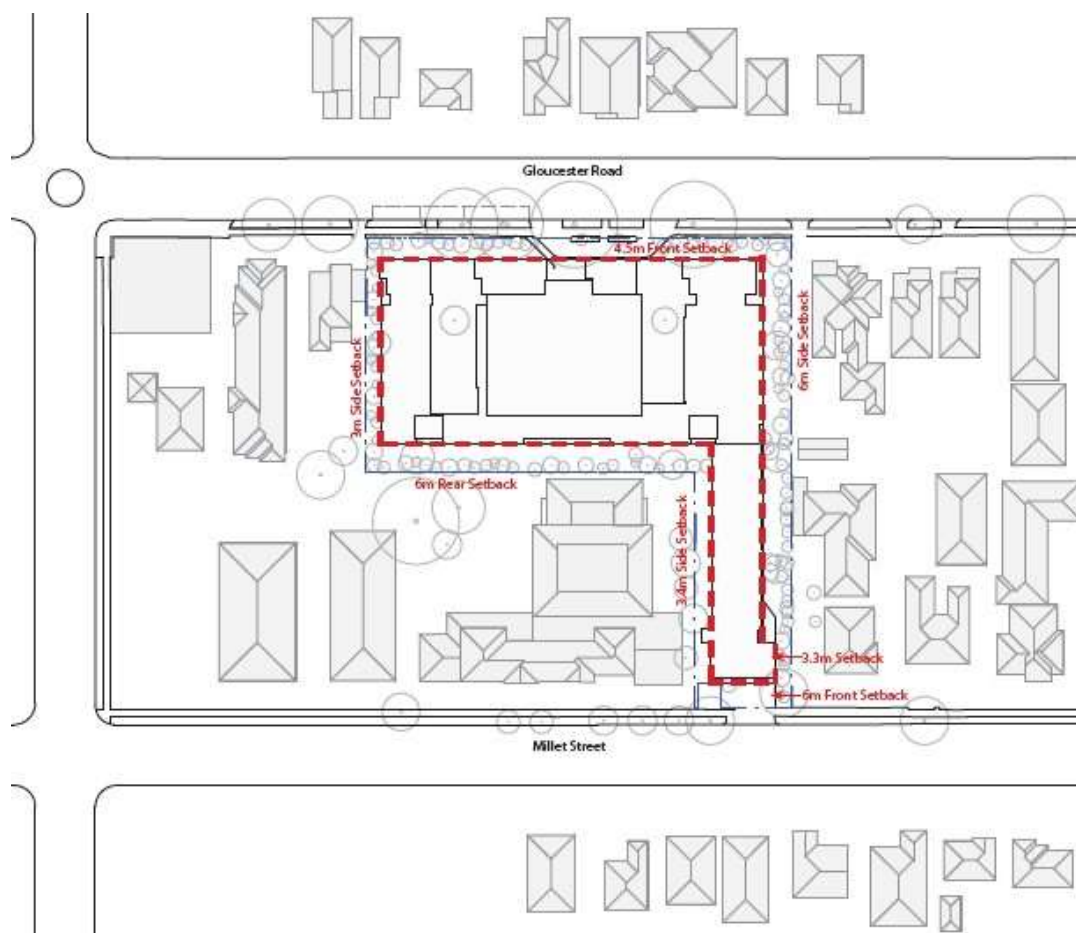


Figure 5 Setback Map
Source: O'Neil Architecture

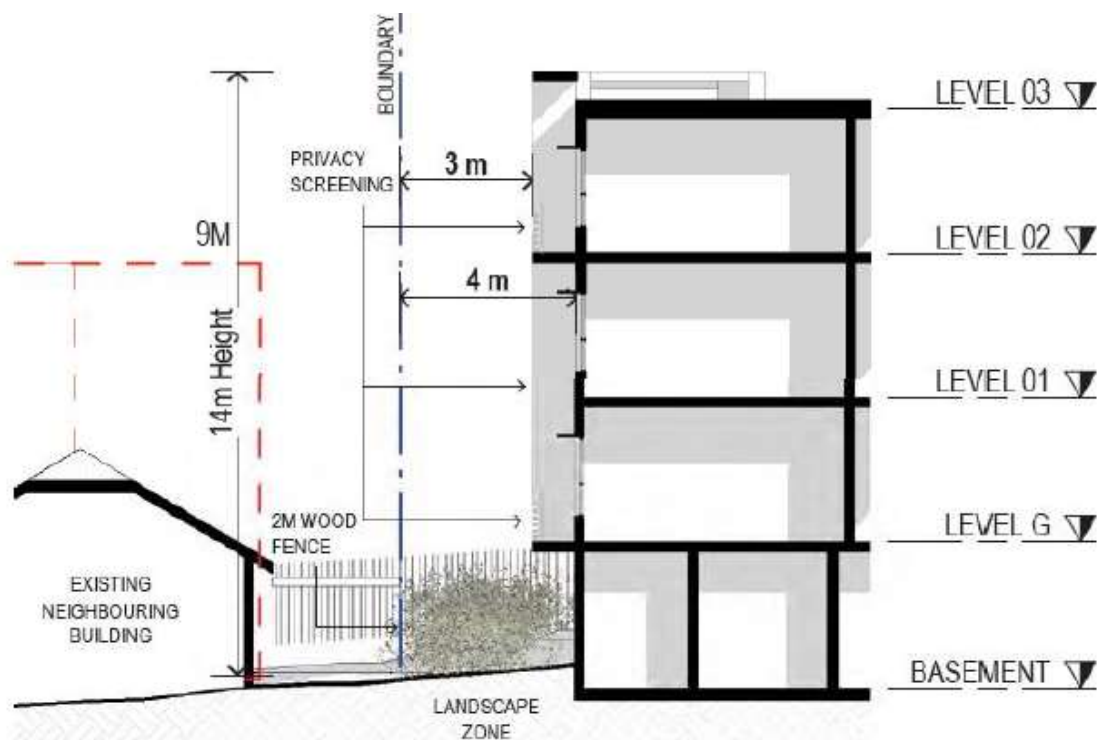


Figure 6 Western Boundary Section Plan
Source: O'Neil Architecture

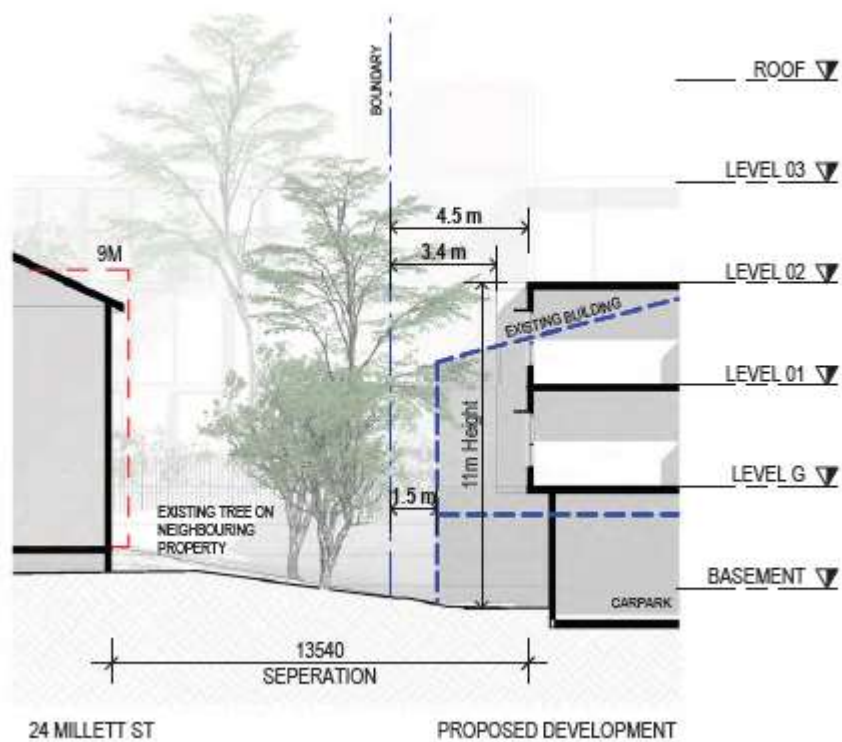


Figure 7 North Western Boundary Section Plan
Source: O'Neil Architecture

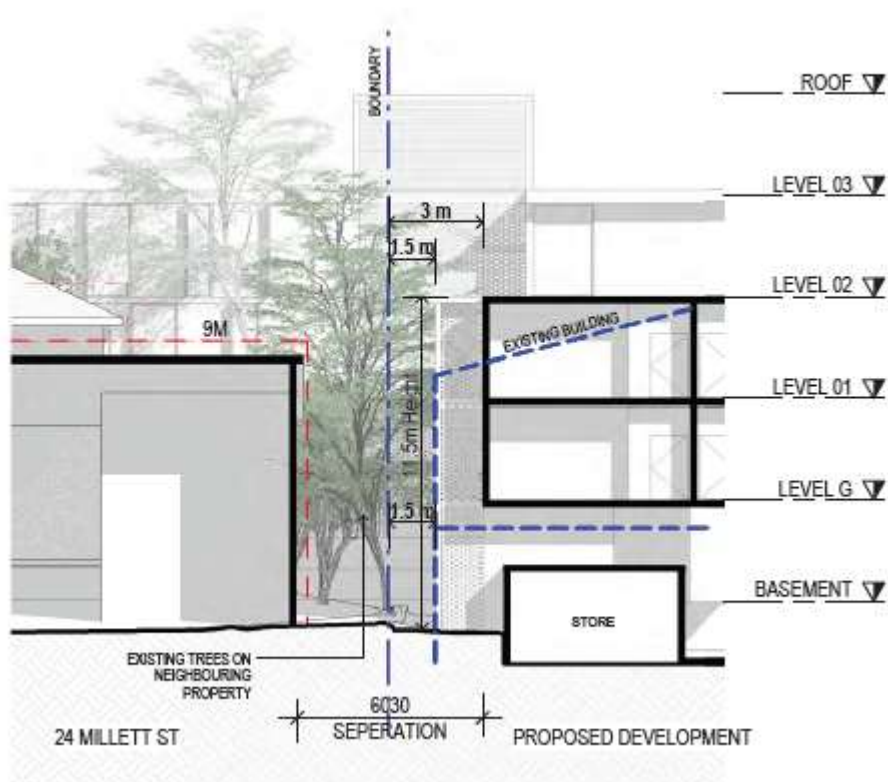


Figure 8 North Western Boundary Section Plan*Source: O'Neil Architecture*

LPP036-21

Council response:

40. The built form along Gloucester Road frontage, northwest and south-west boundaries is three storeys and in the central portion of the site are four storeys. The setbacks on the south-eastern and the south-western edge of the site are predominantly 6m, which is acceptable. The setbacks on the north-western edges of the site are 3m. Although this is not ideal, where separation between habitable rooms is not able to be achieved, alternative design treatments such as screening or vegetation are proposed to maximise privacy and provide visual relief (See **Figures 6, 7 and 8**). More sections are available in **Attachment 3 – Architectural Design Concept**

Recommendation:

No change to Planning Proposal

Deferral Reason One (c)

- c. *The provisions of the Housing for Seniors or People with a Disability SEPP and the draft Housing Diversity SEPP.*

Council Response:

41. The R2 Low Density Residential permits certain residential uses such as attached dwellings, boarding houses, dwelling houses, group homes, respite day care centres, secondary dwellings and semi-detached dwellings.
42. Seniors housing is not listed as a permissible use with consent in the R2 Low Density Residential Zone. However, Clause 15 of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors SEPP) states:

This Chapter allows the following development despite the provisions of any other environmental planning instrument if the development is carried out in accordance with this Policy—

- a) ***development on land zoned primarily for urban purposes for the purpose of any form of seniors housing, and***
- b) *development on land that adjoins land zoned primarily for urban purposes for the purpose of any form of seniors housing consisting of a hostel, a residential care facility or serviced self-care housing.*

43. Clause 40 of the SEPP states:

Development standards—minimum sizes and building height

- (1) *General A consent authority must not consent to a development application made pursuant to this Chapter unless the proposed development complies with the standards specified in this clause.*
- (2) *Site size: The size of the site must be at least 1,000 square metres.*
- (3) *Site frontage: The site frontage must be at least 20 metres wide measured at the building line.*

- (4) *Height in zones where residential flat buildings are not permitted If the development is proposed in a residential zone where residential flat buildings are not permitted—*
- (a) ***the height of all buildings in the proposed development must be 8 metres or less, and***
 - (b) *a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height,*
 - (c) *a building located in the rear 25% area of the site must not exceed 1 storey in height.*

44. The Planning Proposal seeks an additional permitted use under Schedule 1 of the LEP for seniors housing.

45. The draft Housing Diversity SEPP aims to consolidate three existing SEPPs which is a positive:

- State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP)
- State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (Seniors SEPP)
- State Environmental Planning Policy No 70 – Affordable Housing (Revised Schemes) (SEPP 70)

46. The future development of the site under the proposed LEP provisions would not be affected by the draft Housing Diversity SEPP. In this respect, it is important to note that it is currently proposed to amend the Seniors SEPP provisions to clarify that development standards in an LEP prevail to the extent of any inconsistency with the SEPP.

47. Despite Clause 15 and clause 40 of the Seniors SEPP, the proponent cannot rely on the permissibility afforded by the Seniors SEPP alone as the proposal seeks a greater maximum building height (the proposed heights range from 12m, 14m and 16.9m) than what is permitted on the site under Hurstville LEP 2012 (being 9m) and under the Seniors SEPP (being 8m under Clause 40 of the Seniors SEPP).

Deferral Reason Two

The submission of a Draft Development Control Plan that articulates a, b and c above.

Proponent Response:

48. A site-specific draft DCP has been prepared to address the distribution of heights and setbacks in relation to the adjoining sites and potential future developments (**Attachment 4**). It is noted that a site-specific DCP is generally prepared after the Gateway Determination however, for the purpose of transparency and assurance, the draft DCP has been prepared prior to Gateway Determination.
49. The Urban Design Principles Report provided as part of the original planning proposal also provides detailed guidelines on building heights, built form and setbacks, landscaping, solar access, articulation and privacy.

Council response:

50. A draft site specific DCP has been prepared that includes sections including Introduction, Building Height, Built form and setbacks, Privacy, Communal Open Space, Solar Access, Architectural Diversity, Vehicular Access and Car Parking.
51. The key sections comprise the Building Height which includes objectives like:
- Compatibility with the planned scale of surrounding development
 - Minimise overshadowing of surrounding properties and adjacent public domain
52. The key objectives of the Built form and setbacks section include:
- Ensure setbacks to streets are appropriate for the street widths and functions to ensure a comfortable urban scale of development
 - Provide visual and acoustic privacy for existing and new occupants