

AGENDA - LPP

Meeting:	Georges River Local Planning Panel (LPP)
Date:	Thursday, 7 October 2021
Time:	4.00pm
Venue:	Online meeting
Panel Members:	Stephen Davies (Chairperson) Ian Armstrong (Expert Panel Member) Juliet Grant (Expert Panel Member) Erin Sellers (Community Representative)

1. On Site Inspections – Carried out by Panel Members prior to meeting	
2. Opening	
3. Consideration of Items and Verbal Submissions	
LPP053-21	26 Bowden Crescent Connells Point – DA2020/0430 (Report by Senior Building Surveyor)
LPP054-21	31 Seymour Street Hurstille Grove – DA2021/0165 (Report by Principal Planner)
LPP055-21	10-12 Hearne Street Mortdale – DA2021/0085 (Report by Principal Planner)
LPP056-21	68 Morshead Drive Connells Point – DA2020/0192 (Report by Senior Development Assessment)
LPP057-21	36-38 Chapel Street Kogarah - St Patricks Catholic School – DA2021/0148 (Report by Senior Development Assessment Planner)
4. LPP Deliberations in Closed Session	
5. Confirmation of Minutes	

REPORT TO GEORGES RIVER COUNCIL LPP MEETING OF THURSDAY, 07 OCTOBER 2021

LPP053-21

LPP Report No	LPP053-21	Development Application No	DA2020/0430
Site Address & Ward Locality	26 Bowden Crescent Connells Point Blakehurst Ward		
Proposed Development	Demolition works and construction of a dwelling house (existing boathouse and swimming pool to be retained)		
Owners	Y El Gammal		
Applicant	Resolut		
Planner/Architect	Planner - BMA Planning, Architect - Resolut		
Date Of Lodgement	29/10/2020		
Submissions	34		
Cost of Works	\$1,268,409.32		
Local Planning Panel Criteria	Number of submissions exceeds ten (10)		
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, Georges River Interim Policy 2020, 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 Site Images		
Report prepared by	Senior Building Surveyor		

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 which can be reviewed when the report is published.

Site Plan



Figure 1 - Aerial Photo of 26 Bowden Crescent, Connells Point (site outlined in blue)

Executive Summary

Proposal

- Consent is sought for the demolition of the existing dwelling and detached garage and construction of a new multi-level dwelling and high front fence.

Site and Locality

- The subject site is a waterfront property located on the south-eastern side of Bowden Crescent, identified as Lot 13 DP14844, 26 Bowden Crescent, Connells Point. The

property has direct street frontage to Bowden Crescent and a rear boundary defined by the Mean High Water Mark at the rear.

3. Existing on the land is a one/two storey cement rendered dwelling with a detached rendered three car garage that runs across the front of the site.
4. An inground swimming pool, weatherboard boathouse, timber jetty and pontoon are also identified on the site. These are sited below the Mean High Water Mark.
5. The subject site is located within an established R2 Low Density Residential area that is characterised predominantly by detached dwellings and ancillary structures, the majority of which present an array of scales and architectural themes. The site and its neighbours are viewable from Bowden Crescent and the adjacent waterway.



Figure 2 - Site outlined in blue

Zoning and Permissibility

6. The site is zoned R2 Low Density Residential pursuant to the Kogarah Local Environment Plan 2012 (KLEP 2012).
7. The proposal for a dwelling house and ancillary works are permissible with consent. The proposal is considered to be consistent with the objectives of the zone.

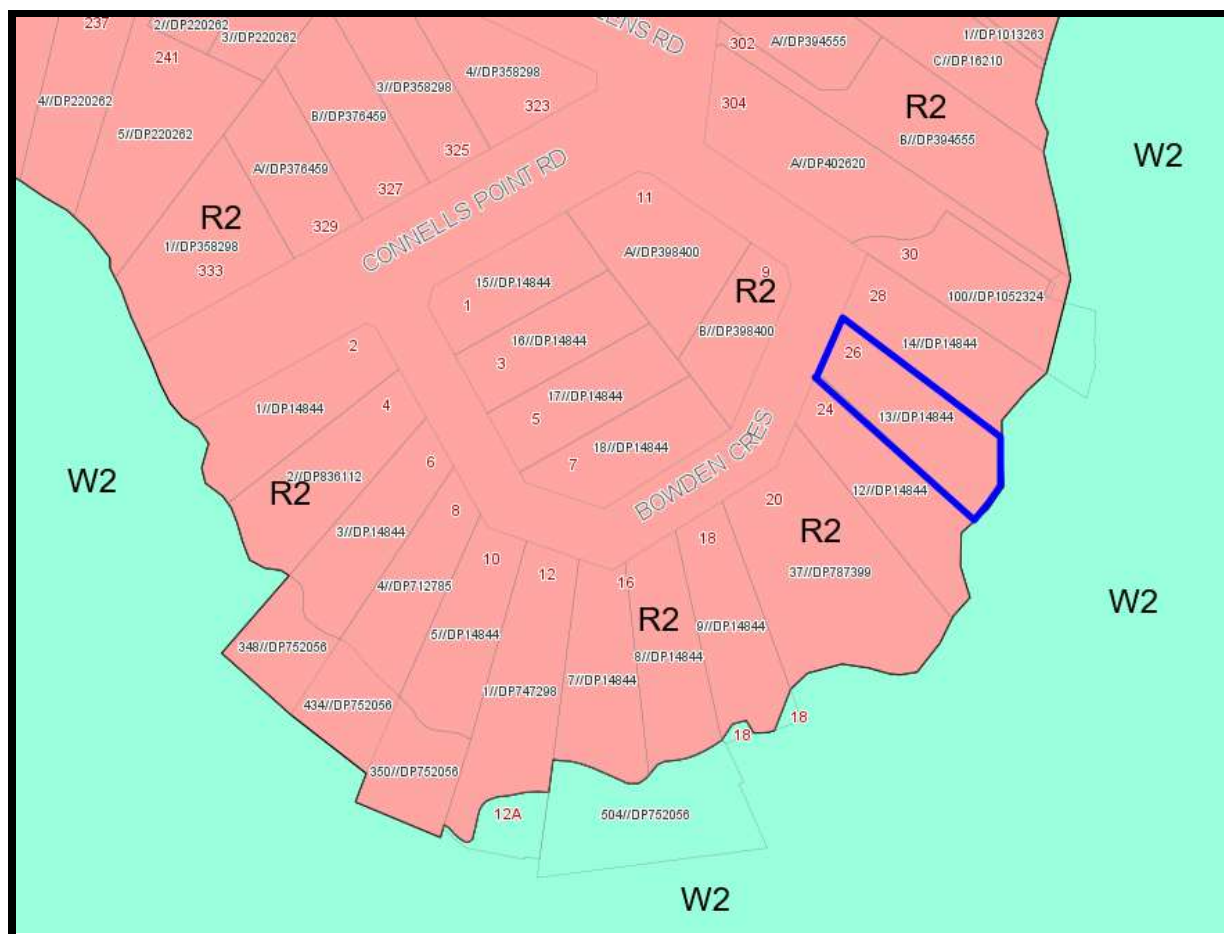


Figure 3 - Zoning of the site – site outlined in blue

LPP053-21

Kogarah Development Control Plan 2013

8. The provisions of Kogarah Development Control Plan 2013 are applicable to the proposed development. The proposal is considered to be an acceptable urban design and planning outcome for the site and generally satisfies the applicable provisions contained within KDCP.

Submissions

9. The original proposal was notified in accordance with the Kogarah Development Control Plan 2013 (KDCP). The proposal (original plans) was notified for a period of 14 days and during this time 28 submissions were received. The revised plans were notified for a period of 14 days and during this time 5 submissions were received. The revised plans are the subject of this report. In total 33 submissions have been received.

Reason for Referral to the Local Planning Panel

10. The proposal has been referred to the Georges River Local Planning Panel (LPP) more than 10 submissions were received in the notification period.

Primary Planning and Design Issues.

11. Parapet and Ceiling Height – The KDCP 2013 specifies a maximum 7.8m parapet height limit and 7.2m ceiling height limit are both exceeded with this proposal. The KLEP 2012 9m height limit is fully complied with. The variations to the DCP controls is considered satisfactory in the given site context and is addressed in detail later in this report.

12. 60% Depth of Site for Upper Floor Level – KDCP 2013 60% depth of site for upper floor levels is exceeded with this proposed dwelling. This variation is considered satisfactory in the site context and is addressed in detail later in this report.
13. Submissions raised concern about the Three Level appearance of the dwelling – The proposed dwelling has three levels towards the rear of the site but this is permitted and complies in full with the subject controls and objectives.
14. Submissions raised concern about view loss – The degree of views retained, and those views impacted by this proposal are considered reasonable as detailed later in this report.
15. Submissions raised concerned about overshadowing impacts – Due to the orientation of the subject property and neighbouring sites, and the existing topography and built environment, the neighbouring property to the south west is impacted by overshadowing to a certain degree. As detailed later in this report, the degree of overshadowing is considered to be reasonable when assessed on merit.
16. Submissions raised concern with regards to privacy – The proposal is considered to comply with the objectives of KDCP 2013 in relation to visual privacy to adjoining properties. This is detailed later in this report.

Conclusion

17. Having regard to the matters for consideration under Section 4.15(1) and the applicable assessment criteria under Section 4.56 of the Environmental Planning and Assessment Act 1979 and following a detailed assessment, the proposed application (DA2020/0430) is recommended for approval subject to the conditions referenced at the end of this report.

Report in Full

DESCRIPTION OF THE PROPOSAL

18. Development consent is sought for the demolition of the existing dwelling and detached garage and construction of a new multi-level dwelling and high front fence.
19. A detailed description of the proposal is as follows.

Lower ground level:

- A rumpus area with WC and Laundry facilities;
- Outdoor rear facing balcony serving as an outdoor extension of the rumpus room; and
- Lift, stairs and service shaft.

Ground floor level:

- A four (4) car garage, store and mud room;
- Open plan kitchen, dining and living with ancillary rear facing balcony;
- Study and void; and
- Lift and stair access.

First floor level:

- The provision of four (4) bedrooms, one of which is nominated as the master bedroom;
- Front and rear facing balcony spaces located off both bedroom (2) and the master bedroom;

- Void spaces; and
 - Lift and stair access.
20. Earthworks are proposed across the site, which have been detailed on the architectural plans. Although there is a “Cut and Fill” plan submitted, some of the figures indicated refer to the cut/fill within the building envelope. In this regard the amount of cut/fill can be more readily identified around the perimeter of the proposed building by the elevations. Accordingly if this proposal is supported, a condition of consent will require that the ground levels around the perimeter of the dwelling shall be in strict accordance with the approved elevations
21. The removal of five (5) existing trees is proposed, along with replacement planting.
22. A 1.8m high front fence is proposed across the front of the site, running perpendicular to the south west side boundary. In this regard the fence abuts the front boundary in the south western corner and is setback approximately 5m off the front boundary along the north eastern side boundary.
23. The inground swimming pool, weatherboard boathouse, timber jetty and pontoon all located below the MHWL remain unaltered and do not form part of this development application.
24. The amended landscape details (submitted 15/9/2021) show a proposed swimming pool fence running across the site from the south western side boundary to the north eastern side boundary, along the top of the existing retaining wall that traverses the rear of the site in proximity to the MHWL which differentiates the drop off in land levels in this location. This is proposed to replace an existing glass fence in the same location.
25. It should also be noted that the proposed solar panels indicated on the roof of the proposed dwelling (shown as a dashed rectangle on the site plan) have been deleted by the applicant and confirmed by email dated 18/09/2021 This will also be conditioned

Background

26. DA2020/0430 was submitted on 29 October 2020 and neighbour notified from 3 December 2020 to 17 December 2020.
27. Onsite meetings were carried out with all residents that were considered to potentially be directly affected by the proposal.
28. An email was sent to the applicant on 17 May 2021 with all of Council’s concerns detailed.
29. A follow up meeting at Council was held on 3 June 2021 with the applicant and their representatives (architect, town planner and owner).
30. Revised plans were submitted and received on 5 July 2021 to address the concerns raised in the additional information request.
31. These revised plans were re-neighbour notified from 22 July 2021 to 5 August 2021. These revised plans are the subject of this report.
32. The following points are a summary of the changes that were made to the revised plans by the applicant to address the concerns raised by Council.

- The front setback line has been depicted accurately and adjusted to ensure an appropriate transition between the subject and neighbouring properties;
 - Calculable floor areas have been reduced in order to ensure FSR compliance;
 - The Foreshore Building Line has been identified as 7.6m from the Mean High Water Mark. This is confirmed by a registered surveyors statement prepared by W.Buxton Pty Limited dated 18 June 2021.
 - Overall building length reduced from 30.39m to 28.815m;
 - Rear balconies reduced in depth;
 - Balcony off bedroom two (2) reduced in overall size and now also include a non-accessible component;
 - Alongside the building length reduction, the rear elevation has been stepped back in line with topography of the land facilitating a greater degree of built form modulation;
 - A number of highlight windows replace the top hung windows along the eastern and western elevations;
 - Rear windows orientated towards the waterway are now tinted serving to reduce any potential reflectivity;
 - Front fence reduced in height to a maximum of 1.8m.

The Site and Locality

33. The subject site is a waterfront property located on the south eastern side of Bowden Crescent, identified as Lot 13 DP 14844, 26 Bowden Crescent, Connells Point.
34. The site has a front boundary width of 13.715m, site lengths as measured to the MHWL of 43.28m (north eastern) and 47.55m (south western) and overall site area of 758.7sqm.
35. The site slopes from Bowden Crescent to the waterway, falling by 6.54m from front to rear (RL9.6 at front SW corner to RL3.06 at rear SE corner). This equates to 13.75% fall over the length of this site (47.55m along the SW side boundary).
36. Existing on the property is a one/two storey cement rendered dwelling with detached rendered three car garage that runs across the front of the site, perpendicular to the south western side boundary (therefore with a greater front setback on the north eastern side).
37. There are no large trees on the site, however smaller trees are present.
38. This existing dwelling encroaches over the Foreshore Building Line (FBL) by up to a maximum of approximately 6.5m.
39. An inground swimming pool, weatherboard boathouse, timber jetty and pontoon are also identified on the site; however these are sited below the mean high water mark.
40. A large retaining wall traverses the rear of the site in proximity to the MHWL which differentiates the drop off in land levels in this location.

Surrounding Development

41. The subject site is located within an area that contains residential dwelling houses in the form of detached dwellings and ancillary structures, the majority of which present an array of scales and architectural themes.

42. Adjoining the site to south west is 24 Bowden Crescent, on which is a substantial multi-storey dwelling that comprise three levels at the rear, facing the foreshore, not dissimilar to the proposed dwelling at 26 Bowden Crescent (see figures 3, 7 and 8 below).
43. Adjoining the site to north east is 28 Bowden Crescent, which is another substantial multi-level dwelling with three levels at the rear, facing the foreshore (see figures 4, 7 and 9 below).



Figure 4: Aerial view of the subject site (with red border)



Figure 5: Street view of south west side neighbour, 24 Bowden Crescent



Figure 6: Street view of north east side neighbour, 28 Bowden Crescent



Figure 7: Street view of existing subject site, 26 Bowden Crescent



Figure 8: Perspective of street view of proposed dwelling at 26 Bowden Crescent



Figure 9: Foreshore photo showing numbers 24, 26 and 28 Bowden Crescent as seen from the waterway



Figure 10: Foreshore photo showing 24 Bowden Crescent, with subject site to the right



Figure 11: Foreshore photo showing 28 Bowden Crescent, with subject site to the left

Compliance and Assessment

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

Section 4.15 Evaluation

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

STATE ENVIRONMENTAL PLANNING INSTRUMENTS

State Environmental Planning Policies

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

Compliance with State Planning Policies

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) 2017	Yes
State Environmental Planning Policy (Coastal Management) 2018	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

47. State Environmental Planning Policy No 55 – Remediation of Land applies to all land and aims to provide for a State-wide planning approach to the remediation of contaminated land. 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.

48. Clause 7(1) of the State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55) states that Council cannot consent to development on the land unless:

"(a) it has considered whether the land is contaminated, and

(b) If the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and

(c) If the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose."

49. 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.
50. The proposal is therefore considered to be consistent with SEPP 55 and suitable for the proposed development.

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

51. 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.
52. A BASIX Certificate prepared by Sustainability-Z Pty Ltd, dated 24 October 2020, certificate number 1148435S, 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

53. The Vegetation SEPP regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.
54. 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).
55. 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.
56. 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).
57. As part of the proposal, five (5) trees have been nominated for removal. The application was referred to Council's Consultant Arborist and specific conditions of consent have been recommended that include ten (10) replacement trees in lieu of the five (5) to be removed.
58. No street trees were nominated for removal.

Biodiversity Conservation Act 2016

59. The Biodiversity Conservation Act, 2016 was formally implemented to conserve and protect biodiversity values and systems across the State. The legislation lists threatened species and ecological communities (EEC's) and outlines processes and procedures in the assessment of these valuable and sensitive environmental species and communities.
60. First step of the process in accordance with the Act is to see whether a tree is threatened – There are no significant trees affected on this site. There are 5 *Callistemon viminalis* (Bottle Brush) in the front yard of this site that are proposed to be removed. Council's Consultant Arborist has inspected the site and raised no objections to their removal.
61. The second stage is to see whether it forms part of an EEC or remnant vegetation of an EEC. Council's mapping system identifies the site having vegetation that forms part of the "Greenweb" Habitat Reinforcement Corridor, and "SSROC Connected Biodiversity Corridors" Supporting Areas. In this regard the 5 Bottle Brush trees are not remnant vegetation.

State Environmental Planning Policy (Coastal Management) 2018

62. SEPP (Coastal Management) 2018 updates and consolidates three previous SEPPs (SEPP 14 Coastal Wetlands, SEPP 26 Littoral Rainforests, SEPP 71 Coastal Protection) into one integrated Policy and is a matter for consideration for the current DA.
63. 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”*.
64. Under SEPP (Coastal Management) 2018, the subject site located in the Coastal Zone, and is mapped as a Coastal Environment area and a Coastal Use area. These have the following management objectives under the SEPP:
- 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,
 - to reduce threats to and improve the resilience of coastal waters, estuaries, coastal lakes and coastal lagoons, including in response to climate change,
 - to maintain and improve water quality and estuary health,
 - to support the social and cultural values of coastal waters, estuaries, coastal lakes and coastal lagoons,
 - to maintain the presence of beaches, dunes and the natural features of foreshores, taking into account the beach system operating at the relevant place,
 - to maintain and, where practicable, improve public access, amenity and use of beaches, foreshores, headlands and rock platforms.
65. The following is an assessment of the matters for consideration listed under the SEPP as applicable to the Coastal Environment Area and Coastal Use Area.

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 subject dwelling is located approximately 4m higher than the level of the foreshore area at MHW and is to be located in a similar footprint as the existing dwelling, but setback further from the foreshore area to comply with the FBL. The proposed dwelling	Yes
(b) coastal environmental values and natural coastal processes,		

	shall cause no change to the existing water quality, coastal environmental values and natural coastal processes.	
(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,	No coastal will lakes identified in Schedule 1 will be affected.	N/A
(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,	The proposed dwelling shall cause no change to the marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms	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,	There are no works proposed within the foreshore area. Due to the topography and other existing site conditions for this site and adjoining sites, there is no practical access along the foreshore through this site.	NA
(f) Aboriginal cultural heritage, practices and places,	There are no implications in respect of Aboriginal cultural heritage and/or cultural and built environment heritage.	Yes
(g) the use of the surf zone.	No surf zone will be affected by this proposal.	NA
(2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:		
(a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or	The development is designed, sited and will be managed and conditioned to avoid an adverse impact referred to in subclause (1),	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:		
(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,	There is currently no existing safe access along this section of foreshore due to the topography and other existing site conditions for this site and adjoining sites. The proposed works do not impact the foreshore area.	N/A
(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,	The proposed works do not impact the foreshore area, and will not cause undue overshadowing, wind funnelling or loss of views from public places.	Yes
(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,	The visual amenity and scenic qualities of the coast, including coastal headlands are not affected by this proposal, which is considered not to be out of character with other dwellings along this section of foreshore.	Yes
(iv) Aboriginal cultural heritage, practices and places,	There are no implications in respect of Aboriginal cultural heritage and/or cultural and built environment heritage.	Yes
(v) cultural and built environment heritage,	There are no implications in respect of cultural and built	Yes

and	environment heritage. .	
(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	The development is designed, sited and will be managed and conditioned to avoid an adverse impact referred to in paragraph (a),	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.	Assessment of this application has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.	Yes
Division 5 General 15 Development in coastal zone generally - development not to increase risk of coastal hazards		
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.	Yes
16 Development in coastal zone generally - coastal management programs to be considered		
Development consent must not be 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	Satisfied.	Yes

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

Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment

67. 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,*

68. The proposed stormwater drainage system has been assessed by Council's Development Engineer and has been found to be satisfactory. Conditions of consent are recommended should the application be approved.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

Draft Environmental State Environmental Planning Policy

69. 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.

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

Draft Remediation of Land State Environmental Planning Policy

71. 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.*

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

ENVIRONMENTAL PLANNING INSTRUMENTS

Kogarah Local Environmental Plan 2012

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

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

74. The development satisfies the aims of the plan.

75. The subject site is zoned R2 Low Density Residential under the provisions of the Kogarah Local Environmental Plan 2012 (KLEP 2012). The proposed development, for a dwelling house and ancillary structures, are permissible land uses in the zone.

76. The objectives of the zone are as follows:

- *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.*

77. The proposed development generally meets the objectives of the zone by providing housing needs of the community in a form permitted in the R2 zone.

78. The extent to which the proposed development complies with the KLEP 2012 is detailed and discussed in the table below.

KLEP 2012 Compliance Table

Clause	Standard	Proposed	Complies
Part 1 – Preliminary			
1.2 – Aims of the Plan	In accordance with Clause 1.2 (2)	The development is considered to be consistent with the aims of the plan.	Yes
1.4 - Definitions	Dwelling House means:	The proposed	Yes

	<i>a building containing only one dwelling.</i>	development is consistent with the definition.	
Part 2 - Permitted or prohibited development			
2.3 - Zone objectives and Land Use Table	Meets objectives of R2-Low Density Residential Zone.	The proposal meets all objectives.	Yes
	Development must be permissible with consent	The proposal is permissible with development consent.	Yes
Part 4 - Principal Development Standards			
4.3 – Height of Buildings	9m as identified on Height of Buildings Map	The proposal has a maximum overall height of 8.74m.	Yes
4.4 – Floor Space Ratio	0.55:1 as identified on Floor Space Ratio Map	Despite clause 4.4 (2), the floor space ratio for residential accommodation on land in Zone R2 Low Density Residential, Clause 4.4A applies.	Refer to Clause 4.4A
4.4A – Exceptions to floor space ratio for residential accommodation in Zone R2	<p>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.</p> <p>Site area</p> <ul style="list-style-type: none"> Maximum floor space ratio less than 650sqm 0.55:1 less than 800sqm but not less than 650ssqm $[(\text{lot area} - 650) \times 0.3 + 357.5] \div \text{lot area}:1$ less than 1,000sqm but not less than 800sqm $[(\text{lot area} - 800) \times 0.2 + 402.5] \div \text{lot area}:1$ less than 1,500sqm but not less than 1,000sqm 	<p>The proposed site area of 758.7sqm has an allowable FSR of 390.11sqm.</p> <p>The proposed FSR is 390.1sqm which is compliant with this requirement.</p>	Yes

	$\frac{[(\text{lot area} - 1,000) \times 0.15 + 442.5]}{\text{lot area}}:1$ <ul style="list-style-type: none"> not less than 1,500sqm $\frac{[(\text{lot area} - 1,500) \times 0.1 + 517.5]}{\text{lot area}}:1$ <p>Site area: 758.7sqm Allowable floor area = 390.11sqm</p>		
4.6 – Exceptions to development standards	In accordance with Clause 4.6 (1) through to and including (8)	The proposal complies with KLEP 2012 and does not require a Clause 4.6 variation.	N/A
Part 5 - Miscellaneous Provisions			
5.7 – Development below mean high water mark	(2) Development consent is required to carry out development on any land below the mean high water mark of any body of water subject to tidal influence (including the bed of any such water).	The proposal does not involve works below the Mean High Water Mark.	N/A
5.10 – Heritage conservation	In accordance with Clause 5.10 (2)	The site is not a heritage item and not located within the vicinity of any heritage items. Site is not in a heritage conservation area.	N/A
5.11 – Bush Fire Hazard Reduction	Bush fire hazard reduction work authorised by the Rural Fires Act 1997 may be carried out on any land without development consent.	The subject land is not within a bush fire prone area.	N/A
5.21 – Flood Planning	Applies if the is identified as being impacted by flood.	The site is not identified as flood affected.	N/A
Part 6 - Additional Local Provisions			
6.1 – Acid sulfate soils	(2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.	Subject site is not affected by Acid Sulfate Soils.	Yes

	Class 5: Works within 100m of adjacent Class 2, 3 or 4 land that is below 5m Australian Height Datum and by which the watertable is likely to be lowered below 1m Australian Height Datum on adjacent Class 2, 3 or 4 land.		
6.2 – Earthworks	(2) Development consent is required for earthworks unless— (a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or (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.	The proposed earthworks are ancillary to the proposed development and are acceptable for this form of development with regards the matters identified in Clause 6.2.	Yes
6.4 – Limited development on foreshore area	In accordance with Clause (2) and (3)	The proposed development is not located in the foreshore area, with the exception of the proposed replacement glass pool fence. This is ancillary to a permitted element in the foreshore area under the clause.	Yes

79. As the subject site is affected by a 7.6m Foreshore Building Line under the LEP and this is identified below to demonstrate the relationship between the proposed building works and the Foreshore Building Line:

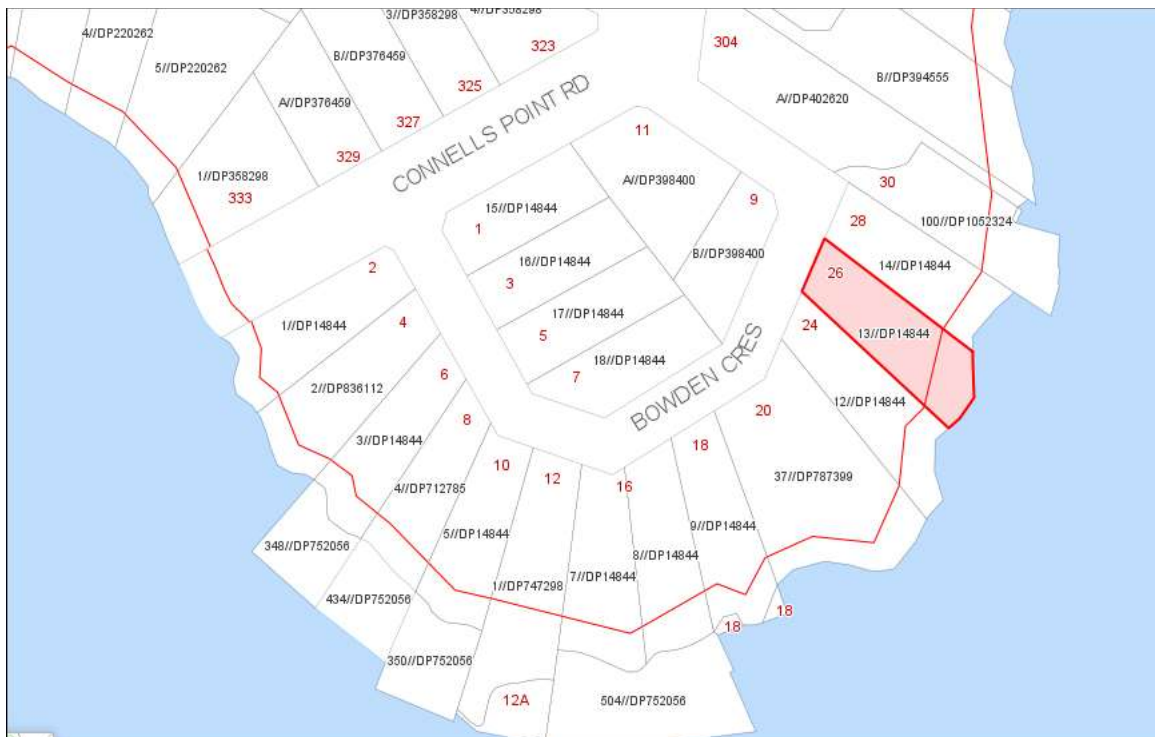


Figure 12: Aerial view showing FBL at Connells Point, subject property is shaded red.



Figure 13: Aerial view of subject site (red border) and existing dwelling, which encroaches FBL by approximately 6.5m maximum.

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

Part C1- Low Density Housing

Control	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 proposed development 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 building mass is considered satisfactory.	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.	60% depth = 28.53m along the south western side boundary and 25.968m along the north eastern side boundary Proposed first floor element = 33.832m along south western side boundary and 39.128m along the north eastern side boundary. Difference: SW = 5.302m NE = 13.16m	No (1)
(1) 60% depth of site for upper floor levels This control typically applies to non-waterfront properties, where the front of the site is at the street frontage, and the backyard is an area of private open space that is			

protected by this control.

Waterfront properties are normally controlled by the FBL more so than the 60% depth of site for upper floors, as the “backyard” facing the waterfront is generally not an area of private open space, but an area for overlooking the waterfront. This waterfront area is also often used for human recreational activities, which further reduces the privacy of land adjoin the foreshore.

Both 24 and 28 Bowden Crescent exceed the 60% depth of site for the upper floor levels by approximately 7m each, but generally comply with the FBL.

26 Bowden Crescent exceeds the 60% depth of site control for the upper floor level but complies with the FBL.

The existing dwelling encroaches the FBL by approximately 6.5m. The proposed new dwelling complies with the 7.6m FBL.

It should also be noted that the revised plans that are the subject of this report have reduced the overall length of building from 30.39m to 28.815m, and the rear elevation has been stepped back at the topmost floor to increase the articulation when seen from the foreshore area, waterway, or neighbouring properties.

This 60% depth of site for upper floor levels requirement forms part of the “Floor Space Requirements” of KDCP 2013, for which the objectives are:

- in scale with the allotment size;
Comment: The proposal complies with FSR controls and is not out of character with the two adjoining dwellings or other similar dwellings in this area and is thus contextually in scale with the allotment size.
- provides opportunities for modulation and articulation of the building form;
 and
Comment: The proposed dwelling provides modulation and articulation in the design of this proposed dwelling.
- does not detract from the satisfaction of any other requirement.
Comment: The proposal is considered to acceptably meet the objectives of all other requirements under this DCP.

As the proposal is not out of character with the adjoining dwellings when compared to their setback from the Foreshore Building Line, or other similar waterfront dwellings, this variation to the 60% depth for upper stories is supported.

1.2.2 Building Heights	<p>(1) The maximum building height must comply with the requirements specified in table below.</p> <p>Dwelling Type Single dwelling</p> <p>Maximum Height 7.2m to the underside of the upper ceiling; 7.8m to the top of the parapet.</p>	<p>8.54m</p> <p>8.74m</p>	<p>No (2)</p> <p>No (2)</p>
<p><u>(2) 7.8m parapet height and 7.2m ceiling height</u></p> <p>The proposed dwelling will comprise of a maximum height of 8.74m as measured to the parapet, and 8.54m to the upper ceiling level, complying with the KLEP 2012 prescribed standard of 9m.</p> <p>The applicant has stated in a written submission that DCP height controls conflict with that of the overriding KLEP 2012 provisions and therefore, hold no statutory weight. This statement is confirmed in Part 3.43 subsection (5) of the Environmental Planning and Assessment Act 1979 No 203 [NSW] which reads as follows:</p> <p style="padding-left: 40px;">(5) A provision of a development control plan (whenever made) has no effect to the extent that:</p> <p style="padding-left: 80px;">(a) <i>it is the same or substantially the same as a provision of an environmental planning instrument applying to the same land, or</i></p> <p style="padding-left: 80px;">(b) <i>it is inconsistent or incompatible with a provision of any such instrument.</i></p> <p>The objectives for Building Heights under KDCP 2013 are:</p> <ul style="list-style-type: none"> • <i>Ensure that the height of development is not excessive and relates well to the local context.</i> <p>The overall height of this proposed dwelling has an overall roof height of AHD RL14.6.</p> <p>The south western neighbouring dwelling at 24 Bowden Crescent has an overall roof height of AHD RL15.37 and the north western neighbour has an overall roof height of AHD RL16.69.</p> <p>Accordingly, this proposed dwelling will sit below the line of the two adjacent neighbouring dwellings and is therefore is considered to relate well to local context and not be excessive in the given local context.</p>			
	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).	The site presents a slope of approximately 6.54m, from the street edge (RL9.6) to the lower portion of the land (RL3.06) just above the MHWL on the south east side. This equates to a site	Yes, three residential levels are permitted.

		slope of approximately 13.7%, which exceeds 1:8 (12.5%).	
1.2.3 Rhythm of the Built Elements in the Streetscape	(1) The primary building façade should not exceed 40% of the overall width of the total frontage.	The streetscape is characterised by a mix of building designs. High front fences are dominant along most waterfront properties	N/A
	(2) The secondary building façade should be set back a minimum of 1.5m from the primary building façade.	The proposed secondary building façade is setback more than 1.5m from the primary facade.	Yes
	(3) 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.	The streetscape is characterised by a mix of pitched and parapet roofs. The proposed development incorporates a parapet design which is acceptable.	Yes
1.2.4 Building Setbacks	<u>1.2.4.2 Front Setbacks</u> (1) Where the setback of an adjacent building is greater than 5m, an appropriate setback may be achieved by ensuring development is setback;	The north east neighbour has a setback of 6.13943m to the front of the garage, and the SW neighbour has a setback of 4.58857m to the front of the garage.	Yes
	(i) the same distance as one or the other of the adjoining buildings, provided the difference between the setbacks of the two adjoining buildings is less than or equal to 2.0m; or	One neighbour has a setback greater than 5m, and the other neighbour less than 5m. The difference between the setbacks of adjoining neighbours is less than 2m.	Yes
	(2) Where the setbacks of the adjacent buildings are 0m-5.0m, an appropriate setback	The proposed ground floor garage is setback 5.556m , which complies with both 1.2.4 (1) (i), and 1.2.4	

	<p>may be achieved by ensuring development is set back the same distance as one or the other of the two adjoining dwellings.</p> <p><u>1.2.4.3 Side and Rear Setbacks</u> (1) The side and rear boundary setbacks should comply with the table below.</p> <p><u>Side Setbacks</u> For buildings having a wall height of 3.5m or less, the minimum side boundary setback is 900mm.</p> <p>For buildings having a wall height of greater than 3.5m, the minimum side boundary setback is 1200mm.</p> <p><u>Rear Setback</u> Buildings are to have a minimum rear setback of 15% of the average site length, or 6m, whichever is greater.</p>	<p>(2), which both state that the setback can be the same as one or the other adjoining dwellings, which is 4.58857m.</p> <p><u>Side Setbacks</u> <u>North east side setback</u> Lower Ground: 2.93m Ground floor: 1.5m First floor: 1.2</p> <p><u>South west side setback</u> Lower Ground: 1.2m Ground floor: 900mm and 1.2m First floor: 1.2 & 2.1m</p> <p><u>Rear Setback</u> 15% equates to 6.492m north east side boundary, and 7.1325m south west side boundary.</p> <p>Development is setback a minimum of 7.6m off the rear boundary or MHWM.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
1.2.5 Fenestration and External Materials	<p>(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.</p>	<p>The proposed development is considered to be consistent with the modern design demonstrated throughout the immediate vicinity.</p> <p>The proposed development includes two double garage doors that are perpendicular to the</p>	<p>Yes</p>

	<p>(2) Garage doors should not dominate the street front elevation.</p> <p>(3) The roof should be similar to the angle of pitch, materials and colour of roofs in the streetscape</p> <p>(4) The colours of garages, window frames, and balustrading on main facades and elevations are to be integrated with the external design of the building.</p> <p>(5) Glazing shall be limited to a maximum 35% of the total area of the overall street front façade. This includes both primary and secondary façade bays.</p> <p>(6) Where garaging is in the front façade it should be limited to a maximum of two garage bays, with separate garage door openings of a maximum width of 3m.</p>	<p>front boundary, with ino-wood cladding to match same cladding to this section of building. Therefore does not dominate the street elevation.</p> <p>The immediate vicinity demonstrates both pitched and parapet roofs, the proposal is consistent with the streetscape.</p> <p>The external facades of the proposed development are considered appropriate for the locality.</p> <p>The proposed front façade does not exceed the maximum 35% glazing.</p> <p>The garage doors are in the side elevation perpendicular to the street frontage, therefore does not dominate the street elevation, nor are they located in the front facade.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
1.2.6 Street Edge	<p>(1) New developments should provide front fencing that complements fencing within the streetscape.</p> <p>(2) Fencing is to be consistent with the requirements of Section 4.2.</p>	<p>The proposed development provides sufficient front fencing to complement the streetscape.</p> <p>Fencing is consistent with the Section 4.2 requirements.</p>	<p>Yes</p> <p>Yes (3)</p>

	(3) Existing vegetation in the front building line setback or on the street verge that contributes to the character of the streetscape should be preserved.	Five (5) trees have been nominated for removal. The application was referred to Council's Consultant Arborist and the removal was supported subject to specific conditions of consent being imposed. No street trees were nominated for removal.	Yes
	(4) The driveway location should not result in the removal of any street trees or removal of substantial trees on the site.	The proposed driveway does not result in the removal of any street trees.	Yes

(3) Fencing

The proposed front fence stands 1.8m high but is abutting the front boundary on the south eastern corner. At this point it matches the height and setback of the adjacent high front fence that runs across the front boundary of 24 Bowden Crescent, with no setback except for an indented pedestrian access gate. This proposed high front fence runs perpendicular to the south western side boundary, so it is setback approximately 5m off the front boundary in the north eastern corner.

As 28 Bowden Crescent has a high front fence which includes an inbuilt planter box across approximately half the site frontage, and 24 Bowden Crescent has a high front fence with no setback except for an indented pedestrian access gate, this proposal, with a much larger area of setback which includes lawn area with some feature landscaping in front of the fence, is considered compatible with other fences that contribute to the streetscape along this side of Bowden Crescent.

This proposed high front fence is considered to meet all other objectives of Section 4.2, including that the fence will contribute positively to the streetscape, materials of the front fence are of high quality, the proposed fence is sympathetic to the topography of the site, and the proposed front fence minimises interference with natural drainage patterns. Accordingly this proposed high front fence is supported.

1.3 Open Space

1.3 Open Space	(1) 15% (25% Interim DCP) of the site area must be deep soil landscaped area.	208.95sqm or 27.54%	Yes.
	(2) Private open space should be adjacent to and visible from the main living and/or dining rooms and be accessible from those	The proposed development includes satisfactory areas for private open space.	Yes

	<p>areas.</p> <p>(3) Development should take advantage of opportunities to provide north facing private open space to achieve comfortable year round use.</p> <p>(4) Where soil and drainage conditions are suitable, unpaved or unsealed landscaped areas should be maximised and designed to facilitate on site infiltration of stormwater.</p> <p>(5) Existing significant trees and vegetation must be incorporated into proposed landscape treatment.</p>	<p>The proposed private open space is appropriately located.</p> <p>Yes, unpaved or unsealed landscaped areas are located throughout this site.</p> <p>Five (5) trees have been nominated for removal. The application was referred to Council's Consultant Arborist and the removal was supported subject to specific conditions of consent. No street trees were nominated for removal. Further, the revised landscaping plan shows areas of landscaping and grass throughout the site including across the front of the property on the street side of the proposed front fence, which is currently all concrete. Conditions of consent will add to the amount of trees to be incorporated into the landscaping.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
1.4 Vehicular access, parking and circulation			

	(1) Car parking is to be provided in accordance with the requirements in Section B4.	The proposed development is satisfactory having regard to Section B4 of the KDCP 2013.	Yes
	(4) Crossings are to be positioned so that on-street parking and landscaping on the site are maximised, and removal or damage to existing street trees is avoided.	Four (4) car spaces have been provided, exceeding the two (2) car requirement.	Yes
	(5) Garaging should be setback behind the primary façade.	The proposed vehicular crossing does not impact on existing on-street parking arrangements or landscaping.	No (4)
	(6) The maximum driveway width between the street boundary and the primary building façade is 4m.	The garage forms part of the primary façade, however the garage doors are not readily visible from the street as they face the north east side boundary rather than the front boundary. Other properties have garages as part of the primary façade in this street.	Yes, (this will be conditioned to not exceed 4m).

(4) Garaging setback relative to the primary façade

This control is to ensure that garages do not visually dominate the streetscape. This garage has been designed with two double garage doors that are perpendicular to the front boundary facing the north eastern side boundary. The garage doors are clad in ino-wood and finished flush with the ino-wood cladding that is a feature material of this garage portion of the dwelling. As can be seen in the perspective above the garage does not look like a garage and does not dominate the streetscape.

The objective under KDCP 2013 for “Fenestration and External Materials of which this control is part of, is

- Developments should present an external appearance that complements the dominant character of the streetscape.

There are a number of properties in this area that have garages as the primary façade of the building, including both adjoining neighbours as a consequence of site slope and the waterfront condition. As stated above the design of this dwelling does have the garage as the front façade, but in a manner that does not give the appearance of a garage nor does it dominate the street. Accordingly, this objective is considered to have been satisfied.

1.5 Privacy

1.5.1 Visual Privacy	(1) Windows from active rooms are to be offset between adjacent dwellings so as to avoid direct overlooking onto neighbouring windows.	A kitchen window with a bottom sill height of 900mm and top sill height of 1.6m is proposed in the south west elevation opposite a large window in the side wall of 24 Bowden Crescent.	Yes and No (5)
	(2) Where terraces and balconies are proposed and are elevated more than 1.5m above ground level (finished) and are located behind the street front façade, they are restricted to a maximum width of 2.5m and must be setback a minimum 3m from any adjoining property boundary.	Balconies elevated more than 1.5m above existing ground level exceed 2.5m in width and are located within 3m of adjoining properties.	No (6)
	(3) The area of balconies or terraces greater than 1.5m above ground level is limited to a cumulative total of 40sqm per dwelling.	The total areas of balconies greater than 1.5m above ground level, exceeds 40sqm.	No (6)
	(5) For active rooms or balconies on an upper level, the design should incorporate placement of room	There are no active rooms on the upper level of this dwelling. The front and rear balconies are both off	Yes

	windows or screening devices to only allow oblique views to adjoining properties (Figures 18 and 19).	bedrooms and are both provided with full height walls along the south western sides to protect the privacy of the south western side neighbour.	
<p><u>(5) Windows from active rooms are to be offset between adjacent dwellings so as to avoid direct overlooking onto neighbouring windows.</u></p> <p>All windows on the upper most floor level on the south western elevation are deemed non-active rooms as they are either bedroom windows or ensuite windows. Accordingly, no active room windows overlook the south western side neighbour, number 24 Bowden Crescent. Further to the above, the applicant has amended the window design to the three (3) bedroom windows in the south western elevation to be highlight style windows with a bottom sill height of 1,6m above floor level to even further protect the privacy of the adjoining neighbour. The other three (3) windows are ensuite windows.</p> <p>The proposed kitchen window at “ground floor level” is aligned with the neighbours single, two storey high, main window in their north eastern side elevation. As this kitchen window is elevated approximately 2.4m above existing and proposed ground level along this side boundary, this window has a potential privacy impact on the neighbour’s main window. This kitchen window is already shown as being a fixed window but will be conditioned to be an obscure fixed window to protect the privacy to the neighbour’s main side window. The pantry window is offset from the neighbour’s window by approximately 2.5m and therefore complies with Section 1.5 – Privacy.</p> <p>As detailed above, the main objectives under KDCP 2013 “Visual Privacy” are considered to have been satisfied;</p> <ul style="list-style-type: none"> • Ensure the siting and design of buildings provides a high level of visual and acoustic privacy for residents and neighbours in dwellings and private open space. • Direct overlooking from active windows, balconies and terraces is minimised. • Council will only consider the impact of a proposed development on a neighbouring property’s privacy in certain circumstances. • The transmission of sound and vibration between adjoining properties should be minimised. <p><u>Note:</u> Non-active rooms are rooms of a generally passive nature and include bathroom, laundry, water closet, walk in wardrobe, bedroom, sewing room and the like.</p> <p><u>Additional Note:</u> The adjoining property to the north east, 28 Bowden Crescent has a kitchen window in the south western side wall of the dwelling that faces the subject property (See figures 14 and 15). As the proposal includes some fill and stairs/landing/stairs along this section of side yard adjacent to this kitchen window, a discussion with the owners of 26 and 28 Bowden Crescent concluded that a 500mm high privacy screen be added to the top of the existing brick boundary fence that separates these two properties. If this application is supported, this will be a condition of consent.</p> <p><u>(6) Balconies elevated more than 1.5m to have a cumulative area not in excess of</u></p>			

40sqm and a width of not more than 2.5m

Control (4) of Section 1.5.1 states that 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.

In this regard the balconies are not considered to adversely impact the existing level of privacy to adjoining neighbours. The use of full height side walls and privacy screens to the south western neighbours, and balconies being positioned so that the remaining dwelling acts as a privacy barrier to the north eastern side neighbours dwelling, all helps to maintain the existing level of privacy to adjoining neighbours.

Accordingly the balconies as proposed are considered to meet the objectives under Section 1.5 – Visual Privacy;

- Ensure the siting and design of buildings provides a high level of visual and acoustic privacy for residents and neighbours in dwellings and private open space.
- Direct overlooking from active windows, balconies and terraces is minimised.
- Council will only consider the impact of a proposed development on a neighbouring property's privacy in certain circumstances.
- The transmission of sound and vibration between adjoining properties should be minimised.

1.6 Solar Access

	(1) At least 50% of the primary private open space of the proposed development should have access to a minimum of four hours of sunlight between 9am–3pm on 21 June.	The proposed private open space will receive the minimum 4 hours sunlight between 9am–3pm on 21 June.	Yes
	(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.	The proposed development will receive the minimum 3 hours sunlight between 9am–3pm on 21 June.	Yes (7)

(7) Solar Access

The south western side neighbour, 24 Bowden Crescent, is most affected by overshadowing due to the orientation of the sites. Due to concern raised, the applicant has submitted hourly elevational shadow diagrams to document the amount of sunlight received by the neighbours main window in the north eastern side wall of 24 Bowden Crescent.

These shadow diagrams indicate that this window receives sunlight for up to 5 hours a

day on 21 June between 9am and 3pm. This exceeds the 3 hours required. It is also noted that the overall height of the dwelling is less than 9m and the upper floor level is setback 1.2m for the rear most section (11.92m) of wall, and setback 2.1m off the side boundary for a length of 18.425m at the front.

In relation to the neighbours existing private open space, the front yard between the high front fence and the front of the dwelling receives 3 hours of sunlight per day on 21 June between 9am and 3pm.

Part of the ground floor balcony and backyard facing the water receives a degree of sunlight from 9am to 12noon. From 12noon to 3pm most of this backyard area and waterfront facing balconies are in shadow, mostly caused from the dwelling at 24 Bowden Crescent, but also a consequence of site topography and orientation.

Due to the orientation of the 24 Bowden Crescent and the sloping local topography, the rear balconies and backyard facing the waterfront receive most of their sunlight before 9am in the morning.

Given that the proposed dwelling at 26 Bowden Crescent complies with height, floor space and setback requirements, and is located on a site with an east–west orientation with prevailing local topography, the degree of overshadowing received by the “backyard” of the southern neighbouring property (24 Bowden Crescent) is to be expected .

In terms of solar access to windows, at least 50% of windows to the main living area at 24 Bowden Crescent receive at least a minimum of 3 hours of sunlight between 9am and 3pm on 21 June.

As detailed above, this proposal is considered to meet the objectives under KDCP 2013. It must be noted that the orientation of the sites does mean that the south western side neighbour will be impacted to some degree by overshadowing from the proposed dwelling at 26 Bowden Crescent. It is also noted that the dwelling at 24 Bowden Crescent overshadows its own backyard for the majority of the afternoon hours. The objectives for solar access are;

- Minimise loss of sunlight to adjacent buildings.
- Maximise mid-winter sunlight to windows of neighbouring living rooms and to the primary private open spaces of adjacent properties.
- Break up building bulk to allow sunlight penetration.
- Building design and location minimises adverse impacts on the overshadowing of neighbouring buildings and primary private open spaces.

It is considered in the context that these objectives have been addressed as far as possible while realising a reasonable building envelope, given the contextual orientation and topography relationship between the site and the south western neighbour.

1.7 Views and view sharing

	(1) Development shall provide for the reasonable sharing of views. Note: Assessment of applications will refer	The proposed development will have some impact on the existing views of neighbouring properties, but not to	Yes – see view sharing assessment following this table.
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	to the Planning Principle established by the Land and Environment Court in Tenacity Consulting vs Warringah Council (2004) NSWLEC140	the degree that warrants refusal of this application. See comments below.	
4.2 Fences and Walls			
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>(2) Fences over 1.4m must be setback 1.2m from the street alignment, except where Council considers a lesser distance is warranted due to the siting of the existing residence, levels or width of the allotment or exceptional circumstances of the site.</p>	<p>Front fence proposed is 1.8m high.</p> <p>Front fence is 1.8m high, is setback more than 1.2m at the north eastern end and less than 1.2m at the south western end.</p>	<p>Yes</p> <p>Yes (3)</p>
4.4 Outbuilding			
	<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 property.</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>N/A – No outbuilding proposed.</p> <p>N/A – No outbuilding proposed.</p>	<p>N/A</p> <p>N/A</p>
4.6 Swimming pools, spas and enclosures			
	(1) Swimming pools/spas should be located	N/A – No swimming pool proposed.	N/A

	<p>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>(7) 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 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>(8) Filling is not permitted between the swimming pool and the property boundary. The position of the</p>	<p>N/A – No swimming pool proposed.</p> <p>NA – No swimming pool proposed.</p> <p>N/A – No swimming pool proposed.</p> <p>N/A – No swimming pool proposed.</p>	<p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p>
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	<p>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>(10) A pool fence complying with the legislation should separate access from the residential dwelling on the site to the pool.</p> <p>(11) 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>N/A – No swimming pool proposed.</p> <p>N/A – No swimming pool proposed.</p>	<p>N/A</p> <p>N/A</p>
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View Sharing Assessment

87. In *Tenacity Consulting v Warringah Council* the Court provided a four step assessment process to guide whether or not view sharing is reasonable. In doing so, the Court also gave some helpful guidance as to what should be considered as part of each step of an assessment. The four steps are as follows.
88. **Step One – Assessment of the views to be affected** - *“Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.”*
89. **Step Two – Consideration from what part of the property the views are obtained** - *“For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.”*
90. **Step Three – Assessment of the extent of the impact** - *“This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of*

the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.”

91. **Step Four – Assessment of the reasonableness of the proposal that is causing the impact** - *“A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable”*

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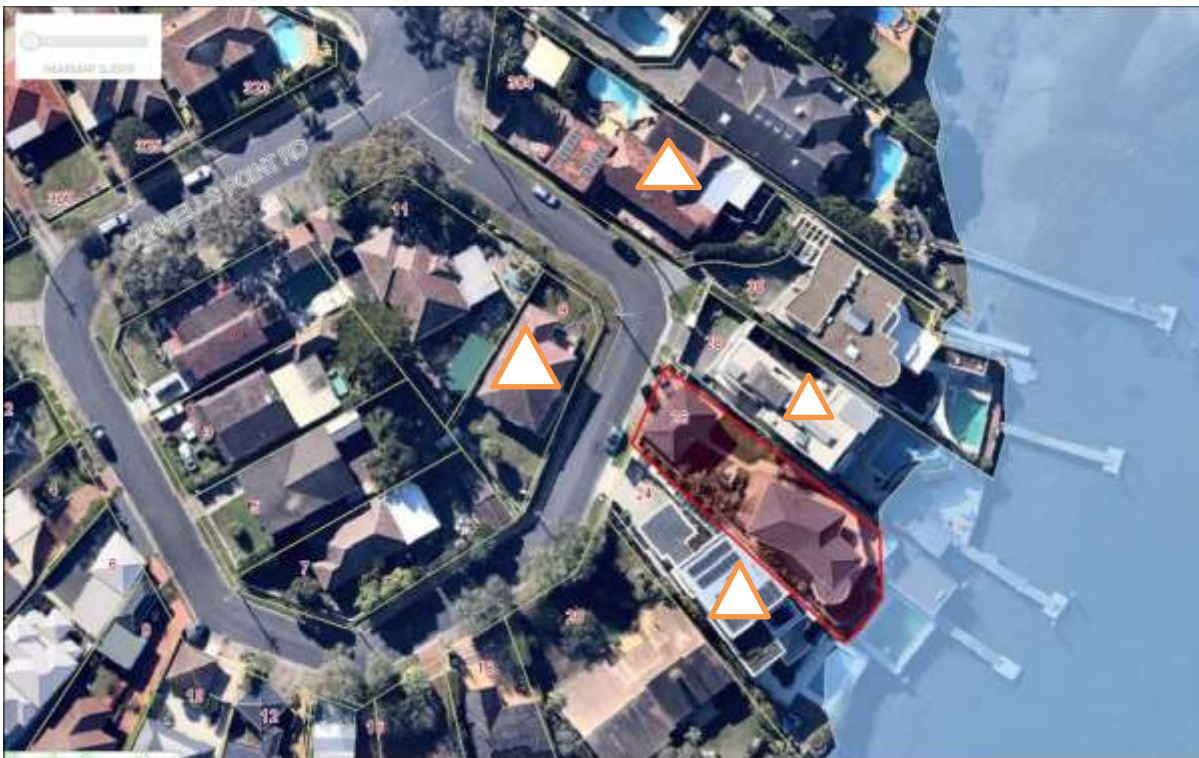


Figure 15: Aerial view of subject site and neighbouring properties. Those (4) that made submission to the original plans about impacts on existing views have been marked with a white triangle. (Only one neighbour objected to the revised plans.) Subject site, number 26 Bowden Crescent has a red border.

304 Connells Point Road

92. An onsite meeting was held with the owner of 304 Connells Point Road on 7 May 2021 and photos were taken. The owner indicated that they were concerned with possible impacts on water views if they ever added a first floor level to their dwelling.



Figure 16: Street view of 304 Connells Point Road looking north west from Bowden Street

Applying View Sharing (Tenacity) Planning Principle

Step One – Assessment of the views to be affected

93. Comment: No views of any value from the existing single storey dwelling or yard areas will be affected by the proposal. Possible view impacts on a non-existent first floor addition cannot be taken into account.

Step Two – Consideration from what part of the property the views are obtained

94. Comment: Any outlook over the subject site is achieved by looking diagonally across the site from the north eastern corner at the front to the south western corner at the rear. In other words across the front or north east side boundary at the front and over the rear or south west side boundary at the rear, depending on the angle and location taken from 304 Connells Point Road.

Step Three – Assessment of the extent of the impact

95. Comment: There are no views of significance affected by the proposal.

Step Four – Assessment of the reasonableness of the proposal that is causing the impact

96. Comment: The proposed dwelling complies with KLEP 2012 in relation to FSR and height. The side boundary setbacks also comply with KDCP 2012. Accordingly the proposed impact on any existing outlook from 304 Connells Point Rd is considered to be reasonable.
97. A discussion with the owner onsite revealed that they acknowledged that a first floor addition to their dwelling one day may provide them with water views. Otherwise after discussing the method of assessment with the owner of 304 Connells Point Road, they were satisfied that the proposal would not impact any significant views from their property. No submission was made when the revised plans were re-neighbour notified.

9 Bowden Crescent

98. An onsite meeting was held with the owner and the son on 22 April 2021 and photos were taken.



Figure 17: Street view photo of 9 Bowden Crescent looking east from Bowden Crescent. Black arrow indicates the kitchen window and blue arrow indicates the lounge room window.

Applying View Sharing (Tenacity) Planning Principle

Step One – Assessment of the views to be affected

99. Comment: Existing water views from the kitchen and lounge room windows, as well as from the front and side verandahs will be affected by the proposal.

Step Two – Consideration from what part of the property the views are obtained

100. Comment: The existing water views from the kitchen and lounge room windows as well as the side verandah, are diagonally across the subject site, or across the front of 24 Bowden Crescent and down the rear of the south western side of 26 Bowden Crescent. In this regard the view corridors are across the south western corner of the subject property (either the front of the south western side boundary or the south western section of the front boundary, or both, depending on where the view is taken from).
101. The view from the front verandah is across the front boundary of the subject site down the length of the site, adjacent to the south western side boundary.

Step Three – Assessment of the extent of the impact

102. Comment: As the upper floor level of the proposed dwelling is setback 2.1m at the front and 1.2m at the rear, off the south western side boundary, it is envisaged that a view corridor will remain allowing some views over the water to be retained.

Step Four – Assessment of the reasonableness of the proposal that is causing the impact

103. Comment: The proposed dwelling complies with KLEP 2012 in relation to FSR and height. The side boundary setbacks also comply with KDCP 2012. Accordingly, the proposed impacts on the existing water views from 9 Bowden Crescent are considered reasonable, taking the above comments into account.
104. A discussion with the owner onsite revealed that they acknowledged that the owners of 26 Bowden Crescent had the right to develop their property. They also stated that a first floor addition to their modest house one day would afford them substantial water views. No submission was made when the revised plans were re-neighbour notified.

28 Bowden Crescent

105. An onsite meeting was held with the owner of 28 Bowden Crescent on 7 April 201 and photos were taken. The owner indicated that they were concerned with the proposed dwelling being closer to the waterfront than their house and possibly blocking existing water views.

Applying View Sharing (Tenacity) Planning Principle

Step One – Assessment of the views to be affected

106. Comment: Existing water views from the rear ground floor verandah. Views also include interface between land and water.

Step Two – Consideration from what part of the property the views are obtained

107. Comment: The existing water views from the rear verandah to the south east are across the north eastern side boundary of the site and continue across the rear boundary of the subject site.

Step Three – Assessment of the extent of the impact

108. Comment: As the proposed dwelling is proposed to be setback behind the FBL, whereas the existing dwelling encroaches the FBL by up to 6.5m (approximately), it is envisaged that the existing views will be retained and probably even increased with the demolition of the existing dwelling and construction of the proposed dwelling.

Step Four – Assessment of the reasonableness of the proposal that is causing the impact

109. Comment: The proposed dwelling complies with KLEP 2012 in relation to FSR and height. The side boundary setbacks also comply with KDCP 2012 and the rear setback is increased to comply with the FBL. Accordingly, the existing water views from 28 Bowden Crescent are considered not to be affected by the proposal. No submission was made when the revised plans were re-neighbour notified.

24 Bowden Crescent

110. An onsite meeting was held with the owner of 24 Bowden Crescent on 3 June 2021 and photos were taken. The owner indicated that they were concerned with the proposed dwelling being three (3) levels at the rear and impacting water views of a number of neighbours as well as from their property.

Applying View Sharing (Tenacity) Planning Principle

Step One – Assessment of the views to be affected

111. Comment: Existing water views from the rear “lower ground floor” tiled area and rear “ground floor” verandah will be improved as new proposed dwelling is setback behind the FBL.

112. Existing views from the upper floor level (north eastern side window and rear balcony) looking south across the side boundaries or over the existing roof line of 26 Bowden Crescent will probably be lost. These water views include interface between land and water.

Step Two – Consideration from what part of the property the views are obtained

113. Comment: The existing water views are all across the side boundaries of 26 Bowden Crescent, above the FBL.

Step Three – Assessment of the extent of the impact

114. Comment: As the proposed dwelling is to be setback behind the FBL, whereas the existing dwelling encroaches the FBL by up to 6.5m (approximately), it is envisaged that some water views across the subject site will actually be gained by the occupants of 24 Bowden Crescent.
115. Taking into account the amount of existing water views from 24 Bowden Crescent, the fact that some water views will be gained by the proposed works, and the fact that the amount of existing views to be lost are considered minor, the amount of view lost in total is considered to be negligible.

Step Four – Assessment of the reasonableness of the proposal that is causing the impact

116. Comment: The proposed dwelling complies with KLEP 2012 in relation to FSR and height. The side boundary setbacks also comply with KDCP 2012 and the rear setback is increased to comply with the FBL. Accordingly, the existing water views from 24 Bowden Crescent are considered to be acceptable and the view sharing is reasonable.
117. The objective under KDCP 2013 for “Views and view sharing” is;
- Minimise view loss from adjoining or nearby properties, whilst still recognising the development potential of a site.
- Comment – As can be seen in the comments above for each property affected by view impacts and the subsequent View Sharing (Tenacity) Planning Principle, the objective is considered to have been satisfied and any loss of existing views is considered reasonable given the above assessment.

Part C4 – Foreshore Locality Controls – Connells Point

Standard	Proposed	Complies
7.8 Land Based Development		
(1) Buildings should be sited on the block to retain existing ridgeline vegetation, where possible. Siting buildings on existing building footprints or reducing building footprints to retain vegetation is highly recommended. In this regard, Council may consider variations to setback and height requirements to retain existing ridgeline vegetation, particularly where it provides a backdrop to the waterway, but only where it can be demonstrated that the variations:	There is no ridgeline vegetation along the sites on this section of waterfront to 24, 26 and 28 Bowden Crescent as can be seen in the waterfront photo earlier in the report.	N/A
(i) do not increase the visual impact of the dwelling, when viewed from the water;	The visual impact when viewed from the water is not dissimilar to the adjacent waterfront properties.	Yes
(ii) still achieve a built form that is in scale and proportion with the site and adjoining development; and	The proposed dwelling is not out of character with the two neighbouring	Yes

(iii) (iii) the overall development complies with the floorspace requirements as contained in Part C1 Section 1.2.1.	waterfront properties. Floor space complies with Part C1 Section 1.2.1	Yes
(2) On sites where the slope exceeds 1:8 (12.5%), dwellings should not have the appearance from any elevation of being more than three levels from the water. Such designs should be stepped, with the bulk of the development setback as far from the water as possible.	The proposed dwelling is three levels at the back facing the waterfront as it follows the natural slope of the land. The proposal has been stepped back on the top level to provide some articulation, and is not out of character with adjoining properties.	Yes
(3) The maximum number of storeys at any point is two (2). However, in certain circumstances, Council may permit a variation to this requirement where the design of the dwelling results in a reduced building footprint and site coverage and results in the following: (i) The preservation of topographic features of the site, including rock shelves and cliff faces; (ii) The retention of significant trees and vegetation, particularly in areas where the loss of this vegetation would result in the visual scarring of the landscape, when viewed from the water, and (iii) Minimised site disturbance through cutting and/or filling of the site		N/A
(4) Facades and rooflines of dwellings facing the water are to be broken up into smaller elements with a balance of solid walls to glazed areas. Rectangular or boxy shaped dwellings with large expanses of glazing and reflective materials are not acceptable. In this regard, the maximum amount of glazed area to solid area for façades facing the foreshore is to be 50%-50%	The proposal has mainly glazed areas across the rear of the dwelling to take advantage of the spectacular water views afforded the site. This proposal is not out of character with other waterfront properties in this area, in particular the two adjoining properties.	No, however the external glazed panels are tinted black to reduce reflectivity and balconies and awnings have been used to break up the vertical planes of the structure.
(5) Colours that harmonise with and recede into the background	Black tinted window(s) to rear facing façade	The revised plans have

landscape are to be used. In this regard, dark and earthy tones are recommended and white and light coloured roofs and walls are not permitted. To ensure that colours are appropriate, a schedule of proposed colours is to be submitted with the Development Application and will be enforced as a condition of consent.	facing the water, horizontal balconies and awnings have been used to break up the vertical planes of the structure and cast shadows down the faced facing the water.	shown that all external glazed panels in the rear façade of this dwelling shall be tinted black, and the external colour of the concrete building elements in the rear façade have been changed from white to grey to meet the requirements of this control.
(6) Swimming pools and surrounds should be sited in areas that minimise the removal of trees and limit impact on natural landform features (rock shelves and platforms).	No new swimming pool is proposed. The existing swimming pool below the MHWL does not form part of this application.	N/A
(7) On steeper slopes, preference is given to the retention of natural stable rock ledge escarpments, as opposed to introducing retaining walls. In circumstances where it is appropriate, a landscape batter maybe preferable to retaining walls in the creation of terraced areas.	This site has a slight slope of 3m over an approximate 40m length where the dwelling is proposed to be constructed.	N/A
(8) Adequate landscaping shall be provided to screen under-croft areas and reduce their impact when viewed from the water.	There are no under-croft areas	N/A
(9) Where there is a strong design character in existing buildings, new dwellings must, when viewed from the waterway incorporate design elements (such as roof forms, textures, materials, the arrangement of. new dwellings must, when viewed from the waterway incorporate design elements (such as roof forms, textures, materials, the arrangement of windows, modulation, spatial separation, landscaping etc) that are compatible with that character.	The proposed dwelling has similar design characteristics to the adjacent dwelling to the south west, and is not considered out of character with other development along the waterfront.	Yes

(10) Blank walls facing the waterfront shall not be permitted. In this regard, walls are to be articulated and should incorporate design features, such as: (i) awnings or other features over windows; (ii) recessing or projecting architectural elements; or (iii) open, deep verandahs.	There are no blank walls facing the waterfront. Awnings and balconies are used along the rear facing elevation to help articulate the façade and the topmost level has been setback to further enhance the articulation of this dwelling.	Yes
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Georges River Development Control Plan 2020

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

119. This does not come into effect until the Georges River Local Environmental Plan is gazetted. At the time of drafting this LEP had not been gazetted.

Developer Contributions

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

IMPACTS

Natural Environment

121. The proposal seeks to remove five onsite trees and the removal has been assessed and endorsed by Council's Consultant Arborist. Ten (10) replacement trees will be conditioned as replacement trees to be added to the submitted landscape plans.

122. The proposed works will not otherwise directly impact the natural environment.

Built Environment

123. The built form of the proposed development is of a bulk and scale that is not out of character with the immediate two adjoining neighbours of this site, or other similar development within this waterfront area.

Plan Anomalies

124. The proposed revised plans indicate solar panels on the roof of the proposed dwelling on the site plans. As there have been no details provided for these solar panels, if this application is supported, they are to be deleted from this application as a condition of consent. The applicant has been advised of this.

125. The proposed elevations have two (2) typo errors on the "south elevation" facing the waterfront. The first is the overall height of the building on the northern end has an overall height dimension of 8864 with a ground level of RL5.74. This should read 8740 (8.74m) with a ground level of RL5.86. The second is that the notation "Black tinted window to rear façade facing the water" should read "All windows to rear façade facing

the water to be black tinted”. If this application is supported, this will be confirmed with a condition of consent. The applicant has been advised of this.

126. The revised landscape plans indicate a proposed pool fence across the rear of the subject site, on top of the existing retaining wall, where there is an existing glass balustrade/fence in this location. As no details of this fence have been provided and this “pool fence” is notated on the revised Landscape plans and not on the architectural plans, this “pool fence will not form part of this consent if supported. This will be confirmed by a condition of consent if this application is supported.

Social Impact

127. The proposal in its current form will not have any adverse impact on the character of the locality or an unreasonable impact on the amenity of neighbouring residential properties. The environmental impacts on the social environment are considered to be reasonable and the application is supported.

Economic Impact

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

Suitability of the Site

129. The site is zoned R2 – Low Density Residential. The proposed dwelling and ancillary works are a permissible form of development in this zone, and it is considered that the proposal will have no adverse impacts on the streetscape or foreshore. Any amenity impacts on adjoining neighbours are not unreasonable and are not considered to warrant refusal or any further design changes than those recommended in this report and conditions of consent.

SUBMISSIONS, REFERRALS AND THE PUBLIC INTEREST

130. The application was advertised, and adjoining residents were notified by letter and given fourteen (14) days in which to view the plans and submit any comments on the proposal. 34 submissions were received during the neighbour notification period.
131. It should be noted that this application was neighbour notified twice, the second occasion due to the receipt of amended plans.
132. The original proposal was notified in accordance with the Kogarah Development Control Plan 2013 (KDCP). The proposal was notified for a period of 14 days and during this time 28 submissions were received. Of these 28, 19 were received from the same adjoining property, three (3) others were received from properties within a 50m radius and the other six (6) objections were received from properties that are not considered to be directly affected by the proposed works.
133. The revised plans that were submitted in response to Council concerns were also notified in accordance with the Kogarah Development Control Plan 2013 (KDCP). The proposal was notified for a period of 14 days and during this time 5 submissions were received. These 5 submissions were submitted from the same neighbour that submitted 19 submissions to the original plans that were neighbour notified. No other submissions were received from any other residents regarding these revised plans, that are the subject of this report.
134. The matters raised are identified and addressed below.

Loss of Views

135. Concern is raised that the proposal will impact on the views obtained from surrounding sites to the Georges River. As demonstrated in the view impact assessment earlier in this report, the proposal will not unreasonably impact on views given it generally sits within its envelope and is so sited as to not affect primary views.

Overshadowing

136. Concern is raised about the shadowing impacts of the proposal to properties to the south. As outlined earlier in this report, although the proposal will shadow the rear yard of the adjoining property, solar impact on that area is heavily influenced by the orientation of the subject site relative to the location of the rear yard, and also the substantial impact of the falling topography. Given this, and that the proposal is predominantly contained within the permitted envelope, the solar impact is considered reasonable in the circumstances of this case.

Compliance with the DCP and LEP generally

137. Concern is raised that the proposal does not comply with a range of requirements in the LEP and DCP. The proposal has been assessed against these requirements as documented in this report, and the proposal has been found to be satisfactory with respect to the relevant planning requirements.

Three level dwelling

138. Concern is raised with respect to the dwelling having a three (3) level form. The KDCP 2013 permits this in circumstances where the site has a fall of over 12.5% over the length of the site. The fall from the front south western corner to the rear south eastern corner of this property is 6.54m (RL9.60 and RL3.06) over south western side boundary length of 47.55m. This equates to a 13.75% fall over the length of the site (above MHWL). Further this proposed three (3) level dwelling is in character with the adjoining dwellings at 24 and 28 Bowden Crescent.

Waste management and erosion control

139. Concern is raised with respect to waste management and erosion impacts during works. Subject to this proposal being supported, conditions of consent are imposed with regards to these matters as part of the recommendations.

Additional setbacks from the foreshore

140. Concern is raised that insufficient setback is provided to the foreshore. As outlined earlier in this report the proposal complies with the FBL and is not out of character with the adjacent waterfront properties.

Clause 6.4 of KLEP 2012 (Limited Development on Foreshore Area) not addressed

141. Concern is raised that the application does not appropriately address Clause 6.4 of the Kogarah Local Environmental Plan. The foreshore area falls between the FBL and MHWL. No building works are proposed in the foreshore area as part of this application.

Impacts on privacy

142. Concern is raised with respect to the impact of the proposal on the privacy of adjoining properties. As outlined earlier in this report, the proposal will not result in unreasonable impacts on the privacy of adjoining properties.

Potential impacts to existing retaining walls and fencing

143. Concern is raised with respect to the impact of the proposal on existing retaining walls and fencing. Conditions are recommended requiring that all works occur wholly within the property boundary and requiring fencing and retaining walls be retained. Dilapidation

reports are conditioned to ensure that any impact from works is appropriately documented.

Covenants including H2011 relating to building heights

144. Concern is raised that the proposal will breach existing covenants with respect to building height on the site. Under Clause 1.9A of the Kogarah LEP, covenants of this sort are suspended for the purpose of planning decisions under that instrument.

Visual impact on foreshore when viewed from public parks

145. Concern is raised with respect to the visual impact of the proposal when viewed across the waterways. There are two parks to the north east of the subject site that are located on the foreshore with possible views to the subject site, 26 Bowden Crescent. These are Connells Point Reserve and Donnelly Park.
146. Onsite inspections revealed that the view of the subject site from both parks revealed obscure elevational views of a number of dwellings facing the waterfront, of which the proposed dwelling will just be another.
147. Further the distance between the subject site and Connells Point Reserve is approximately 120m but at a very obscure angle, and over 480m to that section of Donnelly Park that allows a distant view of 26 Bowden Crescent.
148. Also, the proposed new dwelling will be setback from the water by 6.5m or more than the existing dwelling onsite, so the elevational view of the proposed new dwelling will have less visual impact when seen from Connells Point Reserve or Donnelly Park and is not inconsistent with the form of surrounding development.
149. It is not considered that the proposal will have a significant impact on the foreshore area in the context of existing and surrounding development.

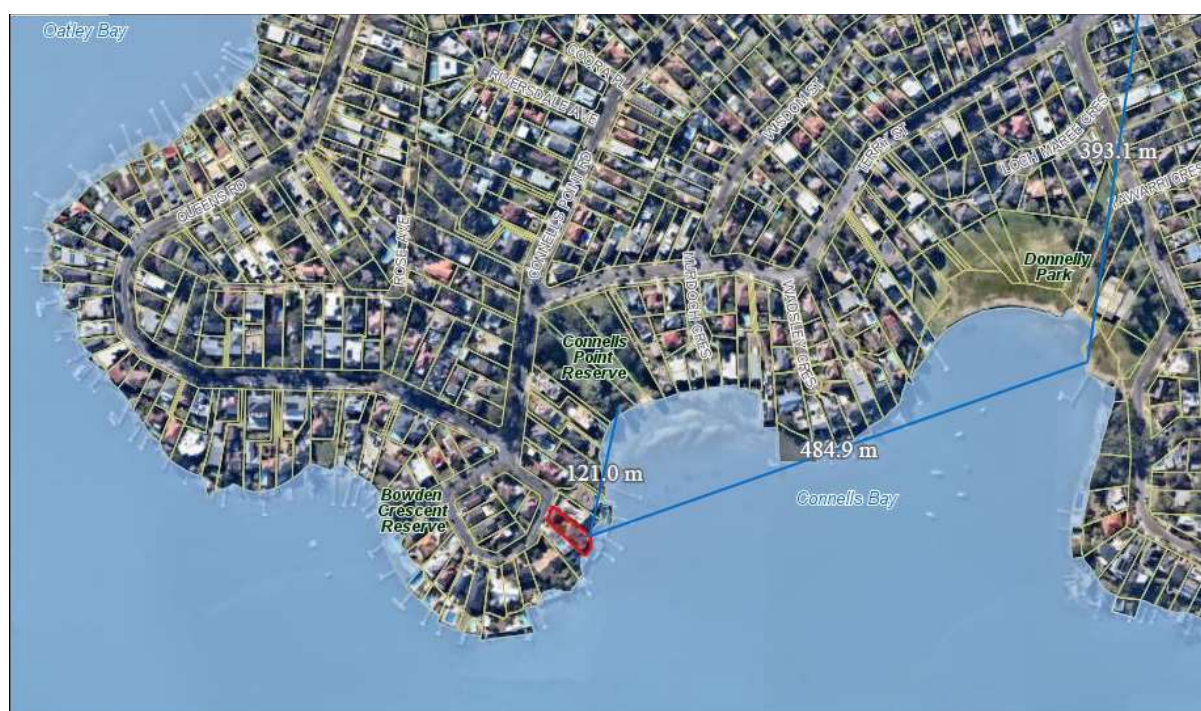


Figure 18: Aerial view showing relationship between subject site and both public areas to the north east.



Figure 19: Onsite photo taken standing at Connells Point Reserve looking at 26 Bowden Crescent

Council Referrals

Development Engineer

150. Council's Development Engineer has reviewed the proposal and approved the proposed stormwater/drainage plans subject to standard conditions of consent.

Consultant Arborist

151. No objections were raised for the removal of trees subject to replacement planting in accordance with Council's Tree Management Policy. Relevant conditions are imposed.
152. As part of the proposal, five (5) trees have been nominated for removal. The application was referred to Council's Consultant Arborist and specific conditions of consent have been recommended including ten (10) replacement trees as part of the landscaping requirements.
153. No street trees were nominated for removal or require removal associated with this application.

External Referrals

Ausgrid

154. The application was referred to Ausgrid as per Clause 45(2) of the State Environmental Planning Policy (Infrastructure) 2007. A written response was received confirming that there are no impacts to Ausgrid assets with this proposal.

CONCLUSION

155. Development consent is sought for the demolition of the existing dwelling and detached garage and subsequent construction of a new multi-level dwelling and high front fence at 26 Bowden Crescent Connells Point.

156. The proposal has been assessed with regard to the matters for consideration listed in Section 4.15 of the Environmental Planning and Assessment Act 1979. The proposal is an appropriate response to the context of the site and will result in a good planning and urban design outcome in the locality.
157. The proposal has been assessed against the provisions of the relevant State Environmental Planning Policy, Kogarah Local Environmental Plan 2012 and Kogarah Development Control Plan 2013 and complies with the development standards of the Local Environmental Plan and meets the objectives of the Kogarah Development Control Plan 2013. Any variations have been addressed and are worthy of support on merit.

DETERMINATION AND STATEMENT OF REASONS

Statement of Reasons

158. The reasons for this recommendation are:
- The proposed development complies with the requirements of the relevant environmental planning instruments.
 - The proposed development satisfies the objectives of the R2 Low Density Residential zone of Kogarah Local Environmental Plan and standards in the Kogarah Development Control Plan providing suitable housing needs whilst not compromising the amenity of the surrounding area.
 - The proposed development is considered to be compatible with surrounding development and surrounding land uses.
 - The proposed works will not unreasonably affect the amenity of any immediately adjoining properties in terms of unreasonable overlooking, overshadowing or view loss.
 - The proposal is not inconsistent with the provisions of the Draft Georges River Local Environmental Plan 2020.

Determination

159. THAT pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act, 1979, (as amended), the Georges River Local Planning Panel, grants development consent to DA2020/0430 for the demolition of the existing dwelling and detached garage and construction of a new multi-level dwelling and high front fence on Lot 13 in DP 14844 on land known as 26 Bowden Crescent, Connells Point, subject to the following conditions of consent:

Development Details

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

Description	Reference No.	Date	Revision	Prepared by
Cover Page	Job No. 2012 Dwg No. DA01	22.06.21	F	Resolut
Proposed Site Plan	Job No. 2012 Dwg No. DA02	18.06.21	E	Resolut
Demolition Plan	Job No. 2012 Dwg No. DA03	21.10.20	A	Resolut
Lower Ground Floor Plan	Job No. 2012 Dwg No. DA04	18.06.21	E	Resolut

Ground Floor Plan	Job No. 2012 Dwg No. DA05	18.06.21	E	Resolut
First Floor Plan	Job No. 2012 Dwg No. DA06	22.06.21	F	Resolut
North, East Elevations	Job No. 2012 Dwg No. DA07	17.06.21	D	Resolut
South and West Elevations	Job No. 2012 Dwg No. DA08	17.06.21	D	Resolut
Section A-A	Job No. 2012 Dwg No. DA09	09.06.21	C	Resolut
Driveway Profile	Job No. 2012 Dwg No. DA10	21.10.20	A	Resolut
Site Analysis	Job No. 2012 Dwg No. SO1	21.10.20	A	Resolut
Erosion and Sediment Control Plan	Job No. 2012 Dwg No. SO2	21.10.20	A	Resolut
Cut and Fill Plan	Job No. 2012 Dwg No. S09	01.06.21	B	Resolut
Survey Plan	205368-1	10/8/2020	N/A	W Buxton Pty Ltd
Stormwater Plans	Job No.D20201 Dwg No.s SW01 & SW02	20.10.20	A	ae Consulting Engineers

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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; and
- (k) Stormwater and ancillary to public infrastructure on private land

- (l) If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council's roadways/footways.

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

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

3. **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 vehicular crossing will contain the approved access and/or alignment levels which will be required to construct the crossing and/or footpath. Once approved, all work shall be carried out 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.

Due to the need to minimise the potential for overland flow into the property the finished surface level of the driveway is to be raised at some point to be a minimum height of 220mm above the invert of the street gutter adjacent. This height may be reached within the property and is to be maintained consistently across the full width of the driveway. Contact Council's Survey, Design and Drainage team for any enquiries regarding this.

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

Requirements of Concurrence, Integrated & Other Government Authorities

5. **Sydney Water - Tap in™** - 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

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

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

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

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

Fee Type	Fee
GENERAL FEES	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See https://portal.longservice.nsw.gov.au/bci/levy/	
Builders Damage Deposit	\$1,900.00
Inspection Fee for Refund of Damage Deposit	\$155.00
Driveway Design and Inspection Fee (Dwelling)	\$ 579.00
DEVELOPMENT CONTRIBUTIONS	
Georges River Council Section 94A Development Contributions Plan 2017	\$ 12,684.09

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.

7. **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: **\$1,900.00**

- b) Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee to enable assessment of any damage and repairs where required: **\$155.00**
- c) Submit to Council, before the commencement of work, a photographic record of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal.

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

8. **Site Management Plan - Minor Development** - A Site Management Plan detailing all weather access control points, sedimentation controls, fencing, builder's site sheds office, amenities, materials storage and unloading arrangements must be submitted with the application for the Construction Certificate.
9. **BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No.1148435S must be implemented on the plans lodged with the application for the Construction Certificate.
10. **Required design changes** - The following changes are required to be made and shown on the Construction Certificate plans:
 - 1) The maximum driveway width between the street boundary and the primary building façade shall be amended to be 4m.
 - 2) The proposed kitchen window in the south western wall of the dwelling shall be a fixed obscure window to protect the privacy of the adjoining neighbour.
 - 3) The privacy screen along the south western side of the rear ground floor balcony shall be a minimum 1.8m high above the finished floor level of the balcony. Note: privacy screen means—
 - (a) a structure that provides a screen or visual barrier between a window of a habitable room or an outdoor area on a lot and an adjoining lot that—
 - (i) has no individual opening more than 30mm wide, and
 - (ii) has a total area of all openings that is no more than 30% of the surface area of the screen or barrier, or
 - (iii) a window, the whole of which has translucent glass and is fixed and not able to be opened.
 - 4) A 500mm high privacy screen shall be provided to the north western side boundary (brick) fence, in front of the neighbours (28 Bowden Crescent) south western side kitchen window. This kitchen window is located adjacent to where the side stairs are proposed at 24 Bowden Crescent, which otherwise could cause a privacy concern.
 - 5) The proposed pool fence across the rear of the site and notated on the revised landscape plans does not form part of this consent, and shall be deleted from all plans submitted with the proposed Construction Certificate.
 - 6) The proposed solar panels on the roof of the proposed dwelling do not form part of this consent and are to be deleted from all plans (including the site plan) submitted with the proposed Construction Certificate.
 - 7) All windows in the rear façade of the dwelling facing the water and depicted on the "South Elevation" shall be tinted black to reduce glare and reflectivity and comply with the Foreshore Controls in KDCP 2013.

8) The overall height of the dwelling in the north eastern corner and depicted on the “South Elevation” as 8864 with a ground level of RL5.74 are typos and shall be corrected to read an overall height of 8740 with a ground level of RL5.86.

11. **Erosion and Sedimentation Control** - Erosion and sediment controls must be provided to ensure:

- (a) Compliance with the approved Erosion and 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](#).
- (i) Floating silt curtains, booms and similar erosion control measures are to be implemented to protect the existing waterway.

These measures are to be implemented prior to the commencement of work (including demolition and excavation) and must remain until works are completed and all exposed surfaces are landscaped/sealed.

12. **External Colour Schedule** – The external colours of the proposed dwelling are to be completed in accordance with the approved External Colour Schedule.

13. **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.

14. **Structural Integrity of existing brick boundary fences and rear retaining wall** - The existing brick boundary fences and rear retaining wall at 26 Bowden Crescent shall be protected and retained. Prior to a commencement of demolition, excavation or construction work, a report or certification from a practicing structural engineer must be submitted to and approved by the PCA detailing the method of protection and any structural works required (such as underpinning) to the existing brick boundary fences. The report must explain how the brick fences are to be protected and retained, supported and not undermined by the proposed development.
15. **Existing and Proposed Ground Levels Around the Proposed Dwelling** - The proposed ground levels around the subject dwelling shall remain unaltered except where clearly shown as altered from the existing levels on the approved elevations.
16. **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) All retaining walls and masonry boundary fences at 26 Bowden Crescent that are to be retained.

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.

17. **Stormwater System** - The submitted stormwater plan has been assessed as a concept

plan only. Final detailed plans of the drainage system, prepared by a professional engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate.

- (a) All stormwater shall be drained in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).
- (b) Stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a professional engineer who specialises in Hydraulic Engineering in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (1987) and Council's Stormwater Drainage Guidelines, shall accompany the application for the Construction Certificate.

18. **Stormwater System – Gravity to Natural Water Body** - All stormwater shall drain by gravity to the natural water body located at the rear of the property in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).
19. **Stormwater System – Silt Arrestor** - A Silt Arrestor Pit must be located inside the property just upstream of the point of discharge from the site. This pit must have minimum dimensions of 450mm x 450mm and shall have a 150mm deep sump and galvanised mesh screen permanently fixed over the outlet pipe or pipes. A minimum of 4 x 30mm diameter seepage holes shall be provided in the pit base. For drainage into the surrounding soil, the pit base shall be constructed on a layer of 200mm thick aggregate base wrapped in geotextile fabric. All non-plastic drainage pits must be benched and streamlined.
20. **Stormwater – Energy Dissipating Structure** - An outfall apron or energy dissipating structure at the point of discharge is to be provided if there is the possibility of erosion occurring.

Details shall be shown on the Stormwater Plan submitted for approval with the Construction Certificate application.

21. **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.
22. **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).
23. **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.
24. **Landscape Plans** - A detailed landscape plan, drawn to scale, A3 size and coloured, by a qualified landscape architect or an AQF Level 5 landscape designer, must be submitted prior to the issue of the Construction Certificate. The plan must include:

- a) In accordance with Georges River Tree Management Policy 2019, a 2:1 Policy is to be implemented. For every one (1) tree to be removed, two (2) trees shall be planted on the subject site to compensate for the loss of each tree. If Council finds that locations within the site cannot be found for the trees viability, an offset fee shall be forwarded to Council to plant the tree/s elsewhere, within the municipality.
- b) For the removal of five (5) *Callistemon viminalis* a total of ten (10) trees must be reflected upon the landscape plan and planted within the site and be a minimum 75 litre pot/ bag size.
- c) Three (3) trees located within the deep soil zones fronting the site.
- d) Four (4) trees planted within the Lower ground floor, whilst three (3) trees planted within the ground floor.
- e) Location of existing and proposed structures, services and existing trees to be retained and /or removed.
- f) Details of earthworks including mounding and retaining walls, Reduced Levels and planter boxes;
- g) Location of proposed trees and plants proposed as well as a plant schedule showing the plant symbol, botanical name/ common name; quantity; pot size; and mature height x width.
- h) A higher proportionate mix of natives than exotics plantings, with all trees proposed, able to reach a height at maturity of nine (9) metres.
- i) Tree species selection from – Georges River Councils, Tree Management Policy, April 2019, Appendix 1 – Tree Planting.
- j) Details of planting specifications, procedures and a maintenance schedule for twelve (12) months;
- k) Landscape ratios – pervious to impervious surfaces / deep soil zones
- l) Details of drainage and watering systems;
- m) Details of garden edging and turf; and
- n) Any required fencing, retaining walls and other structures not shown on other approved architectural and engineering plans.
- o) The contact details and website of the landscape architect or AQF Level 5 landscape designer, as well as qualifications.
- p) Associations and / or Memberships of Affiliation within the landscape industry.

25. **Tree Removal & Replacement -**

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

Tree Species	Number of trees	Location
<i>Callistemon viminalis</i>	X5	Within the site along the eastern side fence, front yard

General Tree Removal Requirements

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

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

26. **Demolition and Asbestos** - The demolition work shall comply with the provisions of Australian Standard AS2601:2001 - Demolition of Structures, NSW [Work Health & Safety](#)

[Act 2011](#) and the NSW [Work Health & Safety Regulation 2011](#). The work plans required by AS2601:2001 shall be accompanied by a written statement by a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the safety statement shall be submitted to the 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.

27. **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.
28. **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](#).
29. **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.
30. **Registered Surveyors Report - During Development Work** – All proposed works are to be located entirely within the bounds of the subject property, with the exception of any

underpinning or other similar works required to the existing boundary (brick) fences. A report must be submitted to the PCA at each of the following applicable stages of construction:

- a) Set out before commencing excavation.
- b) Completion of Footings for the Front Fence - Before pouring concrete, detailing the location of the structure relative to adjacent boundaries.
- d) Completion of Floor Slab Formwork - Before pouring of concrete, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans
- e) Completion of any Roof Formwork - Before pouring the concrete roof, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans.
- f) Completion of all Work - Detailing the location of the structure (including eaves/gutters) relative to adjacent boundaries and its height relative to the datum shown on the approved plans. A final Check Survey must indicate the reduced level of the main ridge.

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

During Construction

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

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

33. **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.
34. **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.

35. **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.
36. **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.
37. **Waste Management Facility** - All materials removed from the site as a result of demolition, site clearing, site preparation and, or excavation shall be disposed of at a suitable Waste Management Facility. No vegetation, article, building material, waste or the like shall be ignited or burnt.

Copies of all receipts for the disposal, or processing of all such materials shall be submitted to the PCA and Council, where Council is not the Principal Certifying Authority.

Prior to the issue of the Occupation Certificate

38. **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.
39. **Completion of Landscape Works** -
 - a) All landscape works and the planting of ten (10) trees must be completed before the issue of the Final Occupation Certificate and to the satisfaction of Councils Tree Management Officers.
 - b) A certificate of compliance for the planting of all ten (10) trees and shrubs proposed for the site. An AQF 5 Horticulturist shall be engaged and in writing certify that all trees have been planted as per these conditions of consent and forwarded to the PCA – Principal Certifying Authority.
40. **Post Construction Dilapidation report – Private Land** - At the completion of the construction works, a suitably qualified person is to be engaged to prepare a post-construction dilapidation report. This report is to ascertain whether the construction works associated with the subject development created any structural damage to the following adjoining premises:
 - (a) 24 Bowden Crescent, Connells Point
 - (b) 24 Bowden Crescent, Connells Point
 - (c) Boundary (brick) fences along each side boundary of 26 Bowden Crescent and the existing stone retaining wall across the rear of 26 Bowden Crescent.

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.

41. **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 specifications contained in the 'Application for Driveway Crossing and Associated Works on Council Road Reserve' approval issued by Council's Assets and Infrastructure Division and in accordance with Council's Specification for Vehicular Crossings and Associated Works and the issued.

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.

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.

42. **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.

43. **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) Construction of new vehicle crossings as required by this consent.
(b) Replacement of all redundant vehicle crossing laybacks with kerb and guttering, and replacement of redundant concrete with turf.

Operational Conditions (Ongoing)

44. **Maintenance of Landscaping –**

- a) All ten (10) 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) A minimum of 10 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.

- 45. **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.
- 46. **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 and Assessment Act 1979

- 47. **Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued.
- 48. **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.

49. **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.

50. **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.

51. **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](#).

52. **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.

53. **Occupation Certificate** - A person must not commence occupation or use of the whole or any part of a pool 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

54. **Clause 97A - BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.

55. **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.

56. **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.

57. **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](#).
58. **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.
59. **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

60. **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.

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

64. **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.

65. **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. (e.g.. DA2018/****) 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 storm water drainage system to be arranged by the applicant. The design plans must be lodged and approved by Council prior to the issue of a Construction Certificate.

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

66. **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.

67. **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).

68. **Dividing Fences Act 1991** – The owner shall comply with the requirements of the Dividing Fences Act 1991 and their responsibilities in relation to any proposed dividing fences.

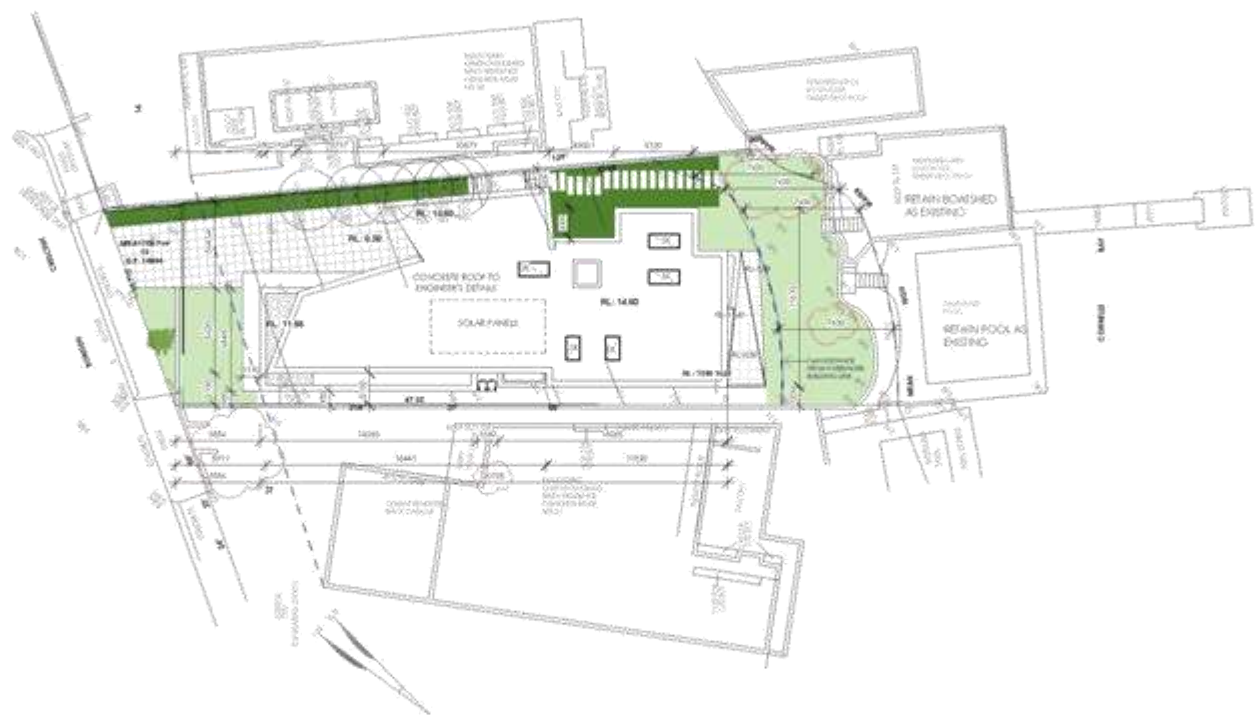
ATTACHMENTS

Attachment [↓](#) 1 

Site plan - 26 Bowden St Connells Point - ISSUE E

Attachment [↓](#) 2 

Elevations - 26 Bowden St Connells Point - ISSUE E-2



E	10/26/21	2A-0000E
C	09/16/21	2A-0000C
B	07/06/21	2A-0000B
A	05/10/20	2A-0000A
ISSUE	DATE	REVISION



Correspondence: Dr. Carlos J. G. de Melo, Instituto de Física de São Carlos, Caixa Postal 1356-970, São Carlos, SP, 1356-970, Brazil.
E-mail: carlos@fisica.ufsc.br

YASSER EL GAMMAL

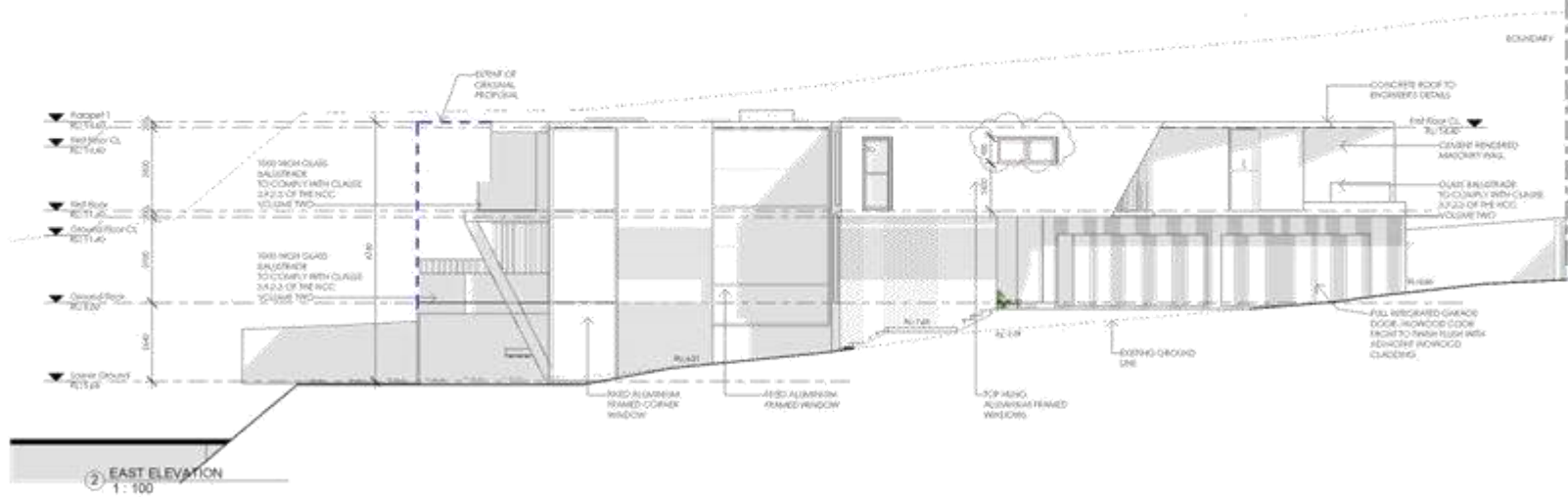
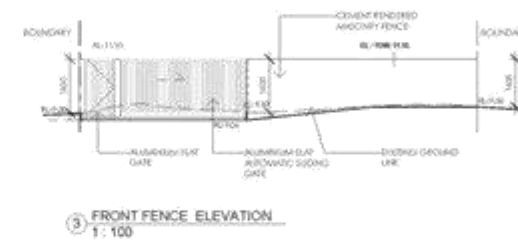
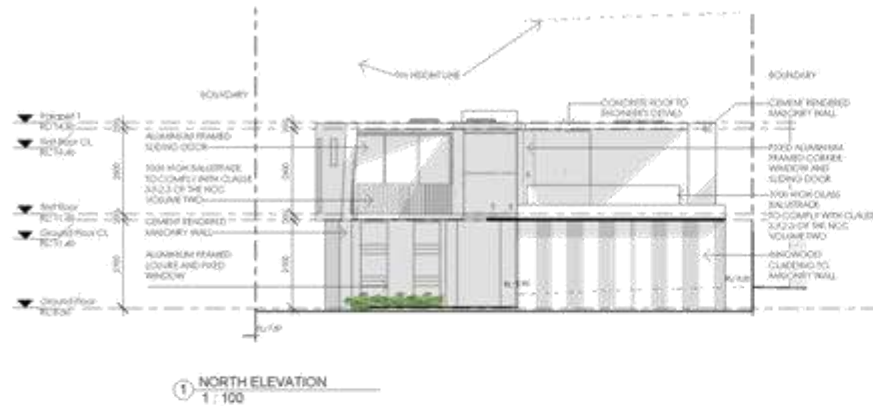
PROPOSED
TWO STOREY
HOUSE
ACROSS
26 BOWDEN CRESCENT,
CONNELL'S POINT, NSW 2221

PROPOSED SITE PLAN

NOT FOR CONSTRUCTION
For volume drawings, the figure dimensions only. There is no vertical and horizontal in
ratio to the construction of any work, the proportion of this drawing is the illustration
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DATE
18.06.20
DRAWN BY
CM

DRAWING NO.
DA02
JOB NO.
2012
SHEET
E
PART NO.



DATE	REVISION
17/09/21	1.00
17/09/21	2.00
17/09/21	3.00
17/09/21	4.00
17/09/21	5.00
17/09/21	6.00
17/09/21	7.00
17/09/21	8.00
17/09/21	9.00
17/09/21	10.00

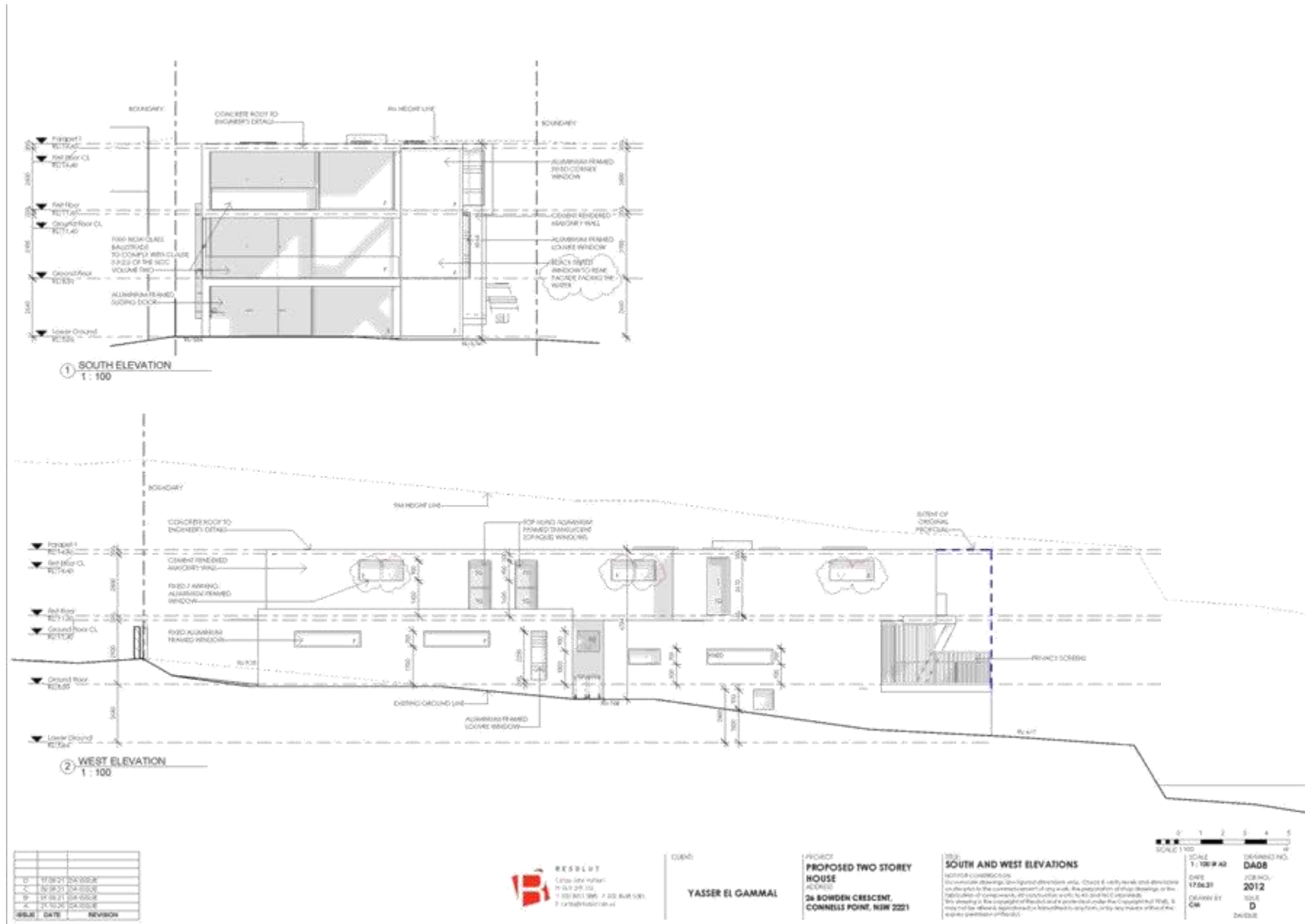


CLIENT:
YASSER EL GAMMAL

PROJECT:
PROPOSED TWO STOREY HOUSE
26 BOWDEN CRESCENT, CONNELLS POINT, NSW 2221

TITLE:
NORTH, EAST ELEVATIONS
 SCALE: As indicated
 DATE: 17/09/21
 DRAWN BY: CR
 ISSUE: D





REPORT TO GEORGES RIVER COUNCIL LPP MEETING OF THURSDAY, 07 OCTOBER 2021

LPP054-21

LPP Report No	LPP054-21	Development Application No	DA2021/0165
Site Address & Ward Locality	31 Seymour Street Hurstville Grove Blakehurst Ward		
Proposed Development	Demolition of existing detached garage, change of use from a dwelling and neighbourhood shop to a food and drink premises (café) including signage and provision of four (4) on site car parking spaces		
Owners	Mr Carlo Matteo Trimboli and Mrs Josephine Trimboli		
Applicant	Jason Salvo		
Planner/Architect	Planner: Matsuplan Planning Services Architect: Design Portfolio		
Date Of Lodgement	4/05/2021		
Submissions	Five (5) submissions		
Cost of Works	\$265,000.00		
Local Planning Panel Criteria	This application is referred to the Georges River Local Planning Panel for consideration and determination in accordance with the sub delegations of functions. Subject to these delegations, the Manager Development and Building considers it is in the public interest that the application be considered and determined by the Local Planning Panel due to the non compliance with the parking requirements.		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy (Infrastructure) 2007; State Environmental Planning Policy No 55 - Remediation Of Land; State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017; State Environmental Planning Policy No 64 – Advertising and Signage; 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; Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment Kogarah Local Environmental Plan 2012; Kogarah Development Control Plan 2013; Draft Georges River Development Control Plan 2020.		
List all documents submitted with this report for the Panel's consideration	Statement of Environmental Effects Acoustic Report BCA Report and Access Report Traffic Report		
Report prepared by	Principal Planner		

Recommendation	That the application be approved in accordance with the conditions included within 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, standard conditions have been attached which can be reviewed when the report is published

Site Plan



Figure 1: Aerial view of subject site outlined in blue

Executive Summary Proposal

1. Council received a development application (DA2021/0165) seeking consent for the change of use from a dwelling and neighbourhood shop to a food and drink premises (café) including signage at 31 Seymour Street Hurstville Grove.
2. In response to the issues raised by Council, the proposal was amended seeking consent for the demolition of the existing detached garage, change of use from a dwelling and

neighbourhood shop to a food and drink premises (café) including signage and the provision of four (4) on site car parking spaces.

Site and Locality

3. The subject development site is known as 31 Seymour Street, Hurstville Grove and is legally described as Lot B DP101650.
4. The subject site is a regular shaped allotment with a 15.24m frontage to Seymour Street, a secondary frontage to Waitara Parade of 30.632, an eastern side boundary of 30.632m with a rear boundary width of 15.24m. It is located on the north eastern corner of the intersection of Seymour Street and Waitara Parade. The site has a total area of 461.6sqm by DP.
5. Situated on the site is a single storey building which contains a neighbourhood shop and attached dwelling. A detached garage is located at the rear of the site which is accessed via Waitara Parade.
6. The site is located within the Hurstville Grove precinct of the commercial localities. The area is surrounded by residential properties of varying scale and sizes.

State Environmental Planning Policies

7. The proposal has been considered to be satisfactory in respect to the following policies which have been considered in respect to the application:
 - State Environmental Planning Policy No.55 – Remediation of Land.
 - State Environmental Planning Policy (Infrastructure) 2007.
 - State Regional Environmental Plan No 2 – Georges River Catchment.
 - State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.
 - Draft Environment State Environmental Planning Policy.
 - Draft Remediation of Land SEPP.

Zoning and KLEP (2012) Compliance - LEP

8. The site is zoned B1 – Neighbourhood Centre pursuant to the provisions of the Kogarah Local Environmental Plan 2012. The proposal satisfies the B1 zone objectives. The proposed fit out and use as a café is a permitted land use within the zone.

Kogarah Development Control Plan 2013 (KDCP)

9. The provisions of Kogarah Development Control Plan 2013 are applicable to the proposed development. The proposal is considered to be an acceptable planning outcome for the site and generally satisfies the applicable provisions contained within KDCP with the exception of the carparking provision.
10. A detailed assessment of the proposal against these controls is provided later in this report.

Submissions

11. The application was notified between 20 May and 3 June 2021 in accordance with the Kogarah Development Control Plan. Five (5) unique submissions were received. The plans were amended and renotified between 26 August and 9 September 2021. No additional submissions were received.

Reason for referral to the Local Planning Panel

12. This application is referred to the Georges River Local Planning Panel for consideration and determination in accordance with the sub delegations of functions. Subject to these delegations, the Manager Development and Building considers it is in the public interest that the application be considered and determined by the Local Planning Panel due to the non-compliance with the parking requirements.

Planning and Design Issues

13. The application fails to provide the minimum parking spaces for the proposed land use. The applicant has reduced the maximum patron numbers and provided a comprehensive traffic report that generally justifies the non-compliance. Four (4) on site car parking spaces have been provided as part of the amended plans. This issue is discussed in greater detail in the body of this report.

Conclusion

14. 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 (DA2021/0165) is recommended for approval subject to the conditions referenced at the end of this report.

Report in Full

Description of Proposal

15. Development consent is sought for the for the change of use from a dwelling and neighbourhood shop to a food and drink premises (café) including signage and four (4) on site carparking spaces at 31 Seymour Street Hurstville Grove.
16. A detailed breakdown of the proposed development is as follows:
- Demolition of detached garage at the rear of the allotment.
 - Change of use from a dwelling and neighbourhood shop to a food and drink premises (café).
 - Fit out of premises for a food and drink premises (café).
 - Two (2) new under awning business identification signs.
 - A new stencilled wall advertisement business identification sign to building façade.
 - New cool room and bin room.
 - New accessible toilet, dry goods and office.
 - Seating for 34 people.
 - New accessible ramp from carpark area to cafe.
 - Provision of four (4) on site car parking spaces with access off Waitara Parade (one space being a small car space).
 - Replacement of double gate with single gate for car parking area.
 - Provision of two bicycle racks for six (6) bicycles



Figure 2: Proposed floor plan of food and drink premises (café).

Operating Hours

17. The applicant is seeking to operate the premises seven (7) days a week with the following hours of operation:
- Monday – Saturday 6am – 4pm
 - Sundays – 6am – 3pm

Background

18. DA2021/0165 (subject application) was lodged to Council on 4 May 2021 seeking development consent for the change of use from a dwelling and neighbourhood shop to a food and drink premises (café) including signage. (application was amended throughout the process to include the demolition of the detached garage and install 4 on grade car parking spaces).
19. A request for further information was sent to the applicant on 27 May 2021 in response to comments received from Council's Environmental Health Officer requesting that an acoustic report be provided to enable a complete assessment of the application.
20. Email received from applicant on 15 June 2021 with the acoustic report.
21. Email sent to the applicant on 22 June 2021 in response to the concerns raised by Council's Traffic Engineer.
22. An additional email was sent to the applicant on 1 July 2021 in response to the acoustic report and further response from Council's Traffic Engineer. Council's Environmental Health Officer requested further information and clarification on the operation of the premises and that the acoustic report be updated.
23. Council's Traffic Engineer provided further clarification on the additional details required to address the concerns of Council directly to the Traffic Consultant on 6 July 2021.

24. Updated acoustic report submitted to Council on 9 July 2021. Council's Environmental Health Officer provided final comments and conditions on 9 July 2021.
25. Applicant and Project Manager emailed on 22 July 2021 to state that he would no longer be the applicant and all correspondence and requests should be directed to Jason Salvo.
26. Email in response to requests from the new contact person, Jason Salvo on 26 July 2021 advising of the current status of the application advising that the traffic and parking issues still remain unresolved.
27. A new Traffic Consultant was engaged and a draft/preliminary report was submitted to Council for review on 26 July 2021. Council's Traffic Engineer provided comments in response on 28 July 2021. These deficiencies were conveyed to the new Traffic Consultant on 29 July 2021.
28. Further information provided by Traffic Consultant on 30 July 2021. Email sent to the applicant on 4 August 2021 in response to questions in relation to traffic and parking concerns raised by Council's Traffic Engineer and further clarification on what is required.
29. Comments and conditions provided by Council's Waste Coordinator on 19 August 2021.
30. Email received on 12 August with updated traffic report and assessment in response to concerns raised by Council's Traffic Engineer and amended plans showing demolition of the detached garage and provision of four (4) on site car parking spaces. Council's Traffic Engineer was satisfied with the content of the report and provided conditions of development consent on 20 August 2021. Applicant and Traffic Consultant advised accordingly on 24 August 2021.
31. Application was re-notified to adjoining properties between 26 August and 9 September 2021. No additional submissions were received.

Site and Locality

32. The subject development site is known as 31 Seymour Street, Hurstville Grove and is legally described as Lot B DP101650.



Figure 3: Aerial view of subject site outlined in blue

33. The subject site is a regular shaped allotment with a 15.24m frontage to Seymour Street, a secondary frontage to Waitara Parade of 30.632, an eastern side boundary of 30.632m with a rear boundary width of 15.24m. It is located on the north eastern corner of the intersection of Seymour Street and Waitara Parade. The site has a total area of 461.6sqm by DP.



Figure 4: Existing building looking down Seymour Street



Figure 5: Existing building as seen from the corner of Seymour Street and Waitara Parade looking down Waitara Parade.

34. Situated on the site is a single storey building which contains a neighbourhood shop and attached dwelling. A detached garage is located at the rear of the site which is accessed via Waitara Parade.



Figure 6: Subject building as viewed from Seymour Street, Hurstville Grove.



Figure 7: Subject building as viewed from the secondary street frontage in Waitara Parade, Hurstville Grove.

35. The site is located within the Hurstville Grove precinct of the commercial localities. The area is surrounded by residential properties of varying scale and sizes.

Surrounding Development

36. To the west on the opposite side of Waitara Parade and to the south on the opposite side of the road in Seymour Street are residential dwelling houses and dual occupancies of various scales and size.
37. Adjoining the site to the north and located at 18 Waitara Parade and 30 Jellicoe Street are residential dwellings located on land zoned B1 Neighbourhood Centre.



Figure 8: Existing building to the west at 18 Waitara Parade



Figure 9: Dwelling located on 30 Jellicoe Street to the rear (on land zoned B1 Neighbourhood Centre).

38. Adjoining the site to the east at 29 Seymour Street is a residential dwelling house.

Compliance and Assessment

STATE ENVIRONMENTAL PLANNING INSTRUMENTS

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

State Environmental Planning Policy	Complies
Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment	Yes
State Environmental Planning Policy (Infrastructure) 2007	Yes
State Environmental Planning Policy No.55 – Remediation of Land	Yes
State Environmental Planning Policy No 64 – Advertising and Signage	Yes
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017	Yes

Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment

40. The primary relevant aims and objectives of this plan are:

- *to maintain and improve the water quality and river flows of the Georges River and its tributaries and ensure that development is managed in a manner that is in keeping with the national, State, regional and local significance of the Catchment,*
- *to protect and enhance the environmental quality of the Catchment for the benefit of all users through the management and use of the resources in the Catchment in an ecologically sustainable manner,*
- *to ensure consistency with local environmental plans and also in the delivery of the principles of ecologically sustainable development in the assessment of development within the Catchment where there is potential to impact adversely on groundwater and on the water quality and river flows within the Georges River or its tributaries,*

- *to establish a consistent and coordinated approach to environmental planning and assessment for land along the Georges River and its tributaries and to promote integrated catchment management policies and programs in the planning and management of the Catchment,*

41. The proposal is for a change of use and internal fit out, the disposal of stormwater will not change from the current arrangements. As such the proposal is consistent with the aims, objectives and purpose of the regional plan.

State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)

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

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

43. The proposal has been considered in accordance with the applicable provisions of the SEPP and found to be acceptable.

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

44. State Environmental Planning Policy No. 55 - Remediation of Land applies to all land and aims to provide for a State-wide planning approach to the remediation of contaminated land.

45. Clause 7(1) of the State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) states that Council cannot consent to development on the land unless:

"(a) it has considered whether the land is contaminated, and

(b) If the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and

(c) If the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose."

46. The proposed works involve a change of use and fit out of the existing building. These works are not considered to result in any further impacts or potential contamination that would warrant further investigation.

47. Conditions will be imposed relating to the demolition of the garage and if any asbestos is encountered.
48. The proposal is therefore considered to be consistent with SEPP 55 and suitable for the proposed development.

State Environmental Planning Policy No 64 – Advertising and Signage

49. SEPP 64 applies to the state and commenced on 16 March 2001. The policy aims to ensure that signage is compatible with the desired amenity and visual character of an area. The SEPP applies to the whole State and particularly as per clause 6, to all signage that:
 - (a) *can be displayed with or without development consent under another environmental planning instrument that applies to the signage, and*
 - (b) *is visible from any public place or public reserve.*
50. Clause 3 - Aims, objectives etc of SEPP 64 are as follows:
 - (a) *to ensure that signage (including advertising):*
 - (i) *is compatible with desired amenity and visual character of an area, and*
 - (ii) *provides effective communication in suitable locations, and*
 - (iii) *is of high-quality design and finish, and*
 - (b) *to regulate signage (but not content) under Part 4 of the Act, and*
 - (c) *to provide time-limited consents for the display of certain advertisements, and*
 - (d) *to regulate the display of advertisements in transport corridors, and*
 - (e) *to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.*
51. The proposed signage is considered compatible with the desired amenity and visual character of the immediate locality.
52. The proposal is considered to meet objective (a)(i) of the SEPP 64.
53. Part 3 of the SEPP applies to Advertisements. Subclause 13 outlines the Matters for consideration, which states:
 - (1) *A consent authority (other than in a case to which subclause (2) applies) must not grant consent to an application to display an advertisement to which this Policy applies unless the advertisement or the advertising structure, as the case requires:*
 - (a) *is consistent with objectives of this Policy as set out in clause 3(1)(a), and*
 - (b) *has been assessed by the consent authority in accordance with the assessment criteria in Schedule 1 and the consent authority is satisfied that the proposal is acceptable in terms of its impacts, and*
 - (c) *satisfies any other relevant requirements of this Policy.*
 - (2) *If the Minister for Planning is the consent authority or clause 18 or 24 applies to the case, the consent authority must not grant consent to an application to display an advertisement to which this Policy applies unless the advertisement or the advertising structure, as the case requires:*
 - (a) *is consistent with objectives of this Policy as set out in clause 3(1)(a), and*

- (b) *has been assessed by the consent authority in accordance with the assessment criteria in Schedule 1 and in the Guidelines and the consent authority is satisfied that the proposal is acceptable in terms of:*
- (i) *design, and*
 - (ii) *road safety, and*
 - (iii) *the public benefits to be provided in connection with the display of the advertisement, and*
- (c) *satisfies any other relevant requirements of this Policy.*
- (3) *In addition, if clause 18 or 24 applies to the case, the consent authority must not grant consent unless arrangements that are consistent with the Guidelines have been entered into for the provision of the public benefits to be provided in connection with the display of the advertisement.*

Criteria	Proposed	Complies
5. Area of application of this policy		
(1) This Policy applies to the whole of the State. (2) Without limiting subclause (1), this Policy applies to all land and structures within the State and all vessels on navigable waters. (3) Despite subclause (1), this Policy does not apply to the following land— Land to which <i>State Environmental Planning Policy (Kosciuszko National Park—Alpine Resorts) 2007</i> applies Land to which <i>State Environmental Planning Policy (Western Sydney Parklands) 2009</i> applies	Applicable	Noted
6. Signage to which this policy applies		
(1) This Policy applies to all signage that— (a) can be displayed with or without development consent under another environmental planning instrument that applies to the signage, and (b) is visible from any public place or public reserve, except as provided by this Policy. Note— <i>Public place</i> and <i>public reserve</i> are defined in section 4 (1) of the Act to have the same meanings as in the <i>Local Government Act 1993</i> . (2) This Policy does not apply to signage that, or the display of which, is exempt development under an environmental planning instrument that applies to it, or that is exempt development under this Policy.	Applicable	Noted
7. Relationship with other environmental planning instruments		
In the event of an inconsistency between this Policy and another environmental planning instrument, whether made before or after this Policy, this Policy prevails to the extent of the	Applicable	Noted

<p>inconsistency.</p> <p>Note— This Policy will have the effect of modifying, and having paramountcy over, the provisions of some other environmental planning instruments that permit the display of signage with or without development consent. This is particularly so in the case of large advertisements, being advertisements of the kind referred to in Part 3. This Policy (other than clause 16) will not override a prohibition on the display of signage that is contained in another environmental planning instrument. Because of some provisions, such as clauses 10 and 21, it may add prohibitions on advertising if the advertising is proposed to be displayed in certain circumstances, such as on environmentally sensitive or environmentally significant land or in the form of a roof or sky advertisement.</p>		
8. Granting of consent to signage		
<p>A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied—</p> <p>(a) that the signage is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and</p> <p>(b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 1.</p>	<p>An assessment of the signage has been undertaken in accordance with the provisions of Schedule 1, the proposal satisfies the objectives.</p>	<p>Yes</p>

Schedule 1 Assessment Criteria

54. An assessment of the proposal against Schedule 1 of the SEPP64 is provided in the following table.
55. This assessment relates to two (2) wall signs and two (2) under awning signs. One of each to each street frontage.

Design Assessment Criteria	Proposed	Complies
Table of Schedule 1 of SEPP 64		
1. Character of the area		
<ul style="list-style-type: none"> Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located? 	<p>The signage identifies the café which is consistent with the character of the business zone and is not excessive in the residential setting.</p>	<p>Yes</p>
<ul style="list-style-type: none"> Is the proposal consistent with a particular theme for outdoor advertising in the area or locality? 	<p>There is no theme for outdoor advertising in the locality given this business zone sits within a residential setting. The sign is acceptable given the locality.</p>	<p>Yes</p>
2. Special Areas		

<ul style="list-style-type: none"> Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas? 	The site is not located in a special area. The signage does not adversely affect the amenity or visual quality of the area. The signage will not detrimentally impact upon the significance of the locality as it is predominantly a residential area.	Yes
3. Views and Vistas		
<ul style="list-style-type: none"> Does the proposal obscure or compromise important views? 	The signage (wall and under awning) does not obscure or compromise any significant views.	Yes
<ul style="list-style-type: none"> Does the proposal dominate the skyline and reduce the quality of vistas? 	No, the signs are located under the awning and affixed to the façade and does not affect the skyline or views.	Yes
<ul style="list-style-type: none"> Does the proposal respect the viewing rights of other advertisers? 	Yes	Yes
4. Streetscape, setting or landscape		
<ul style="list-style-type: none"> Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape? 	The signage is of a scale, proportion and form appropriate to the building streetscape and setting.	Yes
<ul style="list-style-type: none"> Does the proposal contribute to the visual interest of the streetscape, setting or landscape? 	The signage is appropriate for this commercial use in a residential setting.	Yes
<ul style="list-style-type: none"> Does the proposal reduce clutter by rationalising and simplifying existing advertising? 	The existing signage consists of a number of wall sign advertisements for products for sale within the store located across the existing glazing and building facades on both street frontages including the splayed corner façade. The proposed signage is simple and is the appropriate amount and type of signage expected for this type of land use located in an area that is predominantly residential.	Yes
<ul style="list-style-type: none"> Does the proposal screen unsightliness? 	No	Yes
<ul style="list-style-type: none"> Does the proposal protrude above buildings, structures or tree canopies in the area or locality? 	No, the proposed under awning signage is below the awning and the wall advertisement is stencilled and affixed to the wall.	Yes
<ul style="list-style-type: none"> Does the proposal require ongoing vegetation management? 	No.	Yes
5. Site and Building		
<ul style="list-style-type: none"> Is the proposal compatible 	Yes, the size and scale is compatible	Yes

with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	with the building and use in a residential setting.	
• Does the proposal respect important features of the site or building, or both?	The signage does not detract from the existing building.	Yes
• Does the proposal show innovation and imagination in its relationship to the site or building, or both?	It is integrated into the style of the fit out of the building.	Yes
6. Associated devices and logos with advertisements and advertising structures		
• Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	None shown and not considered necessary.	N/A
7. Illumination		
• Would illumination result in unacceptable glare?	The signage is not proposed to be illuminated.	N/A
• Would illumination affect safety for pedestrians, vehicles or aircraft?	The signage is not proposed to be illuminated.	N/A
• Would illumination detract from the amenity of any residence or other form of accommodation?	The signage is not proposed to be illuminated.	N/A
• Can the intensity of the illumination be adjusted, if necessary?	The signage is not proposed to be illuminated.	N/A
• Is the illumination subject to a curfew?	The signage is not proposed to be illuminated.	N/A
8. Safety		
• Would the proposal reduce the safety for any public road?	The signage will not obscure sightlines from public areas. They will not have a negative impact on the safety of public roads.	Yes
• Would the proposal reduce the safety for pedestrians or bicyclists?	Pedestrian and bicycle safety will not be compromised.	Yes
• Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The signage will not obscure sightlines from public areas.	Yes

56. The proposed signage is considered to be consistent with the aims and objectives of Schedule 1 Assessment Criteria of SEPP 64.

57. It is of a nature and scale that is within context for the locality being a commercial development in a residential locality and is compatible with the amenity and visual character of the area.

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

58. The Vegetation SEPP regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.
59. 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).
60. 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 SP2 Infrastructure zone.
61. 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).
62. The application is for the change of use from a dwelling and neighbourhood shop to a food and drink premises (café) including signage, demolition and on-grade carparking. Whilst a tree will be removed in the rear yard, this tree was approved for removal under a tree permit application prior to the application being lodged.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

Draft Environmental State Environmental Planning Policy

63. 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.
64. The proposal is not inconsistent with the provisions of this Draft Instrument.

Draft Remediation of Land State Environmental Planning Policy

65. 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.

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

Draft Design and Place SEPP

67. The Draft Design and Place 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.

68. The development is not subject to these provisions.

Kogarah Local Environmental Plan 2012 (KLEP 2012)

69. The subject development site is zoned B1 – Neighbourhood Centre under the KLEP 2012 as shown in Figure 10 below.



Figure 10: Zoning map (HLEP 2012) - Subject site outlined in blue.

70. The objectives of the zone are as follows:

- To provide a range of small scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.
- To allow residential development that contributes to the social vitality of the neighbourhood centre and does not detract from the business function of the zone.

71. The B1 zoning is very much focused on providing a range of small scale community uses that serve the needs of the people within the surrounding locality, all within a predominantly residential area.
72. The proposed development being a food and drink premises is a permissible land use in the zone. (see definition below):

food and drink premises means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following—

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) a pub,
- (d) a small bar.

Note—

Food and drink premises are a type of **retail premises**—see the definition of that term in this Dictionary.

73. An assessment of the proposal against the relevant LEP clauses and standards is as follows.

Clause	Standard	Proposal	Complies
Part 2: Permitted or Prohibited Development			
2.2 Zoning of Land to which Plan applies	B1 – Neighbourhood Centre	The proposal is defined as a food and drink premises, which is a permitted land use in the B1 Neighbourhood zone under KLEP 2012.	Yes
2.3 Zone objectives and Land use table	Objectives of zone to be satisfied	The proposal satisfies the objectives of the zone by proposing a land use which is consistent with the zone objectives and is suitable for the site.	Yes
2.7 Demolition	Demolition requires development consent.	Demolition of the detached garage is proposed as part of the approved works.	Yes
Part 4: Principal Development Standards			
4.3 Height of Buildings	10m as identified on Height of Buildings Map.	No change to the existing building.	Yes
4.4 Floor Space Ratio	1:1 as identified on Floor Space Ratio Map	No change to the existing.	Yes

4.5 Calculations of Floor space and Site area	Floor space to be calculated in accordance with Clause.	Floor space has been calculated in accordance with this clause.	Yes
4.6 Exceptions to development standards	Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument	N/A, the proposal does not seek to vary a development standard.	N/A
Part 5: Miscellaneous Provisions			
5.6 Architectural roof features	Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with development consent.	No architectural roof feature proposed.	N/A
5.10 Heritage Conservation	The objectives of this clause are; (i) to conserve the environmental heritage of Kogarah, (ii) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views.	The site is not a heritage item and is not within a heritage conservation area.	Yes
5.11 Bush Fire Hazard Reduction	Bush fire hazard reduction work authorised by the Rural Fires Act 1997 may be carried out on any land without development consent.	The site is not identified as bushfire prone land.	N/A
Part 6: Additional Local Provisions			
6.1 Acid Sulfate Soils (ASS)	The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage	The site is not affected by any Acid Sulfate Soils.	Yes
6.2	Objective of this clause is	No significant earthworks	Yes

Earthworks	to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.	proposed, only for the accommodation of the 4 on-grade car parking spaces.	
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LPP054-21

Draft Georges River Local Environmental Plan 2020

74. In accordance with section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979 any proposed instrument that is or has been the subject of public consultation is a relevant matter for consideration in the assessment of a development application.
75. The Georges River Local Planning Panel endorsed at its meeting dated 26 June 2020 the Planning Proposal (as amended) to be forwarded to the Department of Planning, Industry and Environment for gazettal in accordance with Section 3.36 of the Environmental Planning and Assessment Act 1979.
76. The Draft Georges River Local Environmental Plan 2020 provisions have no detrimental weight as a result of proposed operation of Clause “1.8A Savings provisions relating to development applications” of the Draft Plan which provides “*If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced*”.

Development Control Plans

Kogarah Development Control Plan 2013

77. Kogarah Development Control Plan 2013 applies to the subject site. The proposed development needs to address and satisfy the relevant provisions of Part B – General Controls and Part D1 – Development in the B1 Neighbourhood centres and B2 Local Centre zones as part of the KDCP. These provisions are addressed in more detail below.

KDCP Compliance Table

Part B General Controls		
Standard	Proposed	Complies
B1 Heritage Items and Heritage Conservation Areas		
Ensure development protects and enhances the environmental and cultural heritage of Kogarah.	The subject site is not a heritage item and is not within a heritage conservation area.	Yes
B2 – Tree Preservation and Greenweb		
Development approval is required to ringbark, remove, cut down or destroy any tree that has a height greater than 3.5m or branch spread exceeding 3m in diameter.	The proposal does not seek to remove any trees as part of this application. A tree permit has been issued separately to this application (prior to this application being lodged) for the removal of the tree in the rear yard of the allotment adjacent to the garage.	Yes

If this locality is within the habitat reinforcement corridor area of the Green Web, the provisions of Part B2 Section 2 apply	The site is not located within a Greenweb habitat area.	Yes
B4 – Parking and Traffic		
1 Parking Requirements		
Take away food and drink premises Developments with on-site seating but no drive through facilities: 1 space per 100sqm gross floor area or the greater of <ul style="list-style-type: none"> 1 space per 5 seats (both internal and external) or 1 space per 2 seats (internal seating) 	The proposal in its amended form provides internal seating for 34 people. Based on this the development is required to provide 17 car parking spaces.	No, however considered acceptable, see discussion below.
<p><u>Discussion on parking</u></p> <p>The application was referred to Councils Traffic Engineer along with a traffic and parking assessment undertaken by a Consultant Traffic Engineer. Concern was raised with the lack of onsite parking and the traffic generation from the café had not been addressed.</p> <p>Council's Traffic Engineer provided the following comments:</p> <p><i>"The traffic report presented with the application is incorrect in stating that parking is allowed on Waitara Parade. Waitara Parade is very narrow street with double centre lines marking which prohibits parking on either side of the double centre lines. This in turn means that no cars are allowed to even stop at the frontage of the proposed café on Waitara Parade, let alone be allowed to park.</i></p> <p><i>The parking rate used in the traffic report is also incorrect as this is the rate for offices/commercial spaces, which is inaccurate. For a restaurant/café in Kogarah DCP the parking rate is 1 space per 100m2 or the greater of 1 space per 2 seats (seating indoors). In the case of this DA, it appears from the plans that the proposal is providing seating for approximately 50 people (including fixed bench seating), accordingly based on this floor plan, there needs to be 25 Car parking spaces provided on site."</i></p> <p><i>The applicant clarified that there will only be 40 seats and further amended plans and the final Traffic Report reduced the number of seating to 34.</i></p> <p>KDCP 2013 does not provide a control for cafes separately and the definition for a food and drink premises is the most appropriate. This is reinforced in KLEP 2012, where a café/restaurant is a type of food and drink premises.</p> <p>The 34 seats generates the requirements for 17 car parking spaces to be provided. The applicant has increased the amount of on site parking to four (4) spaces, whilst also providing bicycle parking in excess of what is required.</p> <p>Parking credits are applicable to the development under B4 (2) of KDCP 2013 (see controls below), there are provisions that permit credits being applied to the new use.</p>		

The existing shop has no parking, the existing dwelling has two (2) spaces. The existing shop is approximately 90sqm and as such would have required four (4) spaces based on 1 per 25sqm. Taking this into consideration, the development would be entitled to 6 car parking space credits for the existing uses. This would still result in the development being required to provide 11 spaces.

Whilst the 34 seats generates the requirements for 17 car parking spaces to be provided, reduced to 11 spaces due to the parking credit provisions, it is considered that the provisions of four (4) on site spaces in addition to the street parking will be an acceptable outcome given the small scale nature of the commercially zoned land.

- It is expected that the café will be utilised predominantly by the residents within Hurstville Grove who have the ability to walk or cycle to the café hence reducing the reliance on car parking.
- The site will provide bicycle racks for 6 bicycles providing an alternative form of access to the site and provision for safe storage whilst at the café.
- The applicant has increased the amount of on-site parking to four (4) spaces where potentially only one space was provided originally.
- The parking requirements of the draft Georges River DCP are much less than the current DCP, the proposal although not fully compliant is generally consistent with the objectives.

Taking into consideration Georges River Development Control Plan 2020, which will come into force upon gazettal of the draft GRLEP 2020, separate definitions have been provided for take away food and drink premises with a separate definition now provided for cafes/restaurants. The required parking for cafes/restaurants is 1 space per 30sqm based on the location of the property regardless of the number of on-site seating. The building area is approximately 180sqm which would therefore require six (6) on site car parking spaces.

The development is the re use of an existing building and with the exception of internal modifications, does not propose demolition. The reuse of the existing building restricts the layout of the parking area and does not permit a redesign/reconfiguration that could be more effective and efficient should the site was demolished and redeveloped. As such the ability to provide on site parking is limited and the four spaces proposed is the most that can be accommodated presently.

2 Parking Credits

(1) When determining how many car spaces your development may require, it is important to remember that you may be eligible for parking credits	Noted	Noted
(2) A parking credit is available when you are developing a site already occupied by a building.	The proposal seeks to develop a site already occupied by a building.	Applicable
(3) Provided your development retains the structure of the existing building you will be exempted from the parking	Retains the existing built form on site with the exception of the garage removal to accommodate onsite parking.	Applicable

requirements for the existing floor space. For example, if you wish to develop an existing 300m ² shop building into a 600m ² shop building, the parking requirement would only be for the additional 300m ² , even if the existing building has no parking whatsoever.		
(4) Alternatively, if you are changing the use of the existing building and the new use requires more parking than the old use, your credit is for the original use, even though the floor space may not be increasing. For example, converting a warehouse with no parking into a shop, with no increase in floor space would still be required to provide extra parking but this will be for the shop requirement minus the warehouse requirement.	Proposal seeks a change of use from a shop to a food and drink premises (café). The credits have been applied in the assessment of this application.	Applicable
3 Bicycle Parking		
Bicycle parking 1 space per 5 car parking spaces. Based on 4 spaces – 1 required	Two (2) bicycle racks for six (6) bicycles provided.	Complies
Internal car park layouts, space dimensions, ramp grades, access driveways, internal circulation aisles and service vehicle areas shall be designed in accordance with the requirements set out in AS 2890.1 (2004) and AS 2890.2 (2002) for off street parking and commercial vehicles.	The internal layout and size of car parking spaces is considered satisfactory.	Yes
B5 – Waste Management		
Submit a Waste Management Plan (WMP).	The application was accompanied by a WMP which was assessed by Council's Coordinator of Environmental Sustainability.	Yes

	The WMP is lacking in detail and uses incorrect bins sizes. The application will be conditioned appropriately to ensure the ongoing operations will be acceptable.	
B6 – Water Management		
All developments require consideration of the Water Management Policy.	The drainage system is existing, it is not proposed to be modified through this development.	Yes, to existing system.
B7 Environmental Management		
Design and construct non-residential development to incorporate energy efficiency principles Design and construct non-residential development to incorporate water efficiency principles Use building materials and techniques that are environmentally sustainable.	Generally acceptable.	Yes

Part D1 - Development in the B1 Neighbourhood Centres and B2 Local Centres zones

78. The proposal is subject to the provisions of Part D1 – Development in the B1 Neighbourhood Centres and B2 Local Centres zones. Assessment against the relevant controls has been undertaken below.

Clause	Relevant Requirements	Proposed	Complies
Part D1 – Development in the B1 Neighbourhood Centres and B2 Local Centres zones			
3.1 Streetscape			
3.1 (3)	Facades are to be ordered and articulated to visually break up the building massing, for example through materials, colour and the design of openings. Large areas of glass curtain walling and blank walls are to be avoided.	The development complies with these requirements.	Yes
3.1 (4)	Enhance pedestrian amenity through the provision of continuous awnings for weather protection.	There is an existing awning across the extent of the building across both street frontages.	Yes
3.1 (5)	Promote safety and security by providing a high level of activation to the street, employing clear and direct lines of sight between the	The street frontage is already activated through the existing premises.	Yes

	street and building entries, and using appropriate signage and lighting to enhance the amenity of the public domain.		
3.1 (6)	Site and design vehicular access (driveways, parking facilities, service access and garages) away from the main street frontage, from rear lanes or secondary streets	The vehicular entry to the parking area is proposed off the secondary street frontage - Waitara Parade.	Yes
3.2 Shop Top housing			
3.2 (1)	The ground floor level of buildings shall maintain active retail/commercial uses facing the street.	The development is a single storey building and will be all commercial.	Yes
3.2 (2)	Levels above ground can sustain mixed uses, including commercial, professional services, and residential, where appropriate.	The development is single storey.	N/A
3.2 (3)	Site and design non-residential and residential land uses in the same development in a manner that will not adversely affect the future operation of those land uses	Only a commercial use is proposed.	N/A
3.2 (4)	Residential uses are only be permitted subject to demonstration of satisfactory amenity for building occupants, particularly in relation to impacts from noise, fumes and vibration on heavily trafficked streets.	N/A. Only a commercial use is proposed.	N/A
3.3 Heritage & Significant Facades – Commercial Precincts			
3.3 (1)	Respond to the requirements for heritage items (identified in Schedule 5 of KLEP 2012) or significant facades as identified in the Commercial Locality Controls	The subject site is not a heritage item or identified as a significant façade.	Yes
3.4 Building Heights			
3.4 (1)	Building heights are to be in accordance with the Locality Controls	These have been superseded by the height standards in the LEP. Complies with the LEP height control.	Yes, no change to existing building height proposed.

3.4 (2)	Buildings are massed towards the street frontage and step down towards the rear, to be in keeping with the existing retail/commercial built form pattern and compatible with the scale and character of adjacent residential areas.	Fit out only proposed. No increase in height.	Yes
3.4 (3)	Where allotments adjoins a low density residential area, buildings should be: (i) reduced in height in accordance with the locality controls; (ii) setback from the adjoining property boundary	Singled storey only and no increase in height proposed.	Yes
3.4 (5)	Floor to ceiling heights should be a minimum of 3m at ground floor level, to allow for a range of uses including retail, commercial offices and home offices.	Ceiling heights remain unchanged.	Yes
3.4 (6)	Floor to ceiling should be a minimum of 2.7m at the upper storeys of the building, to allow for a range of uses, and to improve the environmental performance and amenity of the building.	No upper storeys.	N/A
3.5 Setbacks			
3.5 (1)	Buildings adjacent to public roads are generally to align with and be built to the street frontage to provide continuity in the streetscape and encourage active frontages to ground level.	No change to existing building setbacks .	Yes
3.5 (2)	Street setbacks at ground level are permitted only: (i) Where the existing footpath is narrow and the provision of additional pedestrian space is desirable (ii) Where the established pattern is setback (for example where there are residential buildings within the locality) (iii) Where the setback enables or enhances visual appreciations of adjacent heritage items.	No change to existing building setbacks proposed.	Yes

3.5(3)	Side setbacks are generally not permitted in order to maintain the continuity of active frontages, unless specified in the locality controls	No change to existing building setbacks proposed.	Yes
3.5 (4)	Where the locality abuts a residential zone and/or a residential allotment, the side setbacks are generally to be a minimum 3m, except where the locality character is established by the existing footprints and the allotment capacity of the locality would be unreasonably constrained. Refer to the Locality Controls of Part D2 for specific side setback requirements.	No change to existing building setbacks proposed.	Yes
3.5 (5)	Rear setbacks are determined by the context including the amenity of neighbouring residential uses and the amenity of any rear lanes. Refer to Locality Controls within Part D2 for specific rear setback requirements.	No change to existing building setbacks proposed.	Yes
3.5 (7)	Upper level street setbacks are required to any residential component above retail/ commercial uses together with building design and apartment layout that satisfactorily mitigates the impacts of noise, fumes and vibration on major Roads	No upper levels proposed.	Yes
3.6 Building Design			
3.6.1 Building Facades			
3.6.1 (1)	Where appropriate, integrate buildings into the streetscape by adopting a modular form, which reflects the underlying narrow shop width of older buildings. Use vertical elements, such as vertically proportioned windows, exposed party walls, vertical balustrades, attached fins to express this modulation and rhythm. Use horizontal elements such as roofs, parapets, balconies and balustrades to align the	The building facade is existing. The changes proposed will modernise the existing building and is acceptable in this predominately residential locality.	Yes

	building with its neighbours.		
3.6.1 (2)	Ensure that the facade clearly expresses a bottom, middle and top related to the overall proportion of the building.	Complies.	Yes
3.6.1 (3)	Incorporate design characteristics such as projecting fins, corbelling, balconies with variable materials and finishes, punctuated walls with visually recognisable patterns, decorative features, rhythm and texture and a variable colour palate to achieve façade modulation and articulation	Complies.	Yes
3.6.1 (4)	Avoid curtain walls, large expanses of glass and large expanses of concrete as these do not create well-articulated and harmonious façades.	Complies.	Yes
3.6.1 (6)	Provide a greater proportion of solid areas to void areas on all façades and incorporate non-reflective materials.	Complies.	Yes
3.6.1 (7)	Use non-reflective glass or recess glass behind balconies to minimise reflectivity.	N/A – No balconies.	Yes
3.6.1 (8)	Windows and openings are to be generally of a vertical character and located within vertical bays.	Complies.	Yes
3.6.2 Active Frontages			
3.6.2 (1)	Provide direct visual connections between footpaths and shops.	Direct visual connection has been provided.	Yes
3.6.2 (3)	Design building openings at the ground floor to be in keeping with the overall building and bay scale and proportions.	Building openings on the ground floor are generally consistent with the overall buildings scale.	Yes
3.6.2 (5)	For commercial uses, avoid blank walls, dark or obscure glass to the street frontage.	Generally acceptable.	Yes
3.6.2 (6)	Incorporate continuous, independent and barrier free access to ground floor commercial entries, including effective signage, sufficient illumination, tactile ground surface indicators and	Level access is capable of being provided.	Yes

	pathways with limited cross-falls, sufficient width, comfortable seating and slip-resistant floor surfaces.		
3.6.2 (8)	Pedestrian access to upper level uses is preferred from the side street or rear lane. If provided from the main street, openings for access are to be between 1.5m and 3m wide.	No upper levels exist or are proposed.	N/A
3.6.2 (9)	Recessed shop frontages are not permitted except in the cases of heritage buildings where the recess is sympathetic to the building character.	Existing setbacks maintained.	Yes
3.6.3 Awnings			
3.6.3 (1)	Awnings should retain any original awning features present that contribute to the desired locality character.	Existing awning to be retained.	Yes
3.6.3 (2)	Provide under awning lighting to improve public safety.	Complies.	Yes
3.6 (5)	Provide awnings flat or near-flat in shape (not tilted upwards away from the facade), and opaque in finish.	Existing awning retained.	Yes
3.6.4 Balconies			
No balconies proposed			
3.6.5 Materials and Finishes			
3.6.5 (1)	Utilise high quality and durable materials and finishes.	A materials and finishes schedule has been provided. The proposed materials satisfy this control.	Yes
3.6.5 (2)	Combine different materials and finishes to assist building articulation and modulation.	Complies.	Yes
3.6.5 (3)	Where the Locality includes a significant facade or streetscape, materials and finishes are to compliment the existing streetscape.	Consistent with the future and desired streetscape form.	Yes
3.6.5 (4)	Avoid large unarticulated expanses of any single material to facades.	Complies.	Yes
3.6.6 Mobility and Access			
3.6.6 (1)	New development and refurbishments are to comply with the requirements of the Building Code of Australia	Access report and BCA report indicates compliance can be	Yes

	(BCA) and the Australian Standards	achieved.	
3.6.6 (2)	All buildings with a residential component that have access to more than two storeys are required to have lift access.	N/A.	N/A
3.6.9 Signage			
3.6.9 (1)	Comply with the requirements of Part F1- Advertising and Signage	Complies.	Yes
	Protect the visual quality and the amenity of the streetscape by integrating signage into the architectural detail of the building	Signage is integrated into the design and fit out of the building.	Yes
3.7 Vehicular Access and Parking			
3.7 (1)	Car parking for the commercial /retail component of a development is to be provided in accordance with the requirements in Part B4.	Parking does not comply with the DCP.	No, see discussion within the Part B4 table.
3.7 (25)	All developments, including mixed developments, must include adequate safe and secure bicycle parking.	Bicycle parking has been provided, 6 spaces.	Yes
3.7 (26)	Secure bicycle parking is to be provided at the following rates: (i) commercial developments or for the commercial component of a mixed development - 1 space per 5 car spaces.	Two (2) bicycle racks for six (6) bicycles.	Yes
3.10 Storage			
3.10 (1)	All developments must provide a designated secure storage space (in addition to any areas set aside for off street parking) to a minimum floor area of 4sqm for each dwelling or unit.	Sufficient storage areas have been provided.	Yes
3.12 Amenity			
3.12.1 Visual and Acoustic Privacy			
3.12 (4)	For ground floor retail/commercial uses, provide appropriate rear and side setbacks to adjacent residential uses, and design building layout to avoid overlooking of private spaces.	The ground floor setbacks will be maintained.	Yes
Acoustic Privacy – General			
3.12.1 (7)	Design and site buildings adjacent to noise generating land uses to minimise noise impacts, for example through	Complies, the Acoustic report provided details compliance.	Yes

	building layout and location and size of openings.		
3.12.1 (8)	Where appropriate locate individual buildings and groups of buildings to act as barriers to the noise	Complies.	Yes
3.12.1 (9)	Utilise the site and building layout to maximise the potential for acoustic privacy by providing adequate building separation within the development and from neighbouring buildings.	Complies.	Yes
3.13 Open Space and Landscaping			
3.13 (1)	Retain existing, and incorporate new indigenous trees, shrubs and ground cover where appropriate.	The subject site did not contain any significant vegetation.	Complies
3.13 (2)	Maximise deep soil zones to provide for substantial landscaping and mature trees.	With the exception of the new car parking area, the existing will be maintained. The car parking area will utilise the existing internal driveway and garage location, whilst also removing a garden bed and grassed areas. Although the landscaped has been reduced, the provision of on site parking will benefit not only the premises but the locality as a whole. There remain areas on the site that accommodate landscaping.	Generally acceptable. Complies
3.13 (4)	Where development is proposed adjacent to low density residential development, an appropriate landscape buffer is to be planted to provide separation and screening between the proposed development and the existing low density	No change to existing measures.	Complies

	development (Refer to Locality Controls). These areas should be deep soil areas so as to allow for the planting of large/medium trees.		
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Commercial Locality Guides – Hurstville Grove

79. There are twenty (20) centres within the Kogarah LGA zoned B1 - Neighbourhood Centres and B2 – Local Centres. Two (2) of these centres, being the Ramsgate Commercial Centre and the South Hurstville Commercial Centre have specific Development Control Plans that apply and are contained within Volume 4 – Centres, of this DCP.
80. This Part of the DCP provides specific controls to each of the remaining 18 centres within the Kogarah LGA. Each Locality Guide identifies the existing and desired character for the Centre and provides specific objectives and controls to ensure that the desired character is achieved.
81. The subject site is located within the Hurstville Grove area of the Commercial Locality Guides within D2 of KDCP 2013. This includes 30 Jellicoe Street, 18 Waitara Parade and 31 Seymour Street.



Figure 12: Aerial photo of Hurstville Grove locality (outlined in black)

82. The locality is situated in an area surrounded by residential properties. The Hurstville Grove Locality consists of two single dwellings along Waitara Parade and Jellicoe Street and one corner shop and residence at 31 Seymour Street that serves the local needs of the community. Built form, setbacks and landscape treatments are residential in character. These provisions are addressed in detail below.

D2 – Commercial Locality Guides (Hurstville Grove)			
20.1.1 Height			
20.1.1 (1)	The maximum overall building height including any residential component (measured from natural ground level) = 7m to the eave and 9m to the ridge.	No change to existing building height.	Yes
20.1.1 (2)	The ground floor is to	No change to existing	N/A

	have a minimum floor to ceiling height of 3.2m while all other floors are to have a minimum floor to ceiling height of 2.7m.	heights.	
20.1.1 (3)	Only one (1) level or floor is permitted below natural ground level, which can only be used for car parking purposes	No floors below ground level.	N/A
18.1.2 Density			
20.1.2 (1)	The maximum permitted gross floor area of any building or buildings erected or proposed to be erected on this land is 0.5:1.	No change to the existing floor area. The existing GFA is approximately 180sqm. Based on a site area of 461.6sqm, the existing building is compliant.	Yes
20.1.2 (2)	The floor space ratio, may be exceeded only if: (i) the gross floor area in excess of 0.5:1 is used only for the purposes of dwellings; and (ii) the ratio of the gross floor area of the building or buildings to the site area for the respective zone does not exceed 1:1.	N/A	N/A

83. The proposed development includes signage and is subject to the relevant provisions of Part F1 – Advertising and signage of KDCP 2013. An assessment against the relevant provisions is produced in the table below.

Control	Complies
Part F1 Advertising and Signage	
1.4 Advertising signs that are prohibited.	
(1) The following types of advertising signs are prohibited in Kogarah local government area: i. Advertising signs over 45sqm ii. Advertising signs within navigable waters (except a sign on a vessel that is ancillary to the dominant purpose of the vessel). iii. Advertising signs on land zoned Residential (but not including a mixed use zone or similar zone), Open Space or Waterways, or in a heritage area, natural or other conservation area or scenic protection area are prohibited, except for advertising signs identified as 'Exempt	Complies, proposed area is less than 45sqm. N/A Complies, the site is zoned B1 Neighbourhood Centre.

Development' by the Kogarah Local Environmental Plan 2012.	
(2) The following forms of advertising are not considered appropriate in Kogarah City: <ul style="list-style-type: none"> i. Signs with an area greater than 20sqm or higher than 8m above the ground, including billboards; ii. Signs higher than 8m above the ground; or with a display area greater than 20sqm; and the advertising sign is within 250m of, and any part of the sign is visible from, a classified road; 	<p>Yes, the signage has an area less than 20sqm and is located less than 8m above the ground.</p> <p>N/A sign is not above 8m.</p>
(3) Corporate colours, logos and other graphics are acceptable elements of signs only where they achieve a very high degree of compatibility with the architecture, materials, finishes and colours of the building and the streetscape. In many cases, the corporate colours, logo and other graphics will need to be modified to achieve this compatibility	Yes
2.2 General Requirements	
<u>Business Identification sign</u> A sign that indicates the name of the person and the business carried out by the person at the premises or place at which the sign is displayed, and that may include the address of the premises or place and a logo or other symbol that identifies the business.	The sign is proposed to advertise the proposed café.
<u>Painted wall sign</u> A sign painted onto the wall of the building.	A stencil with the café name is proposed to the facades of the building.
<u>Suspended under awning sign</u> A sign which is attached to and hangs below an awning and is erected at right angles to the building wall.	The 600mm diameter sign with the café name is proposed to be mounted to the underside of the awning in two locations. One on the Seymour Street frontage, the other on the Waitara Parade frontage.
3.1 All Advertising Signs	
(1) Advertising must relate to the use of the premises and products sold on the premises.	Yes, the signage relates to the use of the proposed café
(2) Signage must be sympathetic to, and integrated with, the architecture and structure of supporting building and not be the dominant visual element on a building.	Yes, the signage size, scale and location are appropriate and acceptable.
(3) Proposed advertising sign must be compatible with the streetscape, setting or landscape, and not dominating in terms of scale, proportion and form.	Yes – the proposed signage is of a scale that is acceptable in this location.
(4) Lettering, materials and colours must complement the existing building or place.	Yes

(5) Signage must not project above any parapet or eave.	Yes
(6) Signage must not be located where it will adversely impact views or vistas or cause significant overshadowing.	Yes, signage will not cause overshadowing or impact on views.
(7) The main facades of buildings between the first floor and parapet must be uncluttered and generally free of signage.	N/A the building is single storey.
(10) All advertising and signage must be displayed in English but may also include a translation in another language. Any translated message must be accurate and complete, and using wording and/or numbering that is not larger than English message.	Noted
(11) Signs must be attractive and professionally sign written.	Noted
(12) Changes in content or message of advertising sign are allowed without the approval of Council provided that: <ul style="list-style-type: none"> i. the structure to which the advertising sign is attached has been approved by Council; ii. the size and dimensions of the sign remain as approved, or are reduced; iii. there is no change to the intensity of, or hours of illumination; iv. moving or flashing messages or symbols are not proposed; and v. the message is not likely to cause distraction to motorists; or vi. the proposed sign meets exempt development requirements. vii. The name or logo of the person who owns or leases an advertisement or advertising structure must not be greater than 0.25sqm and may appear only within the advertising display area. 	Noted
(13) Where a business or organisation offers a product or service, the name of the business or organisation should have greater dominance over the product or service advertisement.	Yes, provided as part of this application.
(14) The wording and content of the advertising sign must not: <ul style="list-style-type: none"> i. offend nearby sensitive land uses (eg places of worship, schools, child care centres); ii. contain undesirable discriminatory advertising messages as specified in the Anti-Discrimination Act 1977; iii. encourage unlawful purchase or excessive consumption of alcohol; or promote anti-social behaviour. 	Yes, provided as part of this application.
(15) Council discourages signs that are prone to	Yes – the signage is

deterioration and may request removal of redundant, unsafe, unsightly or objectionable signage.	considered to be of a robust materiality.
(16) Council discourages signage on common boundaries where maintenance difficulties could occur and may require provision for maintenance of signage.	N/A
3.2 General Commercial Advertising	
The exceptional circumstances where such signs are permissible shall be assessed against the following criteria:	
(1) Whether the sign directly supports the commercial viability of a significant building tenant or use in or near the building supporting the sign.	Yes, it is proposed to advertise the café.
(2) Whether the sign is advertising a civic / community event involving the Kogarah area	N/A
(3) The number of existing signs on the site and in its vicinity, the consistency of those signs with the provisions of this section and whether the cumulative impact contributes to visual clutter.	The site is located within a small area that is zoned B1 and there is no other signage in close proximity.
(4) Development consent is required for any colour scheme, lighting scheme or external change to the appearance of a building that constitutes advertising (such as painting of a building to the corporate colour or brand, traditional painted signs such as red and white stripes to indicate a barbers pole and the like). In assessing such an application, the consent authority will consider whether the sign meets the above objectives and design criteria	Yes
3.4 Traffic and Pedestrian Safety	
(1) Proposed advertising, whether illuminated or not, must not adversely impact safety of pedestrians, cyclists or motorists on any public road	Yes, sign sizes, scale and location is not expected to adversely impact pedestrian cyclists or motorists.
(2) Advertising signs must be securely fastened to the structure or building to which they are attached, and must comply with all relevant Australian Standards and Building Code of Australia requirements.	Yes, this would be a requirement at CC stage and during installation.
(3) Freestanding signboards must be located and designed so that they do not pose any safety risk to pedestrians or motorists.	N/A
(4) Advertising signs must not be liable to interpretation as an official traffic sign, be confused with instructions given by traffic signals or other devices, or obscure the view of traffic signals, signs or road hazards.	Complies
(5) Signs facing roads with high traffic volumes, traffic lights or major intersections may be referred to Roads and Maritime Services (RMS) for	N/A

comment.	
3.5 Illumination and Electrical Wiring	
(1) Excessive or special illumination schemes expressly designed for the purpose of promoting the business, activity or produce, both on and within sites and buildings, including windows and doorways, are prohibited.	N/A – Not proposed to be illuminated.
(2) Illuminated signs are not to detract from the architecture of supporting building during daylight.	N/A – Not proposed to be illuminated.
(3) Electrical wiring to illuminated signs or spotlights is to be concealed.	N/A – Not proposed to be illuminated.
(4) The ability to adjust the light intensity of illuminated signs is to be installed where Council considers necessary.	N/A – Not proposed to be illuminated.
(5) Council may impose a curfew on sign illumination or restrict illumination to hours of operation for late night trading premises, to preserve local amenity and ensure that the illuminated sign will not unreasonably impact adjoining residential areas.	N/A – Not proposed to be illuminated.
(6) Up lighting of signs is prohibited. Any external lighting of signs is to be downward pointing, focused directly on the sign and is to prevent or minimise the escape of light beyond the sign.	N/A – Not proposed to be illuminated.

Georges River Development Control Plan 2020

84. The Georges River Development control Plan was made by the Georges River Local Planning Panel on 24 March 2021.
85. This does not come into effect until the Georges River Local Environmental Plan is gazetted.

Impacts

Natural Environment

86. The proposed development is unlikely to result in adverse impacts on the natural environment. The proposal is for the demolition of the existing detached garage, change of use and internal fit out of the existing building and the accommodation of four on grade carparking spaces and will not have any adverse impact upon the natural environment.

Built Environment

87. The proposed development is the change of use of the existing building to a food and drink premises (café). The works proposed relate to the internal fit out of the premises to create a café by converting the neighbourhood shop and dwelling house to a café including facade works and signage. The proposal represents an appropriately designed development which will contribute positively to the character of the area.
88. The proposed development incorporates appropriate design elements to ameliorate potential amenity impacts to adjoining properties.

Social Environment

89. The proposed development is of a form that is consistent with other developments, which is unlikely to result in adverse social impacts.

Economic Environment

90. The proposed development will have no adverse economic impact, in fact it will benefit in the longer term the sustainability of the commercial space and will contribute to maintaining jobs in the construction industry through the demolition and fit out of the premises.
91. The proposed development will provide temporary employment through the construction of the development. In addition, the proposal will restore and increase employment associated with the use of the site.

Suitability of the Site

92. It is considered that the proposed development is of a scale and design that is suitable for the site. It is a permissible use in the zone. Having regards to its size, hours of operation and relationship to adjoining developments, the subject site does not contain any impediments that would preclude it or compromise its suitability for the intended land use as proposed.

SUBMISSIONS, REFERRALS AND THE PUBLIC INTEREST

93. The application was notified between 20 May and 3 June 2021 in accordance with the Kogarah Development Control Plan. Five (5) unique submissions were received. The plans were amended and renotified between 26 August and 9 September 2021. No additional submissions were received.
94. The concerns raised are summarised below.
- Concern has been raised that there will not be sufficient parking for the number of patrons which appears to be up to 50 people.
95. Comment: Council's Traffic Section has reviewed the proposal and the accompanying traffic report and the updated and amended reports provided. The proposal has reduced the amount of seating to 34 and has now provided four (4) on site parking spaces. This on-site parking along with the utilisation of public street parking is considered to be suitable and adequate for the proposed use.
- No external signage should be provided with the exception of business identification signage.
96. Comment: The proposal includes an under awning business identification sign with the external wall of the building having the business name stencilled on the building. The signage is not considered excessive and is not illuminated.
- No external seating should be provided.
97. Comment: The application does not include any areas external to the subject property. Any external seating would be subject to a separate application to Council's Property Section.
- Opening hours should not exceed 2.30pm Monday to Friday.
98. Comment: The hours proposed are not considered unreasonable and are well within the anticipated hours for a development for this land use.
- Appropriate traffic control measures should be installed at the intersection.
99. Comment: Any request for traffic calming devices or measures should be made to Council's Assets and Infrastructure Section who will consider the request.

- Noise and disturbance.

100. Comment: An acoustic report has been submitted with the application and conditions of consent will be imposed requiring certain measures be provided and complied with during operation of the premises.

REFERRALS

101. The application was referred to a number of external agencies and internal officers for comment as follows.

Council Referrals

Traffic Engineer

102. The DA was referred to Council's Traffic Engineer. Concern was raised that the use of the premises did not propose sufficient on-site parking based on the 40 seats proposed. The applicant submitted a new Traffic Impact study and reduced the number of seats to a maximum of 34.

103. Council's Traffic Engineer has reviewed the new Traffic Impact Study and has raised no objection to the proposal.

Coordinator of Environment Sustainability and Waste

104. The application was referred to Council's Coordinator of Environment Sustainability and Waste for assessment and review. No objection raised to the proposal subject to recommended conditions provided.

Environmental Health Officer

105. Council's Environmental Health Officer reviewed the proposal and requested that the applicant provide additional information including an acoustic report.

106. Council's Environmental Health Officer has reviewed all the information provided and raises no objection to the proposal subject to conditions provided.

External Referrals

Ausgrid

107. The application was referred to Ausgrid on 5 May 2021 in accordance with Clause 45 of State Environmental Planning Policy (Infrastructure) 2007. A response was received from Ausgrid on 11 May 2021, they have raised no objection to the proposed development.

Developer Contributions

108. The proposed development if approved would require the payment of developer contributions under Section 7.12 of the Environmental Planning and Assessment Act 1979 as the proposed cost of works exceeds \$100,000. A condition of consent requiring payment of the contribution has been imposed.

CONCLUSION

109. The proposal seeks consent for the demolition of the existing detached garage, change of use from a dwelling and neighbourhood shop to a food and drink premises (café) including signage and the provision of four (4) on site car parking spaces at Lot B DP 101650 known as 31 Seymour Street, Hurstville Grove.

110. The proposal has been assessed in accordance with Section 4.15 (1) of the Environmental Planning and Assessment Act, 1979. The proposal is considered an appropriate form of development for the subject site in the B1 neighbourhood zone. The proposed development is compatible with its surrounding environment and it is

considered that the proposal is in character and is capable of existing harmoniously within its surroundings.

111. The proposal has been assessed against the relevant State Environmental Planning Policies, provisions of the Kogarah Local Environmental Plan 2012 and Kogarah Development Control Plan 2013. The proposal satisfies the key planning controls in the Kogarah Local Environmental Plan 2012 and the Kogarah Development Control Plan 2013.
112. It is not expected that the proposal will result in any unreasonable impacts upon the amenity of adjoining properties subject to conditions of consent as recommended below.
113. The application is recommended for approval subject to conditions.

DETERMINATION AND STATEMENT OF REASONS

114. Statement of Reasons

- The proposed development complies with the requirements of the relevant environmental planning instruments.
- The proposed development satisfies the objectives of the B1 – Neighbourhood Centre of the Kogarah Local Environmental Plan 2012 which emphasises the need to provide a range of small scaled uses that serve the needs of people who live or work in the surrounding neighbourhood.
- The proposed development is located within the Hurstville Grove precinct of the commercial locality areas of KDCP 2013 and is consistent with the future character of the precinct by providing a café that will service the needs of the local community.
- The building will not unreasonably impact the amenity of any immediately adjoining properties in terms of noise, odour or pollution.
- The proposal is consistent with the provisions of the Draft Georges River Local Environmental Plan 2020.

DETERMINATION

115. 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 consent to DA2021/0165 for demolition of the existing detached garage, change of use from a dwelling and neighbourhood shop to a food and drink premises (café) including signage and the provision of four (4) on site car parking spaces at Lot B DP 101650 known as 31 Seymour Street, Hurstville Grove 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
Location plan	00	21/09/2021	E	Design Portfolio
Site Plan	01	21/09/2021	E	Design Portfolio
Demolition Plan	00.1	21/09/2021	E	Design Portfolio
Floor Plan	01	21/09/2021	E	Design Portfolio
Setting out Plan	02	21/09/2021	E	Design Portfolio
RCP Plan	03	21/09/2021	E	Design Portfolio

Elevation A - Shopfront Elevation B - Shopfront	10	21/09/2021	E	Design Portfolio
Elevation A - Shopfront Elevation B - Shopfront	11	21/09/2021	E	Design Portfolio
Plan back of house and toilets	30	04/03/2021	B	Design Portfolio
Finishes Schedule	00C	21/09/2021	E	Design Portfolio
Documents relied upon in assessment				
Acoustic Report	4799P202107 02mfc31seym ourStHurstville Grove_DAv2.d ocx	02/07/2021	2	koikas acoustics PTY LTD
Traffic and parking Report	P0215r1v4	11/08/2021	4	Arc traffic + transport
BCA Report	JBC2101B	15/03/2021	-	ET Consulting NSW
Access Report	CAN2033B	06/07/2021	Rev B	ET Consulting NSW

2. **Signage** – Approval for signage is only for the signs as shown on the approved plans. A separate application shall be submitted to Council prior to the erection of any other signage unless the proposed signage is ‘exempt development’ under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* or any other applicable environmental planning instrument.

Separate Approvals Required Under Other Legislation

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

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

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

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

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

Requirements of Concurrence, Integrated & Other Government Authorities

5. **Sydney Water - Tap in™** - 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.
6. **Utility Arrangements** - Arrangements are to be made with utility authorities in respect to the services supplied by those authorities to the development. The owner shall bear the cost of any relocation or modification required to any Public Utility Authority assets including telecommunication lines & cables and restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site.
7. **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.

Prior to the Issue of a Construction Certificate

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

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

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	
Georges River Council Section 94A Development Contributions Plan 2017	\$2,650.00

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.

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.

9. **Damage Deposit - Major 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: **\$1900.00**.
 - Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee (for two inspections) to enable assessment of any damage and repairs where required: **\$168.00**.
 - Submit to Council, before the commencement of work, a dilapidation report 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 review the dilapidation report and the Works-As-Executed Drawings (if applicable) and inspect the public works.

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

10. **Accessible Car Parking Space** – One (1) of the car parking spaces shall be nominated as accessible and meet the criterion of AS2890.1, AS1428 and the Building Code of Australia/National Construction Code.
11. **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.
12. **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.
13. **Slip Resistance** - All pedestrian surfaces in areas such as foyers, public corridors, common areas, stairs and ramps as well as floor surfaces in all wet rooms including 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/NZS4586:2013 - Slip Resistance Classifications of New Pedestrian Materials and must be detailed on the plans lodged with the application for the Construction Certificate.
14. **Access for Persons with a Disability** - Access for persons with disabilities must be provided direct to the premises/building and to any required 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 for approval.

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 the issue the construction certificate.

15. **Food Premises** – The following information shall be provided and shown on the Construction Certificate Plans

(a) Plans and Specifications

Details of the construction and fit out of food premises must be submitted to Council's Environmental Health Officer. The plans and specifications must demonstrate compliance with the:

- i. Food Act 2003 (as amended)
- ii. Food Regulation 2015 (as amended)
- iii. Food Standards Code as published by Food Standards Australia
- iv. New Zealand and Australian Standard AS4674:2004 Design, Construction and fit out of food premises (as amended)
- v. Sydney Water – trade Waste Section.

Environmental Health Officers' must advise in writing that the plans and specification are considered satisfactory prior to the issue of any Construction Certificate.

(b) Waste Facility

Details of the construction and fit out of the waste facility of the food premises must be submitted to Council's Environmental Health Section for approval. Such details must demonstrate compliance with the Food Act 2003 (as amended), Food Regulation 20105 (as amended); the *Food Standards Code* as published by Food Standards Australia and New Zealand and Australian Standard AS 4674:2004 *Design, construction and fit out of food premises (as amended.)* and must be:

- i. provided with a hose tap connected to the water supply;
- ii. paved with impervious floor materials;
- iii. coved at the intersection of the floor and the walls;
- iv. graded and drained to a waste disposal in accordance with the requirements of the relevant regulatory authority (Sydney Water);
- v. 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;
- vi. Must be large enough to accommodate the bins required.

Council's Environmental Health Officers' must advise in writing that the plans and specification are considered satisfactory prior to the issue of any Construction Certificate.

(c) Above Ground Grease Trap Bunding (if required)

The above ground grease trap must be located in a bunded area. The 'size of the area' is to be bunded to contain a minimum of 110% of the volume of the above ground grease trap tank.

The bund is to be constructed of a material, which is impervious to the liquid being stored. All pipework from the enclosed tanks and/or pumps shall be directed over the bund wall and not through it. Hose couplings for the tanks enclosed within the bund shall be placed in such a position that leaks or spillages are contained within the bund. The bunded area shall be roofed.

After completion, the bund shall be maintained in such a condition, that all spillages or leaks will be retained within the bund, until disposed of by means that do not pollute waters. Details of the above ground grease trap and bunding details must be included with the Construction Certificate application for approval.

16. **Acoustic Requirements - Compliance with submitted Acoustic Report** - The Construction Certificate plans shall demonstrate compliance with the Acoustic Assessment Report submitted and approved by Council, titled DA Acoustic Report titled Acoustical Report prepared by Koikas Acoustics Pty Ltd and dated 2 July 2021.
17. **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, 15min noise level, measured in the absence of the noise sources under consideration by more than 5dB. The source noise level shall be assessed as an LAeq, 15min in accordance with the NSW Environment Protection Authority's NSW Industrial Noise Policy.

18. **Lighting in and around the site** - Lighting, which complies with the Australian Standard, must be installed in and around the property to increase visibility during the hours of darkness. Lighting must comply with the relevant Australian Standard.
19. **Site Management Plan** - A Site Management Plan detailing all weather access control points, sedimentation controls, fencing, amenities, materials storage and unloading arrangements must be submitted with the application for a Construction Certificate.
20. **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.
21. **Demolition and contractors** – The applicant must provide details of the proposed contractors used for managing demolition/construction wastes to the PCA and a copy to Council prior to the issue of the Construction Certificate

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

22. **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.

23. **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.
24. **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.
25. **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.
26. **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

27. **Site sign - Soil and Erosion Control Measures** - Prior to the commencement of works (including demolition and excavation), a durable site sign, issued by Council in conjunction with this consent, must be erected in a prominent location on site. The site sign warns of the penalties which apply to pollution, storing materials on road or footpath and breaches of the conditions relating to erosion and sediment controls. The sign must remain in a prominent location on site up until the completion of all site and building works.
28. **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.

29. **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.

30. **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.
31. **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.
32. **Structural Certificate During Construction** - The proposed building must be constructed in accordance with details designed and certified by the practising qualified structural engineer. All structural works associated with the proposed building must be inspected and structurally certified for compliance by an independent practising geotechnical and structural engineer. In addition, a Compliance or Structural Certificate, to the effect that the building works have been carried in accordance with the structural design, must be submitted to the Principal Certifying Authority at each stage of Construction or prior issue of the Occupation Certificate
33. **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)
34. **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.

Any demolition/construction waste developed during the proposed works are required to be stored within the confines of private property, and removed by licensed waste contractors to be disposed of, and recycled where possible, at a licensed waste management facility

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.

Note: The applicant must maintain records of licensed waste management disposal for up to 7 years as evidence of correct management of waste.

35. **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.
36. **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 & cables and restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site.

Prior to the issue of the Occupation Certificate

37. **Driveways and parking spaces** – All 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.
38. **Acoustic Compliance and certification** – Prior to the issue of any Occupation Certificate, a report prepared by a suitably qualified acoustic consultant must be submitted to the PCA certifying that the construction has incorporated the recommendations in the DA Acoustic Report titled Acoustical Report prepared by Koikas Acoustics Pty Ltd and dated 2 July 2021.
39. **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, 15min noise level, measured in the absence of the noise sources under consideration by more than 5dB. The source noise level shall be assessed as an LAeq, 15min in accordance with the NSW Environment Protection Authority's "NSW industrial Noise Policy.

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

40. **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.

41. **Food Premises – Inspection and Registration** – Prior to the issue of any Occupation Certificate or occupation or use of any food premises:
- (a) An inspection of the fit out of the Food Premises must be arranged with Council's Environmental Health Officer;
 - (b) A satisfactory final inspection must have been undertaken by Council's Environmental Health Officer; and
 - (c) The Food Premises must notify and register its business details with Georges River Council as required under section 100 of the Food Act 2003.

Operational Conditions (Ongoing)

42. **Hours of Operation** – The approved hours of operation shall be restricted to the following:
- Monday to Saturday 6.30am to 4.00pm.
Sunday 7.00am to 3.00pm.
43. **Maximum Seating Capacity** – The food and drink premises shall be limited to a maximum of thirty four (34) seats within the premises. No seating is permitted externally of the building.
44. **Staffing numbers** – There is to be no more than six staff members working at any one time.
45. **Louvred windows** – All louvred windows and the bifold doors are to be kept closed between 6.30am and 7am Monday to Saturday inclusive and between 7am and 8am on Sundays.
46. **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).
47. **Final Acoustic Report** - Within three months from the issue of an Occupation Certificate, an acoustic assessment is to be carried out by an appropriately qualified acoustic consultant, in accordance with the [EPA's Industrial Noise Policy](#) and submitted to Council for consideration. This report should include but not be limited to, details verifying that the noise control measures as recommended in the acoustic report (submitted by Koikas Acoustics PTY LTD titled Acoustical Report and dated 10 June 2021) are effective in attenuating noise to an acceptable noise level and that the use is not calculated to give rise to 'offensive noise' as defined under the provision of the [Protection of the Environment Operation Act 1997](#) (as amended)
48. **Waste Management** – The following is required to be adhered to in the operation of the food and drink premises (café):

- Private waste collection will be restricted to one collection per week. All waste streams generated on site will be required to be removed on the same day
 - Private waste collection will be restricted to occur Monday-Friday only, and within the hours of 6am – 10pm.
 - All waste, including any takeaway waste, is required to be managed by the commercial tenant. Council will not be responsible for providing litter bins to collect waste generated from a commercial business. The Café operator may be required to provide bins for use by patrons as required.
 - Commercial property owners, once operational, have the choice of engaging the Council-provided waste collection service, or a private waste collection service. In the event the Council-provided waste collection service does not meet the needs of the commercial tenant, a private waste collection service will be required to be engaged by the commercial property owner.
 - All bins required to store operation waste generated at the site will be required to be stored entirely within private property confines.
 - The business manager will be responsible for presenting bins kerbside no earlier than 12 hours prior to collection and removing bins from the kerbside back to the confines of private property within 12 hours post collection.
 - Designated bin storage space will be required within the confines of private property with bin storage area maintained in a clean and hygienic manner. As the applicant has not proposed bin storage area on architectural plans, it is presumed 240L bins are the optimal bin size to use to enable ease of movement to the kerbside (and over any step from the site to the kerbside) which will not be possible with the use of 1100L bins.
 - The applicant will be required to ensure the internal fit-out allows for bin numbers (both general waste and recycling, including adequate storage for milk bottles and cardboard) inline with expected generation rates commencing on page 95 of the NSW EPA Better Practice Guide, based on a once a week collection for each stream collected, outlined as follows:
 - 100L general waste generated per day, per 100sqm of floor space (store in either 240L or 1100L bins)
 - 120L recycling generated per day, per 100sqm (stored in 240L bins)
49. **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.
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. **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.
52. **Food Premises – Adequate waste receptacles** - Appropriate waste and recycling containers must be provided for waste generation rates of 0.3 to 0.6 square metres per 100 meals, plus up to 0.15 cubic metres of beverage containers per 100 meals. All waste and recycling containers shall be stored in the approved waste storage area that is large

enough to store the required number of bins and must be adequately serviced by waste collection vehicles.

53. **Food Premises – Maintenance of food premises** - The food premises must be maintained in accordance with the [Food Act 2003](#) (as amended), [Food Regulation 2015](#) (as amended); the Food Standards Code as published by Food Standards Australia & New Zealand and Australian Standard AS 4674-2004: *Construction and fit out of food premises (as amended)*.
54. **Food Premises – Garbage Odour** - A waste contractor shall be engaged to remove all waste from the garbage storage area on a regular basis so that no overflow of rubbish will occur. Practical measures are also to be taken to ensure that odour emission from the garbage storage area does not cause offensive odour as defined under the provision of the [Protection of the Environment Operations Act, 1997](#) (as amended).
55. **Food Premises – Storage Waste – used cooking oil** - Used oil shall be contained in a leak proof container and stored in a covered and bunded area prior to off-site disposal. Copies of receipts for the disposal of used cooking oil shall be kept on-site and made available to Council Officers upon request.
56. **Amplified Music** - There is to be no entertainment in the form of amplified music external to the building at any time.
57. **Smoking** – There is to be no smoking within the cafe at any time. There is to be no smoking within 4m of an entry to the establishment in accordance with the Smoke Free Environment Act 2000.
58. **Deliveries** - No deliveries to the premises shall be made direct from a public place or street inclusive of footpaths, nature strip, roadway and car parks.
59. **Deliveries** – No deliveries to/from the site shall take place between 4.00pm and 7.00am, seven (7) days a week.
60. **Loading and unloading areas** - All loading and unloading of vehicles in relation to the use of the premises shall take place wholly within the dedicated loading/unloading areas, which is wholly within the site.
61. **Visitors Parking** - All allocated car parking spaces shall be freely available for the visitors of the proposed development. The four (4) on-site spaces are to be made available for the use of the visitors. Once space shall be accessible.
62. **Entering and Exiting of vehicles** - All vehicles shall enter and exit the site in a forward direction.
63. **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.

64. **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.

Operational Requirements Under the Environmental Planning and Assessment Act 1979

65. **Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued.
66. **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.

67. **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.

68. **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.

69. **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.

70. **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.

71. **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.

Prescribed Conditions

72. **Clause 97A – BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
73. **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.
74. **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.
75. **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.
76. **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.
77. **Clause 98E - Site Excavation** - Excavation of the site is to extend only to that area required for building works depicted upon the approved plans. All excess excavated material shall be removed from the site.

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

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

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

END CONDITIONS

NOTES/ADVICES

78. **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

79. **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.
80. **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.
81. **Access to NSW Legislation (Acts, Regulations and Planning Instruments)** – NSW Legislation can be accessed free of charge at www.legislation.nsw.gov.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. **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.
84. **Food Premises** - Information on Australian Standards can be obtained from www.standards.com.au.

Guidelines and Food Safety Standards may be obtained by contacting the Food Standards Australia New Zealand Authority at foodstandards.gov.au or the NSW Food Authority on 1300 552 406, email: contact@foodauthority.nsw.gov.au or by visiting the

website www.foodauthority.nsw.gov.au

Notification of Food Business under Section 100 of the [Food Act 2003](#) requires the proprietor of a food business to give written notice, in the approved form, before conducting a food business. Penalties apply for failure to comply.

85. **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).
86. **Acoustic 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)
87. **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.
88. **Security deposit administration and 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.

89. **Council appointed as the PCA** - 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.

In this regard, detailed construction plans and specifications that demonstrate compliance with the above requirements of the BCA, in which case, including in relation to the provision of egress and the protection of openings etc must be submitted with the Construction Certificate Application.

90. **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.

91. **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).

92. **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. (e.g. 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.

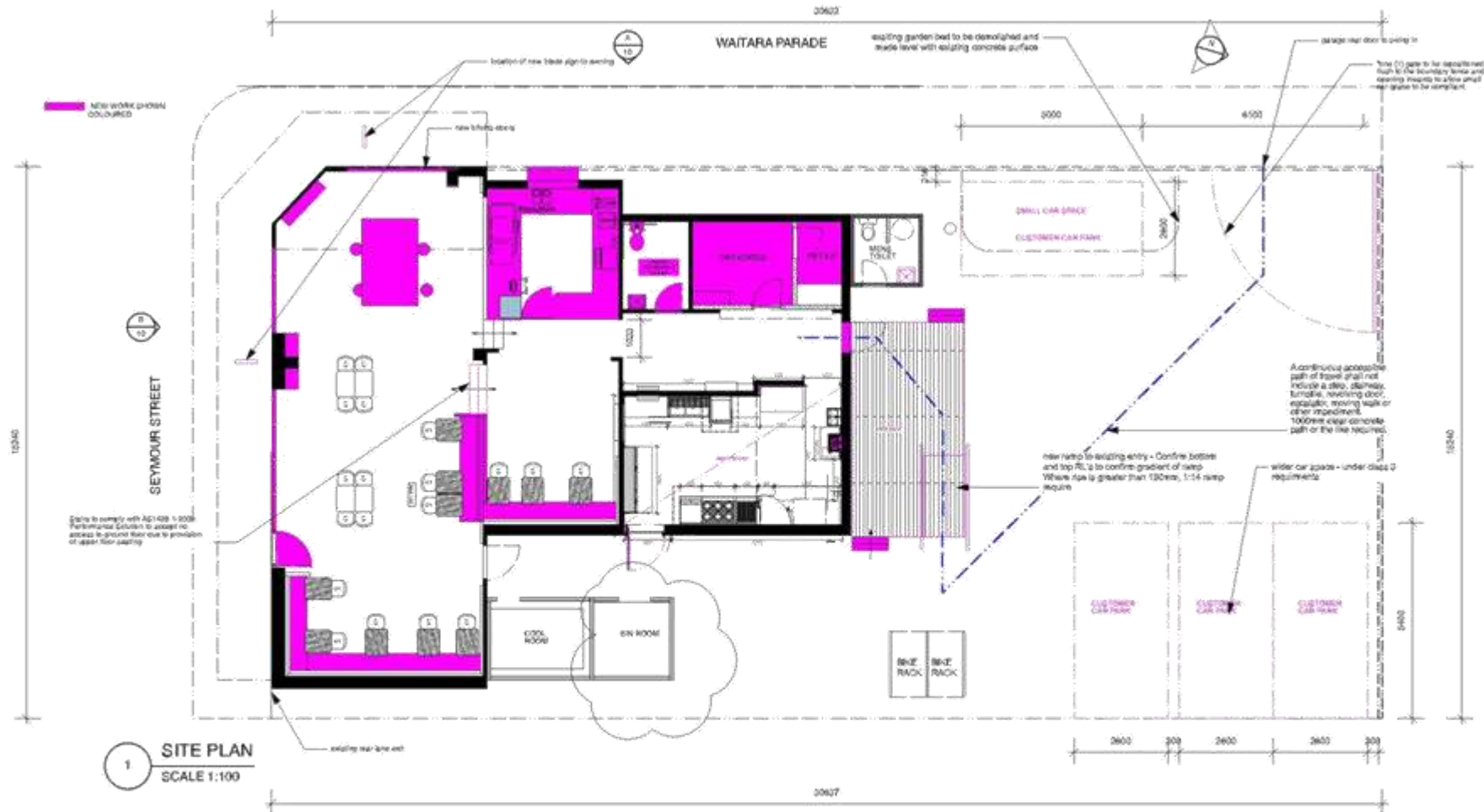
The developer must meet all costs of the extension, relocation or reconstruction of any part of Council's drainage system (including design drawings and easements) required to carry out the approved development.

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 - 31 Seymour Street, Hurstville Grove
- Attachment [↓ 2](#)  Elevations 1 - 31 Seymour Street, Hurstville Grove
- Attachment [↓ 3](#)  Elevations 2 - 31 Seymour Street, Hurstville Grove



NOTES: Design intent drawings only. All dimensions are in mm. Do not scale off drawing. Shopfitter to verify all dimensions on site and inspect site conditions prior to commencement of works and/or fabrication and installation of units. Shopfitter to comply with Council Regulations. Shopfitter to provide samples for Design Portfolio approval of all units, colours and finishes. Shopfitter to ensure that existing ceiling is made good if any disturbance occurs during construction. Also make good and/or replace any existing damaged ceiling tiles. Generally, existing services are to remain in existing positions unless otherwise noted. Allow for relocation of any services if required and/or clashes with new lighting proposal. All craftwork right angles to be mitred. Shopfitter to ensure strength and stability of units and also that no deflection occurs. Any variations to specification and drawings must be authorised by Design Portfolio. Do not substitute light fittings specified for other type unless authorized by Design Portfolio.

ISSUE	DATE	AMENDMENTS
E		COUNCIL CHANGES

PROJECT
HURSTVILLE GROVE
31 SEYMOUR ST

TITLE
SITE PLAN

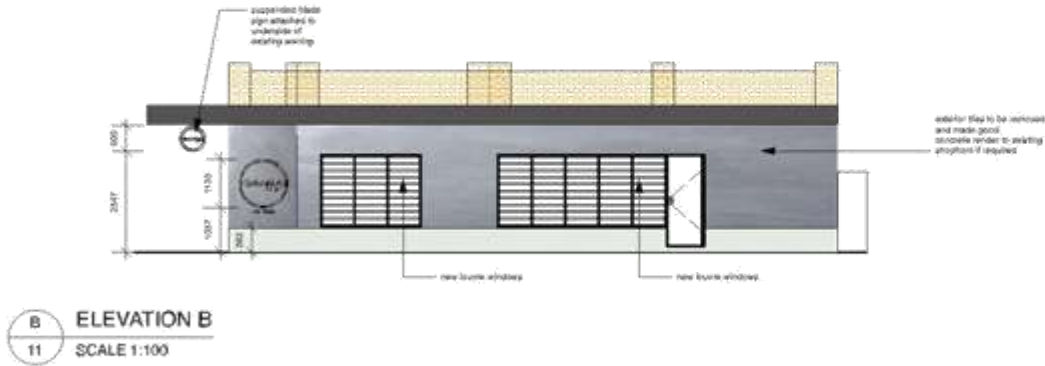
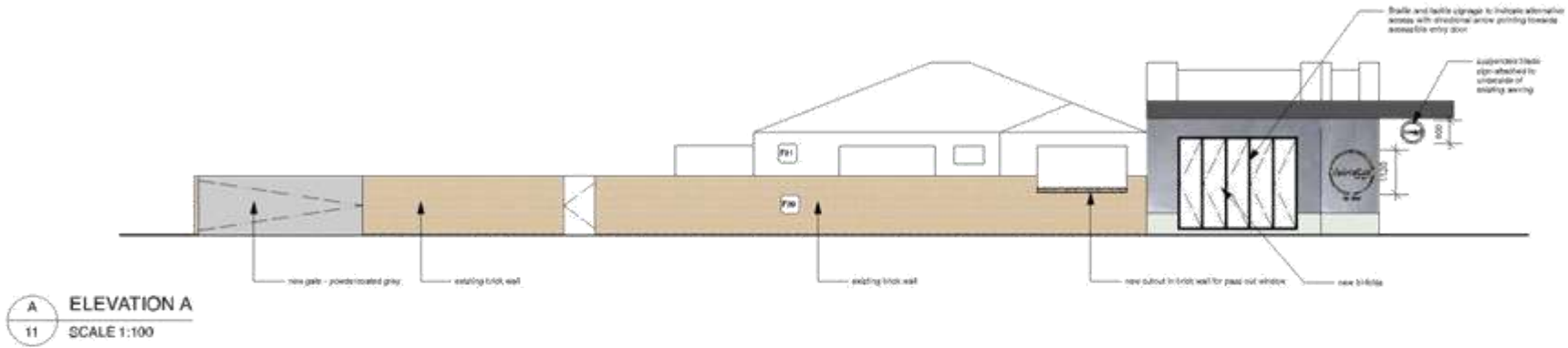
DRAWING NO.
DWG - 01

AMEND.
E

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SCALE
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NOTES: Design intent drawings only. All dimensions are in mm. Do not scale off drawing. Shopfitter to verify all dimensions on site and inspect site conditions prior to commencement of works and/or fabrication and installation of units. Shopfitter to comply with Council Regulations. Shopfitter to provide samples for Design Portfolio approval of all units, colours and finishes. Shopfitter to ensure that existing ceiling is made good if any disturbance occurs during construction. Also make good and/or replace any existing damaged ceiling tiles. Generally, existing services are to remain in existing positions unless otherwise noted. Allow for relocation of any services if required and/or clashes with new lighting proposal. All craftwork right angles to be mitred. Shopfitter to ensure strength and stability of units and also that no deflection occurs. Any variations to specification and drawings must be authorized by Design Portfolio. Do not substitute light fittings specified for other type unless authorized by Design Portfolio.

ISSUE	DATE	AMENDMENTS
E		COUNCIL CHANGES

PROJECT HURSTVILLE GROVE 31 SEYMOUR ST	
TITLE ELEVATION A - SHOPFRONT ELEVATION B - SHOPFRONT	
DRAWING NO. DWG - 10	AMEND. E

DP www.designportfolio.com.au	DRAWN AB
	CHECKED AB
	DATE 21/09/21
	SCALE AS SHOWN



NOTES: Design intent drawings only. All dimensions are in mm. Do not scale off drawing. Shopfitter to verify all dimensions on site and inspect site conditions prior to commencement of work and/or fabrication and installation of units. Shopfitter to comply with Council Regulations. Shopfitter to provide samples for Design Portfolio approval of all units, colours and finishes. Shopfitter to ensure that existing ceiling is made good if any disturbance occurs during construction. Also make good and/or replace any existing damaged ceiling tiles. Generally, existing services are to remain in existing positions unless otherwise noted. Allow for relocation of any services if required and/or clashes with new lighting proposal. All craftwork right angles to be mitred. Shopfitter to ensure strength and stability of units and also that no deflection occurs. Any variations to specification and drawings must be authorised by Design Portfolio. Do not substitute light fittings specified for other type unless authorised by Design Portfolio.

ISSUE DATE	AMENDMENTS
E	COUNCIL CHANGES

PROJECT HURSTVILLE GROVE 31 SEYMOUR ST	
TITLE ELEVATION A - SHOPFRONT ELEVATION B - SHOPFRONT	
DRAWING NO. DWG - 11	AMEND. E

DP www.designportfolio.com.au	DRAWN AB
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	DATE 21/09/21
	SCALE AS SHOWN

REPORT TO GEORGES RIVER COUNCIL

LPP MEETING OF THURSDAY, 07 OCTOBER 2021

LPP055-21

LPP Report No	LPP055-21	Development Application No	DA2021/0085
Site Address & Ward Locality	10-12 Hearne Street Mortdale Mortdale Ward		
Proposed Development	Fit out and use of Unit 11 as an artisan brewery, providing areas for brewing, retail purchase and tastings and onsite consumption		
Owners	Collision Repair Australia Pty Ltd		
Applicant	Curtis Craft Brewing Pty Ltd		
Planner/Architect	Planner: Myriad Consulting, Architect: WeArchitects		
Date Of Lodgement	10/03/2021		
Submissions	One (1) submission		
Cost of Works	\$172,150.00		
Local Planning Panel Criteria	The application is referred to the Georges River Local Planning Panel for consideration and determination in accordance with a s9.1 Environmental Planning and Assessment Act Ministerial Direction, as the proposal is development that seeks consent for the fit out and use of a new licensed premises that will require a liquor licence.		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy (Infrastructure) 2007; State Environmental Planning Policy No 55 - Remediation Of Land; State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017; 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; Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment Hurstville Local Environmental Plan 2012; Hurstville Development Control Plan No.1 (amendment No. 7); 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 Traffic and Parking Report Acoustic Report		
Report prepared by	Principal Planner		

Recommendation	That the application be approved in accordance with the conditions included within 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	Yes

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

Site Plan



Figure 1: Aerial view of subject site outlined in red

Executive Summary

Proposal

- Council received a development application (DA2021/0085) seeking consent for the fit out and use of an existing warehouse as an artisan brewery, providing areas for brewing, retail purchase and tastings and onsite consumption at Unit 11/10-12 Hearne Street, Mortdale.

Site and Locality

- The subject development site is known as 10-12 Hearne Street, Mortdale and legally described as SP21581. The works are proposed to be undertaken within Unit 11 which is at the rear of the site.

3. The development site is an irregular shaped allotment with vehicular and street frontage to Hearne Street. It is located on the north western side of Hearne Street. The site has a total area of approximately 4,076sqm and has a fall from the rear to the front of the allotment.
4. Situated on the site are multiple industrial warehouse buildings with varying land uses. Vehicular access to the allotment is from Hearne Street with 44 parking spaces provided on site to service the warehouses. Four (4) of these spaces are allocated to the subject premises (Unit 11).
5. The site is located within the Mortdale Industrial area which is bounded by Forest Road to the north, Boundary Road to the east, Lorraine Street to the west and Roberts Avenue to the south. The industrial area is surrounded by areas that are zoned residential, with the subject site in close proximity to residential land located on the eastern side of Boundary Road.

State Environmental Planning Policies

6. The proposal has been considered to be satisfactory in respect to the following policies which have been considered in respect to the application:
 - State Environmental Planning Policy No.55 – Remediation of Land.
 - State Environmental Planning Policy (Infrastructure) 2007.
 - State Regional Environmental Plan No 2 – Georges River Catchment.
 - State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.
 - Draft Environment State Environmental Planning Policy.
 - Draft Remediation of Land SEPP.

Zoning and HLEP (2012) Compliance - LEP

7. The site is zoned IN2 Light Industrial pursuant to the provisions of the Hurstville Local Environmental Plan 2012. The proposal satisfies the IN2 zone objectives. The proposed fit out and use of an industrial unit as an artisan brewery, providing areas for brewing, retail purchase and tastings is a permitted land use within the zone.

Hurstville Development Control Plan No 1 (HDCP)

8. The provisions of Hurstville Development Control Plan No 1 are applicable to the proposed development. The proposal is considered to be an acceptable planning outcome for the site and generally satisfies the applicable provisions contained within the HDCP No 1.
9. A detailed assessment of the proposal against these controls is provided later in this report.

Submissions

10. The application was notified between 25 March and 12 April 2021 in accordance with the Hurstville Development Control Plan. One (1) submission was received.

Reason for referral to the Local Planning Panel

11. This application is referred to the Georges River Local Planning Panel for consideration and determination in accordance with the Ministerial Direction in s9.1 Environmental Planning and Assessment Act 1979, as the proposal is development that seeks consent for the fit out and use of a new licensed premises that will require a liquor licence.

Planning and Design Issues

12. The application fails to provide the minimum parking spaces for the proposed land use. The applicant has reduced the maximum patron numbers and provided a comprehensive traffic report that generally justifies the non-compliance. This issue is discussed in greater detail in the body of this report.

Conclusion

13. 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 (DA2021/0085) is recommended for approval subject to the conditions referenced at the end of this report.

Report in Full

Description of Proposal

14. Development consent is sought for the fit out and use as an artisan brewery, providing areas for brewing, retail purchase and tastings and onsite consumption.
15. A detailed breakdown of the proposed development is as follows:

Ground Floor

- Fit out of premises for a beer brewing and testing area.
- New cold storage area and fridges.
- Tasting and consumption area with moveable furniture.
- New service area.
- Construction of new stairs to the existing first floor office area.
- Four (4) parking spaces are provided within the complex for the exclusive use of the premises (Unit 11).

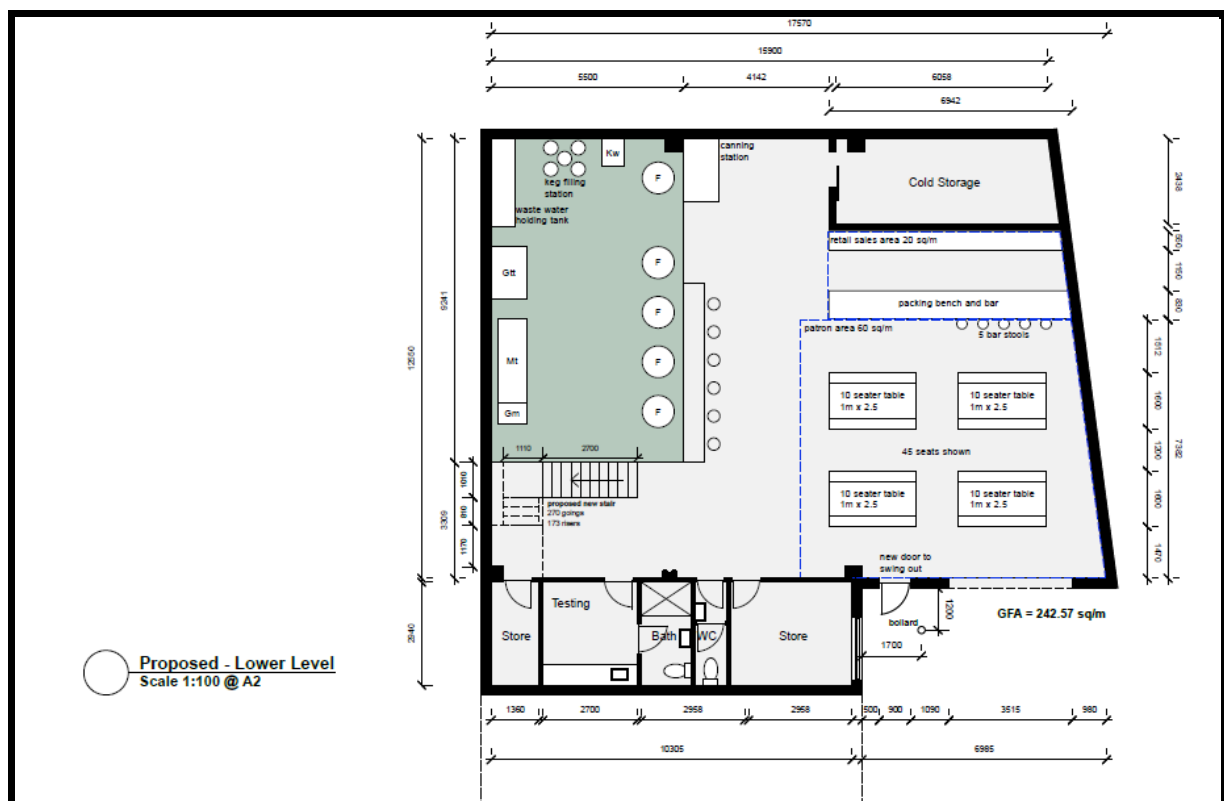


Figure 2: Proposed ground floor plan

Mezzanine level/Upper Level Plan

- Removal of the existing mezzanine/storage area and storeroom.
- Retention of existing first floor office area.

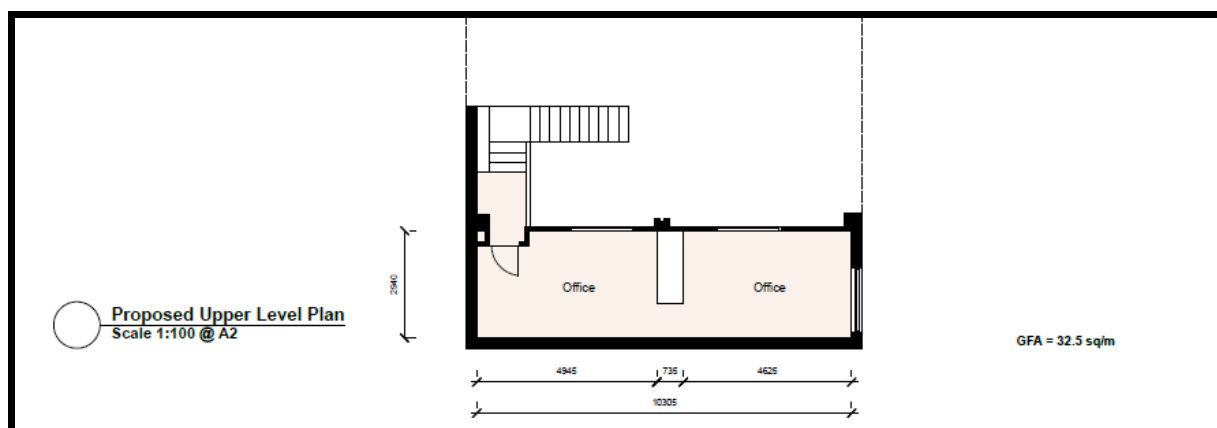


Figure 3: Proposed upper level plan

Operating Hours

The applicant is seeking to operate the premises seven (7) days a week with the following hours of operation:

- Monday – 7am – 6pm
- Tuesday – 7am – 6pm
- Wednesday – 7am – 6pm
- Thursday – 8am – 9pm
- Friday – 8am – 9pm
- Saturday – 8am – 9pm
- Sunday – 8am – 9pm
- Public Holidays – 12pm – 9pm

It is proposed that the premises will be open to the public for retail purchases and tastings as follows:

- Thursday – 12pm – 9pm
- Friday – 12pm – 9pm
- Saturday – 12pm – 9pm
- Sunday – 12pm – 9pm
- Public Holidays – 12pm – 9pm

Background

- DA2021/0085 (subject application) was lodged to Council on 10 March 2021 seeking development consent for the change of use and fit out and use of Unit 11 as an artisan brewery, including retail purchase, tastings and onsite consumption
- A Request for further information was sent to the applicant on 5 May 2021 in response to comments received from Council's Environmental Health Officer requesting the following additional information be provided for review and assessment:
 - Odour impact assessment;
 - An acoustic assessment;
 - More information regarding internal drainage required for the operation/washing of equipment, etc. (they will need to speak with Sydney Water about if they need any trade waste agreement, special requirements from them);

- More detailed floor plan regarding the fit-out, schedule of finishes proposed, hand wash basin, wash up sink, cleaner sink, other equipment required for the operation.
 - Details on whether any food is proposed to be prepared/sold from the premises. If so, the required equipment is to be put on the floor plan so the proposal demonstrates compliance with the Food Act 2003 and AS4674-2004.
18. Email sent to the applicant on 25 May 2021 in response to the concerns raised by Council's Traffic Engineer.
 19. Email received from applicant on 29 June 2021 with additional information including an odour impact assessment report and acoustic report.
 20. An additional email was sent to the applicant on 9 July 2021 in response to the above information. Council's Environmental Health Officer requested further information and clarification on the operation of the premises. The applicant requested further information on 9 July 2021 in relation to the concerns raised by Council's Traffic Engineer.
 21. Clarification in relation to health matters were provided by the applicant on 9 July 2021 and Council's Environmental Health Officer provided final comments and conditions on 12 July 2021.
 22. Email sent to the applicant on 15 July 2021 in response to questions relation to traffic and parking concerns raised by Council's Traffic Engineer.
 23. Email received from applicant on 9 August with updated traffic report and assessment in response to concerns raised by Council's Traffic Engineer.

Site and Locality

24. The subject development site is known as 10-12 Hearne Street, Mortdale and legally described as SP21581.



Figure 4: Aerial view of subject site outlined in blue (Source: Intramaps 2021)

25. The development site is an irregular shaped allotment with vehicular and street frontage to Hearne Street. It is located on the north western side of Hearne Street. The site has a total area of approximately 4,076sqm and has a fall from the rear to the front of the allotment.



Figure 5: Subject industrial complex as viewed from Hearne Street, Mortdale

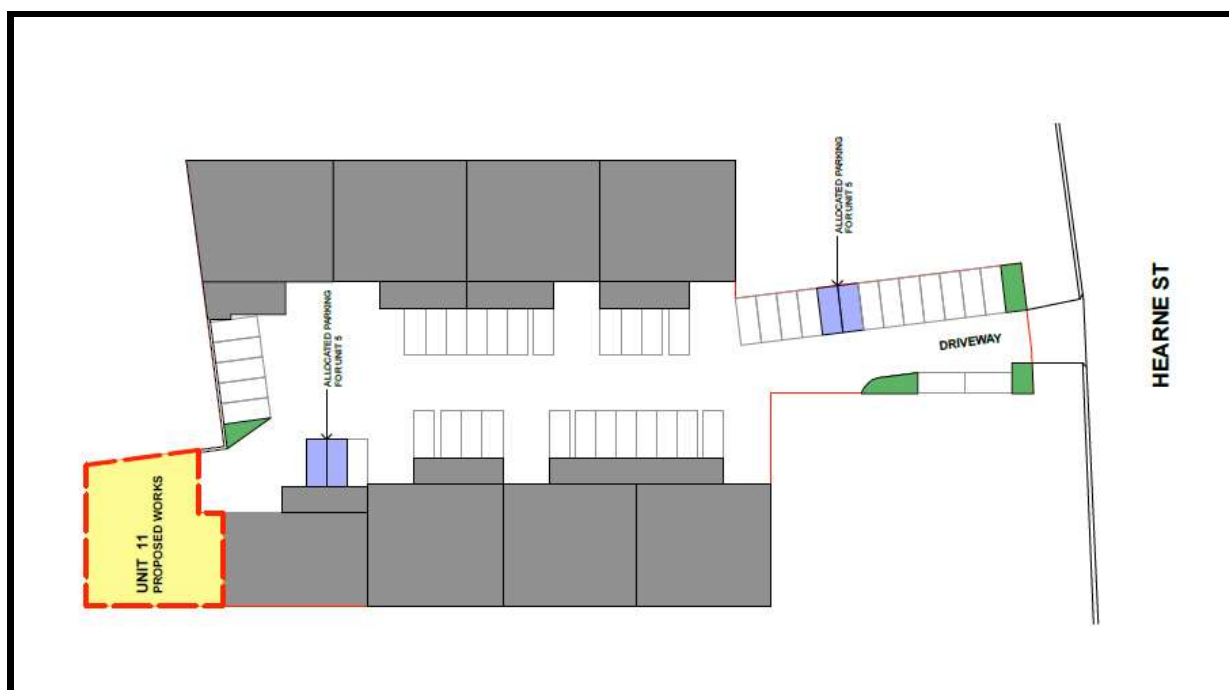


Figure 6: Existing site plan showing subject premises and allocated parking spaces (highlighted in blue) within the warehouse complex.

26. Situated on the site are multiple industrial warehouse buildings with varying land uses. Vehicular access to the allotment is from Hearne Street with 44 parking spaces provided on site to service the warehouses. Four (4) of these spaces are allocated to the subject premises (Unit 11).



Figure 7: View of the existing internal access to the warehouse complex looking towards the rear of the complex where the premise is located.



Figure 8: View of Hearne Street to the east.

27. The site is located within the Mortdale Industrial area which is bounded by Forest Road to the north, Boundary Road to the east, Lorraine Street to the west and Roberts Avenue to the south. The industrial area is surrounded by areas that are zoned residential, with the subject site in close proximity to residential land located on the eastern side of Boundary Road.

Surrounding Development

28. To the south on the opposite side of Hearne Street is Ace Gutters, which is occupied by a large industrial building. The property is a corner site and has frontage to Boundary Road and Hearne Street, with its street address being 69 Boundary Road, Mortdale.



Figure 9: Existing building at 69 Boundary Road (corner of Boundary Road and Hearne Street).

29. Adjoining the site to the west is a panel beating company, Ideal Body Works.



Figure 10: Existing building to the west at 10 Hearne Street, Mortdale



Figure 11: Existing adjoining building to the east at 8 Hearne Street, Mortdale.

30. Adjoining the site to the east at 8 Hearne Street is a tow truck company, Autotow Pty Ltd.

Compliance and Assessment

STATE ENVIRONMENTAL PLANNING INSTRUMENTS

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

State Environmental Planning Policy	Complies
Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment	Yes
State Environmental Planning Policy (Infrastructure) 2007	Yes
State Environmental Planning Policy No.55 – Remediation of Land	Yes
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017	Yes

Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment

32. The primary relevant aims and objectives of this plan are:

- *to maintain and improve the water quality and river flows of the Georges River and its tributaries and ensure that development is managed in a manner that is in keeping with the national, State, regional and local significance of the Catchment,*
- *to protect and enhance the environmental quality of the Catchment for the benefit of all users through the management and use of the resources in the Catchment in an ecologically sustainable manner,*
- *to ensure consistency with local environmental plans and also in the delivery of the principles of ecologically sustainable development in the assessment of development within the Catchment where there is potential to impact adversely on groundwater and on the water quality and river flows within the Georges River or its tributaries,*
- *to establish a consistent and coordinated approach to environmental planning and assessment for land along the Georges River and its tributaries and to promote integrated catchment management policies and programs in the planning and management of the Catchment,*

33. The proposal is for a change of use and internal fit out, the disposal of stormwater will not change from the current arrangements. As such the proposal is considered to be consistent with the aims, objectives and purpose of the regional plan.

State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)

34. The aim of this policy is to facilitate the effective delivery of infrastructure across the State by:
- (a) improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services, and
 - (b) providing greater flexibility in the location of infrastructure and service facilities, and
 - (c) allowing for the efficient development, redevelopment or disposal of surplus government owned land, and
 - (d) identifying the environmental assessment category into which different types of infrastructure and services development fall (including identifying certain development of minimal environmental impact as exempt development), and
 - (e) identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and
 - (f) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and
 - (g) providing opportunities for infrastructure to demonstrate good design outcomes.
35. The proposal has been considered in accordance with the applicable provisions of the SEPP and found to be acceptable.

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

36. State Environmental Planning Policy No. 55 - Remediation of Land applies to all land and aims to provide for a State-wide planning approach to the remediation of contaminated land.
37. Clause 7(1) of the State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) states that Council cannot consent to development on the land unless:
- "(a) it has considered whether the land is contaminated, and*
- (b) If the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) If the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose."*
38. The proposed works involve a change of use and fit out of the existing industrial tenancy. These works are not considered to result in any further impacts or potential contamination that would warrant further investigation.
39. The proposal is therefore considered to be consistent with SEPP 55 and suitable for the proposed development.

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

40. The Vegetation SEPP regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.
41. 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).
42. 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 SP2 Infrastructure zone.
43. 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).
44. The application is for the change of use and fit out of an existing industrial tenancy within an industrial complex. No trees are proposed to be removed as part of this application.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

Draft Environmental State Environmental Planning Policy

45. 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.
46. The proposal is not inconsistent with the provisions of this Draft Instrument.

Draft Remediation of Land State Environmental Planning Policy

47. 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.

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

Draft Design and Place SEPP

49. The Draft Design and Place 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.

50. The proposal is not subject to this SEPP.

Hurstville Local Environmental Plan 2012 (HLEP 2012)

51. The subject development site is zoned IN2 Light Industrial under the HLEP 2012 as shown in Figure 12 below.

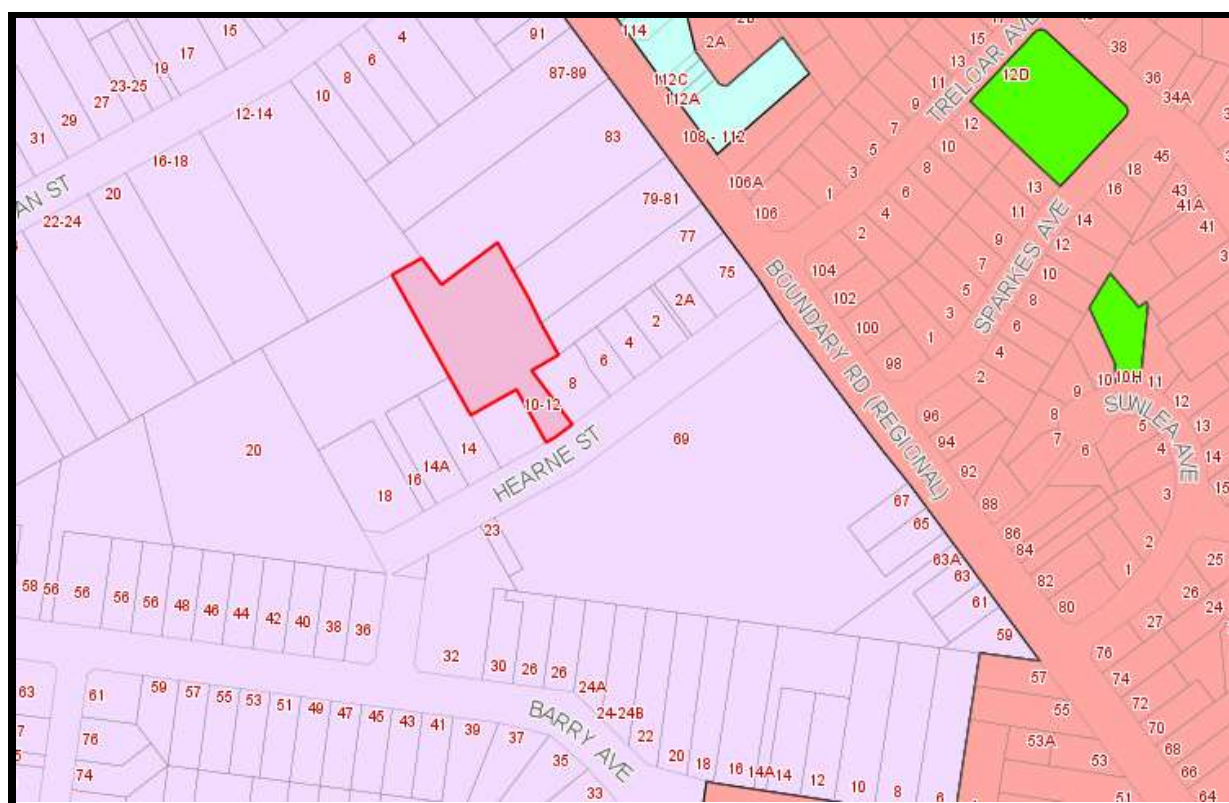


Figure 12: Zoning map (HLEP 2012) - Subject site outlined in red.

52. The objectives of the zone are as follows:

- *To provide a wide range of light industrial, warehouse and related land uses.*
- *To encourage employment opportunities and to support the viability of centres.*
- *To minimise any adverse effect of industry on other land uses.*

- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To support and protect industrial land for industrial uses.
- To enable industrial development which does not pollute or adversely affect adjoining land, air or water.
- To ensure industrial development creates areas that are pleasant to work in, safe and efficient in terms of transportation, land utilisation and service distribution.

53. The IN2 zoning is very much focused on providing a range of light industrial, warehouse and related land uses, whilst also encouraging employment opportunities. In addition to minimising any adverse effects of industry on other land uses, whilst supporting and protecting land for industrial uses. It seeks to ensure that industrial development creates areas that are pleasant to work in.

54. The proposed development being an artisan food and drink industry is a permissible land use in the zone as it is a type of light industry (see definition below):

artisan food and drink industry means a building or place the principal purpose of which is the making or manufacture of boutique, artisan or craft food or drink products only. It must also include at least one of the following—

- (a) a retail area for the sale of the products,
- (b) a restaurant or cafe,
- (c) facilities for holding tastings, tours or workshops.

Note—

See clause 5.4 for controls in industrial or rural zones relating to the retail floor area of an artisan food and drink industry.

Artisan food and drink industries are a type of **light industry**—see the definition of that term in this Dictionary.

55. An assessment of the proposal against the relevant LEP clauses and standards is as follows.

Clause	Standard	Proposal	Complies
Part 2: Permitted or Prohibited Development			
2.2 Zoning of Land to which Plan applies	IN2 Light Industrial	The proposal is defined as an artisan food and drink industry, which is a permitted land use in the IN2 Light Industrial zone under HLEP 2012.	Yes
2.3 Zone objectives and Land use table	Objectives of zone to be satisfied	The proposal satisfies the objectives of the zone by proposing a land use which is consistent with the zone objectives and is suitable for the site.	Yes
2.7 Demolition	Demolition requires development consent.	Demolition of the mezzanine level above the proposed brewing production area is	Yes

		part of the approved works.	
Part 4: Principal Development Standards			
4.3 Height of Buildings	10m as identified on Height of Buildings Map.	No change to the existing building. No plant shown or identified external to the building. Acoustic report refers to plant within the building only.	Yes
4.4 Floor Space Ratio	1:1 as identified on Floor Space Ratio Map	No change to the existing.	Yes
4.5 Calculations of Floor space and Site area	Floor space to be calculated in accordance with Clause.	Floor space has been calculated in accordance with this clause.	Yes
4.6 Exceptions to development standards	Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument	N/A. The proposal does not seek to vary a development standard.	N/A
Part 5: Miscellaneous Provisions			
5.4 Controls relating to miscellaneous uses			
5.4 (10) Artisan food and drink industry exclusion	If development for the purposes of an artisan food and drink industry is permitted under this Plan in an industrial or rural zone, the floor area used for retail sales (not including any cafe or restaurant area) must not exceed— (a) 20% of the gross floor area of the industry, or (b) 400 square metres, whichever is the lesser.	Floor area is 275sqm. Retail sales area 20sqm (7.3%).	Yes
5.6 Architectural roof features	Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with development consent.	No architectural roof feature proposed.	N/A
5.10 Heritage	The objectives of	The site is not a heritage item	Yes

Conservation	this clause are; (i) to conserve the environmental heritage of Kogarah, (ii) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views.	and is not within a heritage conservation area.	
5.11 Bush Fire Hazard Reduction	Bush fire hazard reduction work authorised by the Rural Fires Act 1997 may be carried out on any land without development consent.	The site is not identified as bushfire prone land.	N/A
Part 6: Additional Local Provisions			
6.1 Acid Sulfate Soils (ASS)	The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage	The site is not affected by any Acid Sulfate Soils.	Yes
6.7 Essential services	Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required: (a) the supply of water, (b) the supply of electricity, (c) the disposal and management of sewage, (d) stormwater drainage or on-site conservation, (e) suitable road and vehicular access.	All utility (essential) services on site (water, sewerage, power, telecommunications) are available. Stormwater will be via the existing system. No change. The site has suitable vehicular access from Hearne Street.	Yes Yes Yes

Draft Georges River Local Environmental Plan 2020

56. In accordance with section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979 any proposed instrument that is or has been the subject of public consultation is a relevant matter for consideration in the assessment of a development application.
57. The Georges River Local Planning Panel endorsed at its meeting dated 26 June 2020 the Planning Proposal (as amended) to be forwarded to the Department of Planning, Industry and Environment for gazettal in accordance with Section 3.36 of the Environmental Planning and Assessment Act 1979.
58. The Draft Georges River Local Environmental Plan 2020 provisions have no detrimental 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**Hurstville Development Control Plan No 1**

59. Hurstville Development Control Plan No 1 (DCP 1) applies to the subject site. The relevant controls for the proposed development are the general planning considerations (Section 3) and controls for specific non-residential development types (Section 5), in Section 5.2 – Light Industrial Areas. The relevant sections of DCP 1 relating to this modification are as follows.

Applicable DCP Controls	Standards	Proposal	Complies
Section 3 – General Planning Considerations			
3.1 Vehicle access, parking and manoeuvring			
DS1.3 On site parking requirements	<p>Table 1 and Table 2 provide on-site parking requirements for each specific land use. Where parking calculations produce a fraction, the requirement is rounded up e.g., 3.2 spaces = 4 spaces. Note: Parking requirements may also be contained in area specific DCPs.</p> <p>Warehouse 1 space per 100sqm</p> <p>Pubs 1 space per 50sqm.</p> <p>Five (5) spaces required under</p>	Four (4) on site car parking spaces provided.	No, see discussion below.

DCP.Discussion on on-site parking

The proposal is allocated four (4) on site car parking spaces within the warehouse development site. Based on the DCP requirements the on-site parking requirements have not been met.

Council's Traffic Engineer reviewed the Traffic Report provided by Transport and Traffic Planning Associates (TTPA) and provided the following comments:

"The DCP requirement of 1 space per 50sqm is not realistic and Council's Traffic Section relies on surveys done of similar developments to establish a more realistic parking demand, of which TTPA (The Traffic Consultants) rightly did so.

Council's Traffic Section agrees that 21 spaces is more of a realistic parking generation. Accordingly, while the Traffic Section appreciates that the 21 spaces cannot be met on site, the proposed 4 spaces only for off street parking is nowhere near close enough to the 21 required spaces. The request to rely on on-street parking for the remaining 17 spaces increases the burden on the already limited on-street parking.

Following on from this, Council's Traffic Engineer also held discussions with the applicants Traffic Engineer to provide assistance and direction in what would be more acceptable and appropriate.

In response to Council's concerns with the lack of on site parking for the proposed use, the applicants Traffic Engineer provided an additional Traffic and Parking Impact Study with the following comments:

"It is accepted that higher parking demand will likely eventuate because of a high patronage capacity (45 persons). Surveys of similar nature operation estimate a peak demand of some 21 spaces, of which 17 will rely on the ample on-street parking capacity in the surrounding streets."

Notwithstanding low parking occupancy in the adjacent streets during the pub's operating periods, Council is of the view that occupying 17 on-street spaces is intolerable. It was suggested that a more acceptable proportion of on-street parking occupancy may be 'three quarters' (75%) on-site and the remainder on street. This is equivalent to 16 spaces onsite and 5 on street.

On this basis, it is proposed to reduce the proposed patronage capacity from 45 persons to 20. Applying the same surveyed peak parking rate would indicate a reduced peak projection of some 9 spaces, being 4 onsite and 5 on street in the busiest operating period (i.e., Thursday and Friday nights). On Saturdays, another peak period for pubs, the peak projection is 5 spaces - 1 on street. Most, if not all, surrounding industrial businesses are shut on those peak 'pub hours'.

The above provision is consistent with Council's expectations, and it follows that the reduced patronage level will have a satisfactory parking outcome.

Council's Traffic Engineer was supportive of this approach subject to the reduction in patron numbers from a maximum of 45 patrons to 20 patrons. It is noted that the premises will be operating with a maximum of 2-3 people during the regular brewing and bottling process. It is only from Thursday to Sunday between 12pm and 9pm

where the premises will be open to the public for retail purchases and tastings.			
Layout Circulation, Access and Egress			
DS1.5 Compliance to AS2890.	Refer to AS 2890.1 2004 and AS2890.2 Part 2 for the design and layout of parking facilities.	Existing parking layout, generally acceptable, no change proposed.	Yes
Safer By Design			
DS3.1 On-site parking spaces	On-site parking spaces are to be located in areas visible from nearby habitable windows, entrances, public spaces etc.	Generally acceptable.	Yes
DS3.2	On-site driveways are to provide an unobstructed view of passing pedestrians and vehicles.	Generally acceptable.	Yes
Security			
DS3.5	Visitor parking shall be provided in open unrestricted areas. If visitor parking is provided within a secure parking area (basement or otherwise) suitable access provisions shall be made such as a security intercom.	Parking spaces are provided in open unrestricted areas.	Yes
3.3 Access and Mobility			
DS1.1	Access is required to a 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.	No change to the entry location. A new outward swinging door is proposed.	Yes
3.4 Crime Prevention Through Environmental Design			
Site and Building Layout			
DS1.4	Entrances should be located in prominent	The entrance is in the middle of the building	Yes

	positions, be easily recognisable through design features and directional signage and should allow users to see into the building before entering.	and is visible from the driveway. As the building is located at the rear of the complex it is not highly visible from Hearne Street.	
DS1.5	Pathways within and to the development should be direct and all barriers along the pathways should be permeable including landscaping and fencing.	Pathway and vehicular access provide direct access to the building and is highly visible.	Yes
Building identification			
DS6.1	Each building entry must clearly state the dwelling or unit numbers accessed from that entry	Street number and each unit number shown at the front of the site.	Yes
DS6.2	Each building entry must clearly state the dwelling or unit numbers accessed from that entry.	Each unit number is shown at the main entry.	Yes
Section 5 Controls for Specific Non-Residential Development			
5.2 – Light Industrial Areas			
Density			
DS1.1 Development Density	FSR controls are in clause 4.4 of the HLEP 2012.	No change to the gross for area proposed.	Yes
Setbacks			
DS3.1 Minimum front setback	A minimum front setback of 4.5m is required for all light industrial development, except for the specific areas identified below: <ul style="list-style-type: none"> • Depot Road 6m • Durkin Place 6m • Pritchard Place 6m • The Crescent 7.6m • Vanessa Street 7.6m 	No change to the built form proposed affecting the setback.	N/A
DS3.2	Within the front setback area, a minimum of 3m is to be landscaped and	Existing no change proposed	N/A

	maintained as open area in order to enhance the streetscape. This area is not to consist of buildings, storage areas or car parking and manoeuvring areas.		
DS3.3	For corner lots – min setback 2m is required for the secondary frontage.	The site is not a corner lot.	N/A
DS3.4	Where a site has a common boundary with residential property, a landscaped strip with a minimum width of 2m is to be provided along that boundary and adequately landscaped to provide a screen between the two land uses.	No boundary of the industrial development shares a boundary with residentially zoned land.	N/A
Building Design			
DS4.1 Maximum height of a building	The maximum height of a building in the light industrial zone is contained within Clause 4.3 and the associated maps of the Hurstville LEP 2012 Maximum height	No change to the height of the building.	Yes
DS4.3 Materials for building	A schedule of materials is to accompany development applications. Documentation is to be provided demonstrating that consideration has been given to the type of materials to be used in the project and the extent to which their use will achieve the objectives	Complies	Yes

DS4.4 Non reflective materials	Non reflective materials and finishes are to be used. Reflective surfaces on the external wall of a proposed building are to be no greater than 20%	No external changes proposed other than the re-swinging of the entry door.	Yes
DS4.6	Fencing is not to be erected within any landscape setback area	No fencing proposed.	N/A
DS4.7	Fencing at the front of premises is to be of an open design and a maximum height of 2.5m.	No fencing proposed.	N/A
DS4.8	Fences on boundaries directly adjoining residential properties are to be constructed of pre-painted solid metal or full brick to provide screening and noise control	No fencing proposed.	N/A
DS4.9	Buildings must present a satisfactory façade to the street, no blank wall facades.	No change to the facades of the existing building other than the re-swinging of the entry door.	Yes
DS4.10	Architectural features are to be included in the design of new buildings to provide for more visually interesting light industrial areas. Such features may include: <ul style="list-style-type: none"> • Distinctive parapets or roof forms • Articulated facades • Distinctive entries • A variety of window patterns • Balustrades • Pergolas and other sun shading devices; and • Selection of building materials 	N/A Proposal involves an internal fit out.	N/A
Landscaping			

DS5.1	Development applications are to be accompanied by a landscape plan prepared by a suitably qualified landscape architect or designer	No change to the existing landscaping. The unit is located at the rear of the development and does not necessitate changes in landscaping.	Yes
DS5.4	Landscaping is to be provided in the front setback area to soften the appearance of buildings and enhance the streetscape.	No changes proposed.	N/A
DS5.6	Species that will grow to a height consistent with the building are to be included.	N/A	N/A
DS5.9	An outdoor eating and sitting area is to be provided within sites at the rate of 1sqm per employee, with a minimum total area of 10sqm.	No outdoor seating area exists.	N/A
DS5.10	Trees planted on site should provide shade in summer and allow sunlight in winter and should be positioned appropriately.	No trees provided.	N/A
Vehicle, Access and Parking			
DS6.1	Car parking and loading bays must comply with section 3.1 – Vehicle Access, Parking and Manoeuvring.	Swept paths for a SRV have been provided confirming compliance.	Yes
DS6.2	Access and mobility provisions must comply with section 3.3 – Access and Mobility.	Complies.	Yes
DS6.3	Where possible, parking is to be provided to the rear of buildings or below ground level.	N/A	N/A
DS6.4	Design and layout of parking facilities is in	Complies.	Yes

	accordance with relevant Australian Standards.		
Acoustics			
DS7.1 Noise levels	Noise levels are not to exceed specified limits at the most affected point of the property boundary. Note: Recommended Background Noise Levels are in accordance with Table 1: Recommended Background Noise Levels.	The proposal was referred to Council's EHO who raised no objection to the proposal subject to conditions.	Yes
DS7.2 Noise	All proposals which may generate noise are to be accompanied by documentation from a qualified acoustic engineer certifying that the acoustic standards can be met	The proposal was referred to Council's EHO who raised no objection to the proposal subject to conditions.	Yes
DS7.3 Hours of Operation	The hours of operation of light industrial activities are between the hours of 7am and 5pm. Mondays to Saturdays inclusive, with no work on Sundays or Public Holidays. For those properties that are not located adjoining or opposite a residential property where the use does not result in heavy machinery work the extended trading hours, 7am to 7pm Mondays to Saturdays inclusive with no work on Sundays or Public Holidays apply.	<p>Hours proposed:</p> <p>Beer Production Monday – Wednesday 7am – 6pm</p> <p>Thursday – Sunday 8am – 9pm</p> <p>Public Holidays 12pm – 9pm</p> <p>Open to the public for retail purchases and tastings.</p> <p>Thursday – Sunday 12pm – 9pm Public holidays 12pm – 9pm</p>	Yes, see discussion below
<p><u>Discussion on hours of operation.</u> It is proposed that the brewery production will operate between 7am and 6pm</p>			

Mondays to Wednesdays and Thursdays to Sundays 8am – 9pm, with the premises open to the public for retail purchases and tastings Thursday to Sundays 12pm -9pm and public holidays 12pm – 9pm.

Section 5 of the HDCP contains a section for extended trading hours however these are only related to commercial premises and does not include industrial premises. There are no specific restrictions upon hours of operation for industrial premises with the exception of the above control which relates to noise impacts generated from industrial activities.

Whilst the hours of operation are outside the hours permitted for properties not adjoining residential properties these hours are considered to be appropriate and the production part of the land use will be consistent with the above hours between Monday and Wednesday.

An acoustic report and odour assessment report has been provided to address potential amenity impacts and have been taken into consideration in the assessment and recommendations of the application. The premise does not adjoin residential properties and is not located opposite residential properties. It is also noted that the premises is located at the back of the industrial complex minimising the potential for noise to travel to the closest residential properties, which are located on the other side of Boundary Road to the east of the subject site.

In addition the proposal was referred to the NSW Police who have raised no objection to the hours proposed and provided their comments and conditions should the application be approved.

It is recommended that the hours as requested are appropriate and acceptable and that there is not anticipated to be any unreasonable adverse amenity impacts upon any nearby residential properties.

Waste Management

DS9.1	Adequate storage for waste materials is to be provided on the site. This waste must be removed at regular intervals and not less frequently than once per week.	WMP to be prepared and submitted to PCA prior to issue of CC. Details to be shown on CC plans.	Yes to be conditioned.
DS9.2	The garbage area is to be capable of accommodating trade waste and recyclables arising on the premises. Sufficient space is to be provided for a loading and unloading area and any associated handling equipment.	WMP to be prepared and submitted to PCA prior to issue of CC. Details to be shown on CC plans.	Yes to be conditioned.
DS9.3	The location of	WMP to be prepared	Yes to be

	garbage area and bulk waste collection bins is to be shown on the development application plans.	and submitted to PCA prior to issue of CC. Details to be shown on CC plans.	conditioned.
DS9.4	Garbage areas are to be constructed of concrete floors or the like, graded and drained and connected to the sewer where appropriate. Solid walls are required, with or without the following - roof covering, doors, lighting, ventilation and water supply.	WMP to be prepared and submitted to PCA prior to issue of CC. Details to be shown on CC plans.	Yes to be conditioned.
DS9.5	Garbage areas are to enable safe and easy access by collectors and collection vehicles within proximity to street frontages, and are to be screened with appropriate landscaping measures.	WMP to be prepared and submitted to PCA prior to issue of CC. Details to be shown on CC plans.	Yes to be conditioned.
DS9.8	In addition to the above requirements, applicants are required to comply with the Waste Management policy contained in Appendix 1 of this DCP	WMP to be prepared and submitted to PCA prior to issue of CC. Details to be shown on CC plans.	Yes to be conditioned.

Georges River Development Control Plan 2020

60. The Georges River Development control Plan was made by the Georges River Local Planning Panel on 24 March 2021.
61. This does not come into effect until the Georges River Local Environmental Plan is gazetted.

Impacts

Natural Environment

62. The proposed development is unlikely to result in adverse impacts to the natural environment. The proposal is for the internal fit out of the existing warehouse and will not have any unreasonable impact upon the natural environment.

Built Environment

63. The proposed development is located within an existing industrial complex and is located at the rear of the site. The works proposed relate to the internal fit out of a tenancy to create a brewery. The proposal represents an appropriately designed development which will contribute positively to the character of the area.
64. The proposed development incorporates appropriate design elements to ameliorate potential amenity impacts on adjoining properties.

Social Environment

65. The proposed development is of a form that is consistent with other developments, which is unlikely to result in adverse social impacts.

Economic Environment

66. The proposed development will have no adverse economic impact in fact it will benefit in the longer term the sustainability of the Industrial area and will in the immediate term contribute to maintaining jobs in the construction industry.
67. The proposed development will provide temporary employment through the construction of the development. In addition, the proposal will restore and increase employment associated with the use of the site and customer patronage.

Suitability of the Site

68. It is considered that the proposed development is of a scale and design that is suitable for the site. It is a permissible use in the zone. Having regard to its size, hours of operation and relationship to adjoining developments, the subject proposal does not contain any impediments that would preclude it or compromise its suitability for the intended land use as proposed.

SUBMISSIONS, REFERRALS AND THE PUBLIC INTEREST

69. The application was notified between 25 March and 12 April 2021 in accordance with the Hurstville Development Control Plan. One (1) submission was received. The concerns raised are summarised below.
- Concern has been raised that there will not be sufficient parking for the number of patrons which is up to 50 people.
70. Comment: Council's Traffic Section has reviewed the proposal and the accompanying traffic report provided. The proposal has reduced the maximum number of patrons to 20 and is satisfied that the four (4) on site parking spaces along with utilisation of public street parking is sufficient and adequate for the proposed use, given the use of the premises for public access regarding retail purchases and tastings will only be between Thursday and Sunday and in the afternoon only.
- Concern was raised that contrary to By Law No 1 Parking, other unit complex residents will allow the subject premises to use their free parking spaces.
71. Comment: By Law requirements and their enforcement are subject to the Body Corporate. Notwithstanding this, the assessment of the application and the provision of suitable parking has not taken into consideration any potential use of car parking spaces within the complex. The application has been assessed on its own merits.
- Concern has been raised about the consumption of alcohol onsite.

72. Comment: The premises is required to obtain a liquor licence and all required safety precautions along with a Plan of Management must be in place and adhered to at all times. It is also noted the proposal has been referred to NSW Police who have not raised any objection to the proposal.
- Concern has been raised about the common wall that separates their tenancy from the subject premises and the required fire rating between buildings.
73. Comment: It is a requirement under the BCA that the building be compliant with the relevant fire safety provisions of the BCA. This will need to be addressed at the Construction Certificate stage and during the fit out works.
- Concern has been raised in relation to the waste removal from the subject site.
74. Comment: The premises will be subject to the same requirements as all units within the complex. The application has been conditioned accordingly.

REFERRALS

75. The application was referred to a number of external agencies and internal officers for comment as follows.

Council Referrals

Traffic Engineer

76. The DA was referred to Council's Traffic Engineer. Concern was raised that the use of the premises did not propose sufficient on-site parking based on the proposed 45 patrons. The applicant submitted a new Traffic Impact study and reduced the number of patrons to a maximum of 20.
77. Council's Traffic Engineer has reviewed the new Traffic Impact Study and has raised no objection to the proposal subject to the following:
- That the number of patronage is reduced to 20.
 - That the DA section ascertains that the 4 spaces proposed by the applicant will be indeed for the use of the brewery's visitors.
 - That no vehicle larger than a small rigid vehicle is to access the brewery for loading/unloading of goods.

Coordinator Environment Sustainability and Waste

78. The application was referred to Council's Coordinator Environment Sustainability and Waste for assessment and review. Comments and recommended conditions are reproduced below.
79. The applicant has not provided a Waste management Plan (WMP). As such a condition of development consent is required to be imposed requiring the following:
80. *A comprehensive Waste Management Plan (WMP) is to be prepared. The WMP is to incorporate all requirements in respect to the provision of waste storage facilities and removal of all materials from the site that are the result of demolition and construction works. The WMP needs to address waste during the demolition stage, construction stage and ongoing operations.*
81. *This WMP shall be submitted to and approved by the PCA prior to the issue of any Construction Certificate.*

Environmental Health Officer

82. Council's Environmental Health Officer reviewed the proposal and requested that the applicant provide additional information including the following:
- Odour Assessment Report.
 - Acoustic Report.
 - Details on sale of food.
 - Details on how the premises will comply with AS4674-2004.
83. The applicant submitted the odour assessment report and acoustic report for review. Council's Health Officer has reviewed these reports and raises no objection to the proposal subject to conditions provided, including that the fit out comply with the requirements of AS4674-2004.

External Referrals

Ausgrid

84. The application was referred to Ausgrid on 17 March 2021 in accordance with Clause 45 of State Environmental Planning Policy (Infrastructure) 2007. A response was received from Ausgrid on 22 March 2021 and they have raised no objection to the proposed development.

NSW Police

85. The proposal was referred to NSW Police for comment on 17 March 2021. Comments and recommended conditions were provided on 31 August 2021 raising no objection to the proposal.

Developer Contributions

86. The proposed development if approved would require the payment of developer contributions under Section 7.12 of the Environmental Planning and Assessment Act 1979 as the proposed cost of works exceeds \$100,000. A condition of consent requiring payment of the contribution has been imposed.

CONCLUSION

87. The proposal seeks consent for the fit out and use of Unit 11 as an artisan brewery, providing areas for brewing, retail purchase and tastings and onsite consumption at SP21581 known as 10 - 12 Hearne Street, Mortdale.
88. 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 a form of development which is compatible with its surrounding environment. The proposal is consistent with the character of the zoning and is capable of existing harmoniously within its surroundings.
89. The proposal has been assessed against the provisions of the Hurstville Local Environmental Plan 2012 and Hurstville Development Control Plan No 1. The proposal satisfies the key planning controls in the Hurstville Local Environmental Plan 2012 and the Hurstville Development Control No 1.
90. Operationally, the proposal will not result in any unreasonable impacts on the amenity of adjoining properties subject to conditions of consent as recommended below.

DETERMINATION AND STATEMENT OF REASONS

91. Statement of Reasons

- The proposed development complies with the requirements of the relevant environmental planning instruments.
- The proposed development satisfies the objectives of the IN2 Light Industrial zone of Hurstville Local Environmental Plan 2012 which emphasises the need to provide a range of light industrial, warehouse and related land uses.
- The proposed development is considered to be compatible with surrounding development and surrounding land uses and is capable of existing harmoniously within its surroundings.
- The building will not unreasonably affect the amenity of any immediately adjoining properties in terms of noise, odour or pollution.
- The proposal is consistent with the provisions of the Draft Georges River Local Environmental Plan 2020.

DETERMINATION

92. 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 consent to DA2021/0085 for the fit out and use of Unit 11 as an artisan brewery, providing areas for brewing, retail purchase and tastings and onsite consumption at SP21581 known as 10 - 12 Hearne Street, Mortdale subject to the following conditions:

Development Details

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

Description	Reference No.	Date	Revision	Prepared by
Site Plan	A01-01	04.12.2020	A	WeArchitects
Existing Plan Lower Level Mezzanine Level	A01-02	04.12.2020	A	WeArchitects
Proposed Plan Lower Level Upper Level	A01-03	04.12.2020	A	WeArchitects
Documents Relied upon in assessment				
Traffic and Parking Impact Assessment Report	20322	December 2020	B	Transport and Traffic Planning Associates (TTPA)
Traffic Response letter	20322	09.08.2021	-	Transport and Traffic Planning Associates (TTPA)
Acoustic Report	-	18.05.2021	-	Spoke Acoustics
Odour Assessment Report	-	29.06.2021	-	The Odour Unit Pty Ltd
BCA Report		24.12.2020		GRS Building Reports Pty Ltd

2. **Signage** - A separate application shall be submitted to Council prior to the erection of any signage unless the proposed signage is 'exempt development' under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 or any other applicable environmental planning instrument.

Separate Approvals Required Under Other Legislation

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

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

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

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

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 in™ agent has appropriately stamped the plans prior to the issue of the Construction Certificate.

6. **Utility Arrangements** - Arrangements are to be made with utility authorities in respect to the services supplied by those authorities to the development. The owner shall bear the cost of any relocation or modification required to any Public Utility Authority assets including telecommunication lines & cables and restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site.
7. **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.
8. **Liquor Licence** - Application shall be made to NSW Office of Liquor and Gaming for a Liquor Licence under the [Liquor Act 2007](#), prior to the issue of a construction certificate. Evidence that the Licence has been issued shall be provided to the PCA prior to the commencement of works.

Note: A use which is reliant on the obtaining of a Liquor Licence should refrain from progressing until the Licence is obtained.

Prior to the Issue of a Construction Certificate

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

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

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	
Georges River Council Section 94A Development Contributions Plan 2017	\$860.75

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.

Timing of Payment

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

Further Information

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

10. **Damage Deposit - Major Works** - In order to insure against damage to Council property the following is required:
- (a) Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development: **\$1,900.00**.
 - (b) Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee (for two inspections) to enable assessment of any damage and repairs where required: **\$168.00**.
 - (c) Submit to Council, before the commencement of work, a dilapidation report 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 review the dilapidation report and the Works-As-Executed Drawings (if applicable) and inspect the public works.

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

11. **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.
12. **Structural Details** - Engineer's details prepared by a practising Structural Engineer being used to construct all reinforced concrete work, structural beams, columns & other structural members. The details are to be submitted to the Principal Certifying Authority for approval prior to construction of the specified works.

13. **Plan of Management – Acoustic requirements** – The Plan of Management is to be amended to incorporate the recommendations of the acoustic report prepared by Spoke Acoustics dated 18 May 2021.
14. **Slip Resistance** - All pedestrian surfaces in areas such as foyers, public corridors, common areas, stairs and ramps as well as floor surfaces in all wet rooms including 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/NZS4586:2013 - Slip Resistance Classifications of New Pedestrian Materials and must be detailed on the plans lodged with the application for the Construction Certificate.
15. **Access for Persons with a Disability** - Access for persons with disabilities must be provided direct to the premises/building and to any required 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 for approval.

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 the issue the construction certificate.

16. **Food Premises** – The following information shall be provided and shown on the Construction Certificate Plans

(a) **Plans and Specifications**

Details of the construction and fit out of food premises must be submitted to Council's Environmental Health Officer. The plans and specifications must demonstrate compliance with the:

- i. [Food Act 2003](#) (as amended)
- ii. [Food Regulation 2015](#) (as amended)
- iii. Food Standards Code as published by Food Standards Australia
- iv. New Zealand and Australian Standard AS4674:2004 Design, Construction and fit out of food premises (as amended)
- v. Sydney Water – trade Waste Section.

Environmental Health Officers' must advise in writing that the plans and specification are considered satisfactory prior to the issue of any Construction Certificate.

(b) **Waste Facility**

Details of the construction and fit out of the waste facility serving the brewing operation must be submitted to Council's Environmental Health Section for approval. Such details must demonstrate compliance with the [Food Act 2003](#) (as amended), [Food Regulation 20105](#) (as amended); the *Food Standards Code* as published by Food Standards Australia and New Zealand and Australian Standard AS 4674:2004 *Design, construction and fit out of food premises (as amended.)* and must be:

- i. provided with a hose tap connected to the water supply;
- ii. paved with impervious floor materials;
- iii. coved at the intersection of the floor and the walls;

- iv. graded and drained to a waste disposal in accordance with the requirements of the relevant regulatory authority (Sydney Water);
- v. 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](#);
- vi. Must be large enough to accommodate the bins required.

Council's Environmental Health Officers' must advise in writing that the plans and specification are considered satisfactory prior to the issue of any Construction Certificate.

17. **Health – Colour of finishes** - All walls, floor and ceiling in all food preparation, food storage and waste storage areas shall be finished with a light colour. No black or dark colour surface finish is permitted in these areas.

Details of colour of finishes in the mentioned area must be submitted with the plans for satisfactory approval prior to the issue of any Construction Certificate.

18. **Acoustic Requirements - Compliance with submitted Acoustic Report** - The Construction Certificate plans shall demonstrate compliance with the Acoustic Assessment Report submitted and approved by Council, titled Noise Report – Development Application – The Social Brewers prepared by Spoke Acoustics and dated 18 May 2021.

19. **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 LAeq, 15 min in accordance with the NSW Environment Protection Authority's [NSW Industrial Noise Policy](#).

20. **Lighting in and around the site** - Lighting, which complies with the Australian Standard, must be installed in and around the property to increase visibility during the hours of darkness. Lighting must comply with the relevant Australian Standard.
21. **Site Management Plan** - A Site Management Plan detailing all weather access control points, sedimentation controls, fencing, amenities, materials storage and unloading arrangements must be submitted with the application for a Construction Certificate.
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.
23. **Waste Management Plan** - A comprehensive Waste Management Plan (WMP) is to be prepared. The WMP is to incorporate all requirements in respect to the provision of waste storage facilities and removal of all materials from the site that are the result of demolition

and construction works. The WMP needs to address waste during the demolition stage, construction stage and ongoing operations.

This WMP shall be submitted to and approved by the PCA prior to the issue of any Construction Certificate.

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

24. **Demolition and Asbestos** - The demolition work shall comply with the provisions of Australian Standard AS2601:2001 - Demolition of Structures, NSW Work Health & Safety Act 2011 and the NSW Work Health & Safety Regulation 2011. The work plans required by AS2601:2001 shall be accompanied by a written statement by a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the safety statement shall be submitted to the 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.

25. **Demolition Notification Requirements** - The following notification requirements apply to this consent:
- (a) The developer /builder must notify adjoining residents five (5) working days prior to demolition. Such notification is to be a clearly written note giving the date demolition will commence, contact details of the developer/builder, licensed asbestos demolisher and the appropriate regulatory authority. Notification is to be placed in the letterbox of every premises (including every residential flat or unit, if any) either side and immediately at the rear of the demolition site.
 - (b) Five (5) working days prior to demolition, the developer/builder is to provide written notification to Council advising of the demolition date, details of the SafeWork licensed asbestos demolisher and the list of residents advised of the demolition.
 - (c) On demolition sites where buildings to be demolished contain asbestos, a standard commercially manufactured sign containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm is to be erected in a prominent visible position (from street frontage) on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos material has been removed from the site to an approved waste facility.
26. **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.

27. **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.
28. **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

29. **Site sign - Soil and Erosion Control Measures** - Prior to the commencement of works (including demolition and excavation), a durable site sign, issued by Council in conjunction with this consent, must be erected in a prominent location on site. The site sign warns of the penalties which apply to pollution, storing materials on road or footpath and breaches of the conditions relating to erosion and sediment controls. The sign must remain in a prominent location on site up until the completion of all site and building works.
30. **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.

31. **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.
32. **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.
33. **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.

34. **Structural Certificate During Construction** - The proposed building must be constructed in accordance with details designed and certified by the practising qualified structural engineer. All structural works associated with the proposed building must be inspected and structurally certified for compliance by an independent practising geotechnical and structural engineer. In addition a Compliance or Structural Certificate, to the effect that the building works have been carried in accordance with the structural design, must be submitted to the Principal Certifying Authority at each stage of Construction or prior issue of the Occupation Certificate
35. **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)
36. **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.
37. **Site Contamination – Additional information** - Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately.
38. **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.
39. **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.

Prior to the issue of the Occupation Certificate

40. **Acoustic Certification** – Prior to the issue of any Occupation Certificate, a suitably qualified acoustic consultant shall certify 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 acoustic criteria established by the Acoustic Report required by a condition of this consent. The development shall at all times comply with these noise levels post occupation.

41. **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.

42. **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 and Rescue NSW and a further copy is to be displayed in a frame and fixed to a wall inside the building's main entrance.

43. **Food Premises – Inspection and Registration** – Prior to the issue of any Occupation Certificate or occupation or use of any food premises:

- (a) An inspection of the fit out of the Food Premises must be arranged with Council's Environmental Health Officer;
- (b) A satisfactory final inspection must have been undertaken by Council's Environmental Health Officer; and
- (c) The Food Premises must notify and register its business details with Georges River Council as required under section 100 of the Food Act 2003.

Operational Conditions (Ongoing)

44. **Hours of Operation** – The approved hours of operation shall be restricted to the following:

Wholesale Production

Monday to Wednesday - 7am to 6pm

Thursday to Sunday - 8am to 9pm

Public Holidays – 12noon – 9pm

Public Access (Retail purchases and tastings)

Thursday to Sunday – 12noon to 9pm

Public Holidays – 12noon – 9pm

45. **Maximum Patron Capacity** – The maximum patron capacity within the premises shall be limited to 20 persons at any one time.
46. **Plan of Management** – The premises is to be operated at all times in accordance with the Plan of Management dated February 2021 as may be varied from time to time after consultation with NSW Police and/or Liquor and Gaming NSW.

A copy of the Plan of Management is to be kept on the premises and made available for inspection on the request of a police officer, council officer, or Liquor & Gaming NSW inspector

47. **Crime Prevention** - In line with the recommendation of the NSW Police Force, the premise is to always operate as per the following:

(1) The licensee must maintain a closed circuit television (CCTV) system on the premises in accordance with the following requirements:

- (a) The system must record continuously from opening time until one hour after the premises is required to close (or in the case of a premises that is not required to cease trading, continuously at all times).
- (b) Recordings must be in a digital format and at a minimum of ten frames per second (10 fps).
- (c) Any recorded image must specify the time and date of the recorded image.
- (d) 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.

(2) The licensee must also:

- (a) keep all recordings made by the CCTV system for at least 30 days,
- (b) ensure that the CCTV system is accessible at all times the system is required to operate pursuant to clause 1(a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and
- (c) provide any recordings made by the system to a police officer or Liquor and Gaming NSW inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW inspector to provide such recordings.

48. **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).

49. **Maintenance of Sound Attenuation** - Sound attenuation must be maintained in accordance with the Acoustic Report submitted by Spoke Acoustics, titled Acoustic Report, dated 18 May 2021.

50. **Final Odour Report** – Within three months from the issue of an Occupation Certificate, an odour assessment is to be carried out by an appropriately qualified odour consultant/engineer, in accordance with the recommendations provided and submitted to Councils Environmental Health Officers for consideration. This report should include but not be limited to, details verifying that the odour control measures as recommended in the odour report (submitted by The Odour Unit titled Odour Assessment and dated 29 June 2021) are effective in attenuating odour to an acceptable odour level in accordance with the Protection of the Environment (Clean Air) Regulation 2010 (non scheduled premises).
51. **Waste Management** - All solid waste streams shall be contained in a covered receptacle when stored at the premises and transported off-site on a weekly basis (more frequently if required) to reduce the potential of odour impact on neighbouring premises and the attraction of pests/vermin.
52. **Waste Collections** - Waste generated onsite during on-going operations of this use will be required to be stored within the confines of the leasable/allotted area of unit 11, not visible from the street and screened from the neighbouring units. All waste must be removed from the site no more than once weekly, during the hours of Monday – Friday, 6am – 6pm. Collection services will be required to be provided by private waste contractor, as engaged by the Site Manager/Owner.
53. **Emergency Spill Response Management Plan** - An Emergency Spill Response Management Plan shall be prepared and submitted to Councils Environmental Health Section within three months of the issuing of the Occupation Certificate. The Plan shall include the following:
- (a) list of chemicals and maximum quantities to be stored at the site;
 - (b) identification of potentially hazardous situations;
 - (c) procedure for incident reporting;
 - (d) details of spill stations and signage;
 - (e) containment and clean-up facilities and procedures;
 - (f) the roles of all staff in the Plan and details of staff training; and
 - (g) kept on site and reviewed every 3 years.
54. **Bunding Work areas** - All work areas where spillage is likely to occur shall be bunded. This is to be done by way of speed humps, grading the floor area or by any other appropriate means, to prevent contaminated liquid entering Council's stormwater system. The bunded area is then to be drained to a sump for collection and appropriate disposal of the captured liquids.
55. **Storage and handling of flammable and combustible liquids** - The storage and handling of flammable and combustible liquids must be in accordance with AS1940-2004 - The storage and handling of flammable and combustible liquids (as amended).
56. **Storage of Hazardous or Toxic Material** - To ensure hazardous and toxic materials do not become a threat to the environment they must be stored in a bunded area constructed and maintained in accordance with AS 1940-2004 - The storage and handling of flammable and combustible liquids (as amended) and with SafeWork NSW requirements (contactable on 13 10 50).
57. **Lighting - General Nuisance** - Any lighting on the site shall be designed so as not to cause a nuisance to other premises 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.

58. **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.
59. **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.
60. **Industrial Premises – Spill Clean up** - Sufficient supplies of appropriate absorbent materials shall be kept on site to recover any liquid spillage. Liquid spills shall be cleaned up using dry methods, by placing absorbent material on the spill, and sweeping or shovelling the material into a secure bin. Absorbent materials used to clean up spills shall be disposed of to an appropriately licensed waste facility.
61. **Food Premises – Restricted Use (Premises that are not cooking)** - There shall be no cooking (where heat is applied to food, with the exception of the brewing process) permitted in the premises unless a separate development application has been approved by Council for this purpose.
62. **Food Premises – Maintenance of food premises** - The food premises must be maintained in accordance with the [Food Act 2003](#) (as amended), [Food Regulation 2015](#) (as amended); the Food Standards Code as published by Food Standards Australia & New Zealand and Australian Standard AS 4674-2004: *Construction and fit out of food premises (as amended)*.
63. **Amplified Music** - There is to be no amplified music external to the building at any time.
64. **No External Use** – There is to be no external seating, tastings or standing external to the building at any time.
65. **NSW Food Authority Licence/Manufacturing** - Should the premises manufacture beer to be sold at another retail premises and this activity is greater than 50% of the retail at the premises, a licence must be gained from the NSW Food Authority.
66. **Maximum vehicle size** - No vehicle larger than a Small Rigid Vehicle (SRV) as defined in AS 2890.2: 2018 (Australian Standard for off street commercial vehicle facilities) is to be permitted to access the development for the purpose of loading or unloading of goods and/or services for the brewery.
67. **Deliveries** - No deliveries to the premises shall be made direct from a public place or street inclusive of footpaths, nature strip, roadway and car parks.
68. **Deliveries** – No deliveries to/from the site shall take place between 6pm to 7am Monday to Wednesday and 9pm and 8am Thursday to Sunday and 9pm to 12noon.
69. **Loading and unloading areas** - All loading and unloading of vehicles in relation to the use of the premises shall take place wholly within the dedicated loading/unloading areas, which is wholly within the site.

70. **Visitors Parking** - All allocated car parking spaces shall be freely available for the visitors of the proposed development. The four (4) on-site spaces are to be made available for the use of the brewery's visitors at all times.
71. **Entering and Exiting of vehicles** - All vehicles shall enter and exit the site in a forward direction.
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. **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.

Operational Requirements Under the Environmental Planning and Assessment Act 1979

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

76. **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.

77. **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.

78. **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.

79. **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.

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

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

Prescribed Conditions

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

86. **Clause 98E - Site Excavation** - Excavation of the site is to extend only to that area required for building works depicted upon the approved plans. All excess excavated material shall be removed from the site.

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

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

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

END CONDITIONS

NOTES/ADVICES

87. **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

88. **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.

89. **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.

90. **Access to NSW Legislation (Acts, Regulations and Planning Instruments)** – NSW Legislation can be accessed free of charge at www.legislation.nsw.gov.au.

91. **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.

92. **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.

93. **Food Premises** - Information on Australian Standards can be obtained from www.standards.com.au.

Guidelines and Food Safety Standards may be obtained by contacting the Food Standards Australia New Zealand Authority at foodstandards.gov.au or the NSW Food Authority on 1300 552 406, email: contact@foodauthority.nsw.gov.au or by visiting the website www.foodauthority.nsw.gov.au

Notification of Food Business under Section 100 of the [Food Act 2003](#) requires the proprietor of a food business to give written notice, in the approved form, before conducting a food business. Penalties apply for failure to comply.

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

96. **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.

97. **Security deposit administration & compliance fee** - Under Section 97 (5) of the Local Government Act 1993, a security deposit (or part) if repaid to the person who provided it is to be repaid with any interest accrued on the deposit (or part) as a consequence of its investment.

Council must cover administration and other costs incurred in the investment of these monies. The current charge is \$50.00 plus 2% of the bond amount per annum.

The interest rate applied to bonds is set at Council's business banking facility rate as at 1 July each year. Council will accept a bank guarantee in lieu of a deposit.

All interest earned on security deposits will be used to offset the Security Deposit Administration and Compliance fee. Where interest earned on a deposit is not sufficient to meet the fee, it will be accepted in full satisfaction of the fee.

98. **Council appointed as the PCA** - 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.

In this regard, detailed construction plans and specifications that demonstrate compliance with the above requirements of the BCA, in which case, including in relation to the provision of egress and the protection of openings etc must be submitted with the Construction Certificate Application.

99. **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.

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

demolition and construction work.

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

101. **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. (e.g. 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.

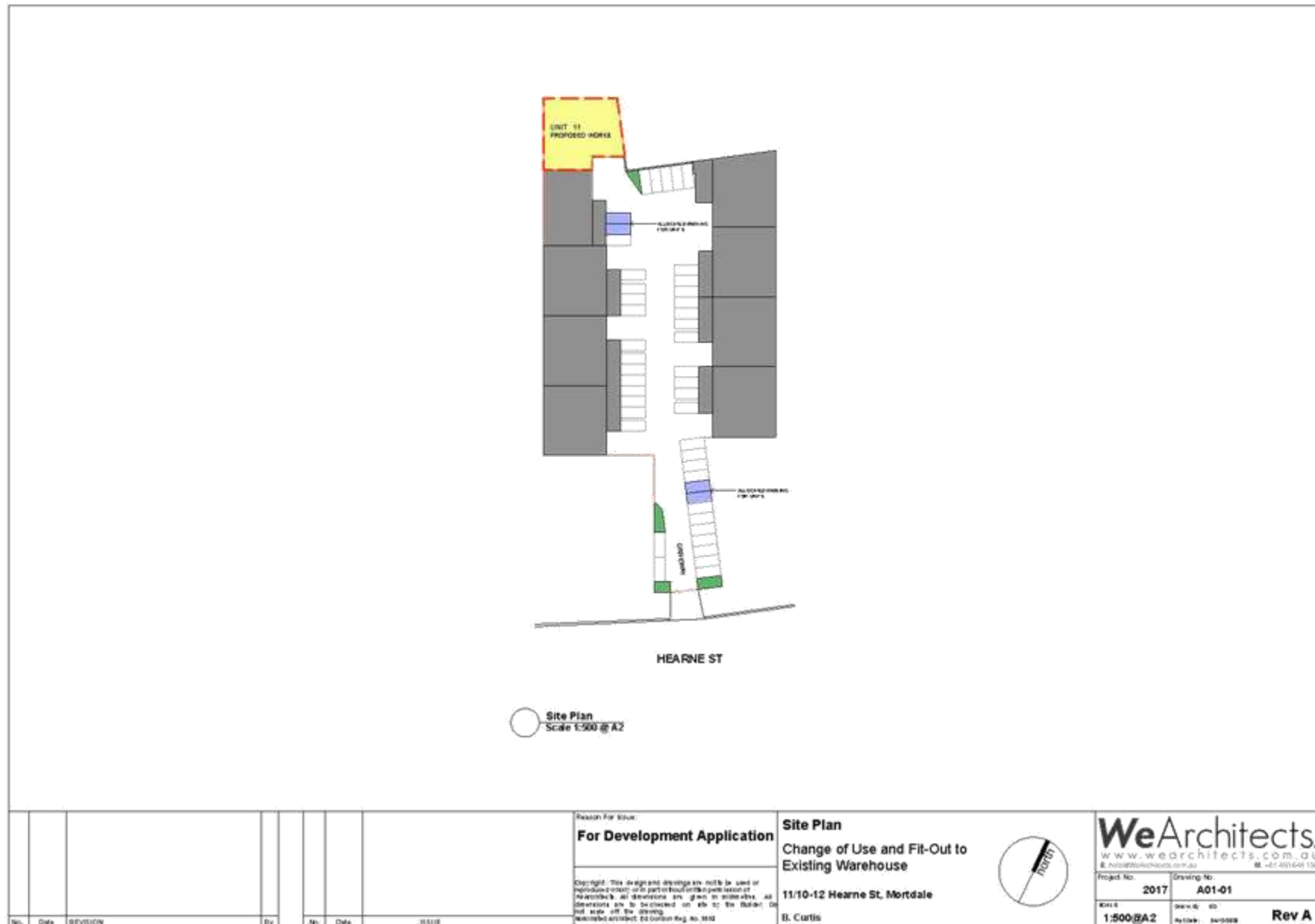
The developer must meet all costs of the extension, relocation or reconstruction of any part of Council's drainage system (including design drawings and easements) required to carry out the approved development.

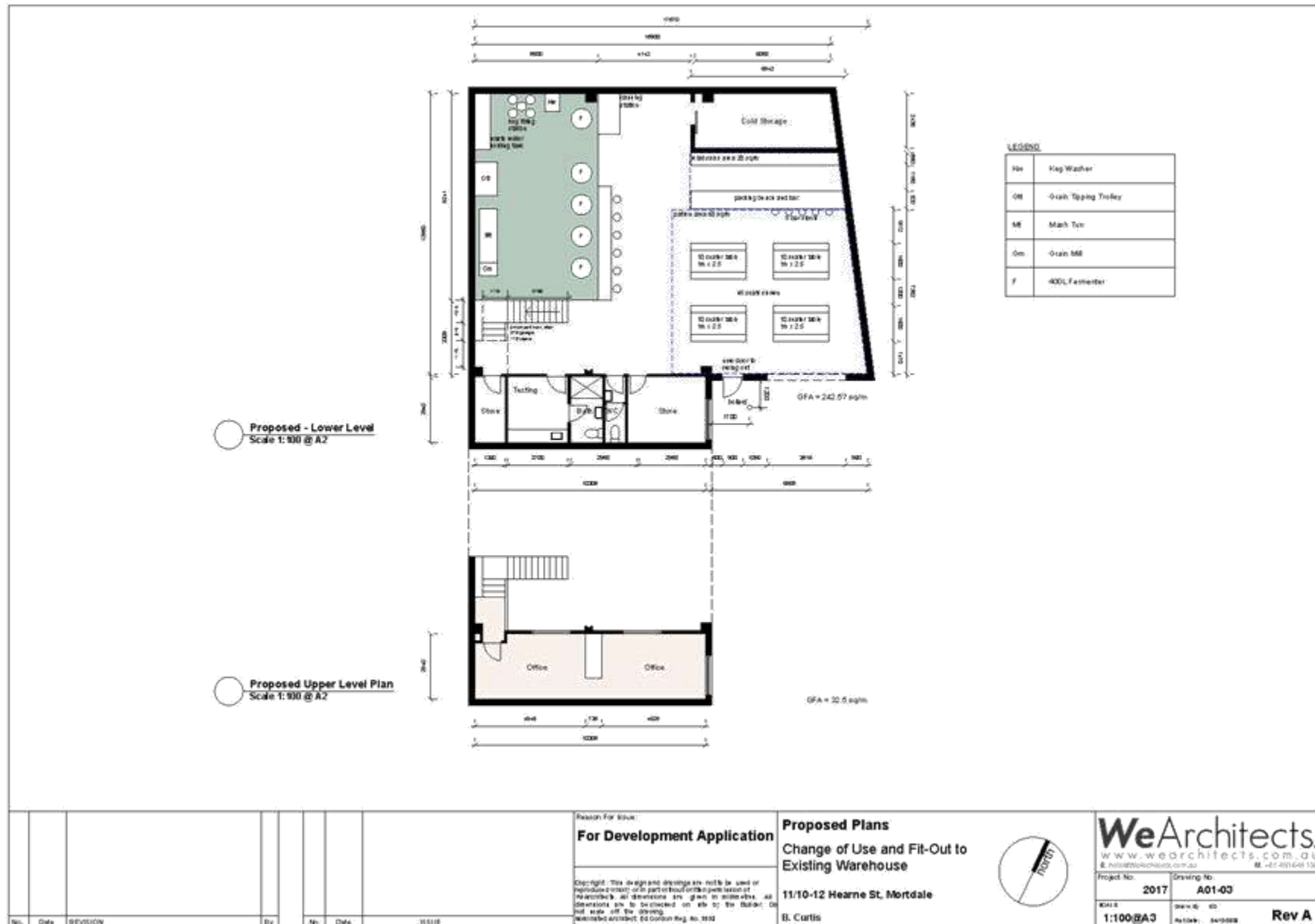
The preparation of all engineering drawings (site layout plans, cross sections, longitudinal sections, elevation views together with a hydraulic grade analysis) and specifications for the new stormwater drainage system to be arranged by the applicant. The design plans must be lodged and approved by Council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

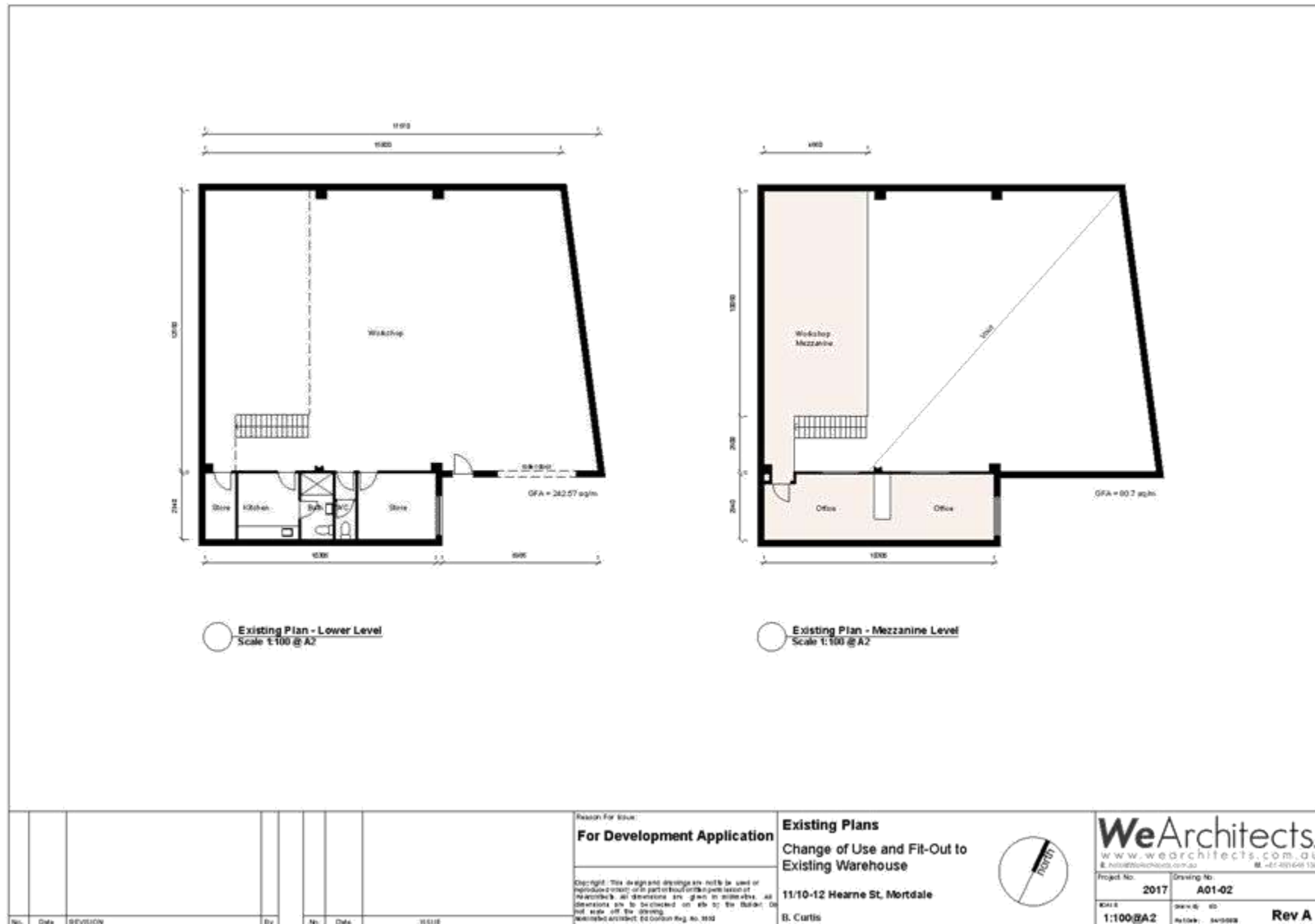
NOTE: A minimum of four weeks should be allowed for assessment.

ATTACHMENTS

Attachment [↓](#) 1  Architectural Plans - 10-12 Hearne St Mortdale







REPORT TO GEORGES RIVER COUNCIL

LPP MEETING OF THURSDAY, 07 OCTOBER 2021

LPP056-21

LPP Report No	LPP056-21	Development Application No	DA2020/0192
Site Address & Ward Locality	68 Morshead Drive Connells Point Blakehurst Ward		
Proposed Development	Demolition of existing structures, construction of a dual occupancy with basement parking, associated swimming pools, driveways, retaining walls, drainage, landscaping and tree removal, and subdivision		
Owners	Mr and Mrs B and M Salhab		
Applicant	GAT and Associates		
Planner/Architect	Planner - GAT and Associates, Architect - AUSDAC		
Date Of Lodgement	18/05/2020		
Submissions	Four (4) submissions		
Cost of Works	\$1,078,793.00		
Local Planning Panel Criteria	The proposal has been referred to the Georges River Local Planning Panel (LPP) in accordance with the General Manager Delegation due to public interest		
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 (Coastal Management) 2018 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment, State Environmental Planning Policy No.55 – Remediation of Land, State Environmental Planning Policy (Infrastructure) 2007, Draft Environmental State Environmental Planning Policy, Draft State Environmental Planning Policy – Remediation of Land, Draft Design and Places SEPP Kogarah Local Environmental Plan 2012, Kogarah Development Control Plan 2013, Draft Georges River Local Environmental Plan 2020.		
List all documents submitted with this report for the Panel's consideration	Architectural Plans, Landscape Plan, Stormwater Plans Statement of Environmental Effects, Traffic Report, Arborist Report and Submissions		
Report prepared by	Senior Development Assessment		

Recommendation	That the application be refused in accordance with the reasons 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	Yes

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?	
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Not Applicable
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	Not Applicable
Conditions Have draft conditions been provided to the applicant for comment?	No, the application is recommended for refusal and the applicant may review the reasons published on the agenda

Site Plan



Aerial Photo – site outlined in blue

Executive Summary Proposal

1. Council is in receipt of a development application (DA/2020/0192) for demolition of existing structures, construction of a dual occupancy with basement parking, associated swimming pools, driveways, retaining walls, drainage, landscaping and tree removal, and subdivision into two lots at 68 Morshead Drive Connells Point.

Site and Locality

2. The site is legally described as legally described as Lot 8 in DP 236988 and is known as 68 Morshead Drive, Connells Point.
3. The site is generally rectangular in shape with an irregular splay at the rear and has an area of 980.10sqm with a 17.26m frontage.
4. The site is currently occupied by an existing one and two storey dwelling with associated structures, driveway, landscaping and a number of mature trees. Existing vehicular access is available from Morshead Drive.
5. The site has a significant slope of approximately 17.5% towards the street from rear (east) to front (west) with a steeply sloping landscaped embankment and rocky outcrops facing the street.
6. Adjoining the site to the north and south are two storey dwellings with steeply sloping driveway, landscaping, rock outcrops and mature trees facing the street. Adjoining the site to the rear (east) are one and two storey dwellings. A public reserve is located opposite the site on the western side of Morshead Drive.

Zoning and Permissibility

7. The subject site is zoned R2 Low Density Residential under the provisions of Kogarah Local Environmental Plan 2012 (KLEP 2012). The proposal involves the construction of a dual occupancy which is a permissible use in the zone with development consent.
8. The proposed development complies with the relevant development standards in Kogarah LEP 2012. However, variations are sought to the permitted retaining wall heights under Kogarah DCP 2013, which is addressed in this report.
9. Whilst the overall siting of the building complies with Council's controls, the design of the development is not considered to be a suitable response to the constraints of the sloping site and vegetated rocky outcrops, which results in adverse streetscape impacts. This is due to excessive excavation and physical bulk and scale of the proposed retaining walls, and extent of driveway and hardstand area with lack of landscaping as viewed from the street. In addition, the gradient of the driveway results in unacceptable access and tandem parking arrangements.

Submissions

10. The DA was publicly notified to neighbours for a period of fourteen (14) days in accordance with the Kogarah Development Control Plan 2013 (KDCP 2013). Four (4) submissions were received raising concerns with tree loss, excavation, privacy, overshadowing, bulk and scale, height, setbacks and character of the area. These are discussed in greater detail in the body of this report.
11. Final amended plans and documents were submitted to Council on 1 April 2021 following requests by council to address issues including bulk and scale, access, parking, stormwater design, landscape design and tree removal. The amended plans were re-notified in accordance with Council's policy and no further submissions were received.

Reason for referral to the Local Planning Panel

12. This application is referred to the Georges River Local Planning Panel for consideration and determination in accordance with the General Manager's Instrument of Delegation where it is considered in the public interest for DA to be determined by the Panel.

Conclusion

13. 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 (DA2020/0192) is recommended for refusal for the reasons referenced at the end of this report.

Report in Full

Description of Proposal

14. Council is in receipt of a development application (DA/2020/0192) for demolition of existing structures, construction of a dual occupancy with basement parking, associated swimming pools, driveways, retaining walls, drainage, landscaping and tree removal, and subdivision into two lots at 68 Morshead Drive Connells Point.

15. Each dwelling contains:

- Basement level – Access entry, single car space, internal stairs, storage, lift, waste storage area below front entry stairs.
- Ground level – Front porch and balcony, entry, internal stairs, living, study, bathroom, laundry, family room, kitchen, rear alfresco, swimming pool.
- First floor – retreat room, four (4) bedrooms master with ensuite and walk in robe, one (1) bathroom and front and balcony.
- Separate 3m wide driveway with a shared vehicular crossing.
- 1m high front masonry fence.
- Retaining walls up to 2.9m high.
- Associated tree removal, retention of landscaping, drainage and site works.

16. Extracts of the proposed plans are provided below.

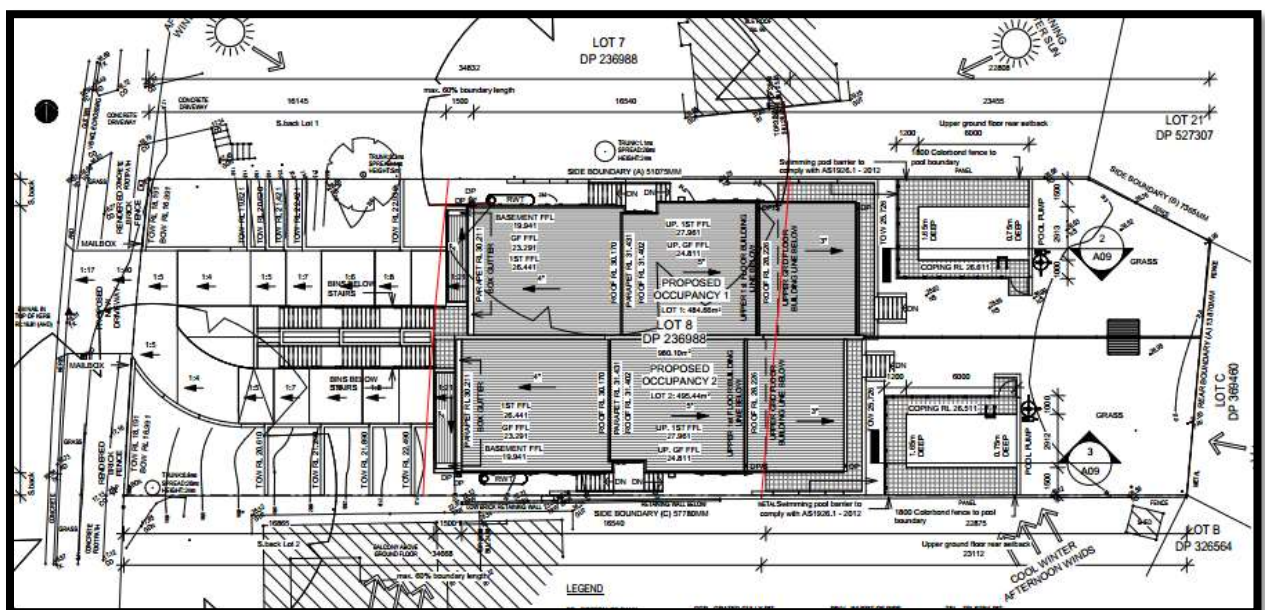


Figure 1: Site Plan at 68 Morshead Drive Connells Point (Source – AUSDAC)



Figure 2: West (front) Elevation at 68 Morshead Drive Connells Point (Source – AUSDAC)

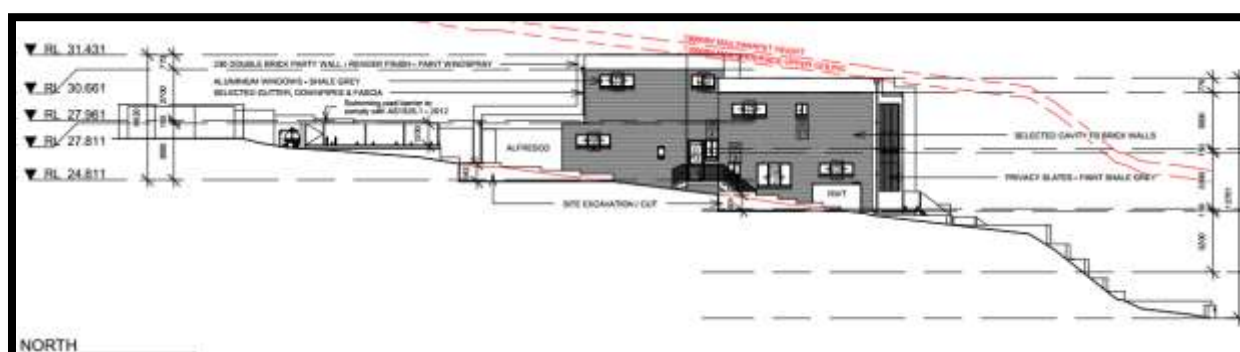


Figure 3: North (side) Elevation at 68 Morshead Drive Connells Point (Source – AUSDAC)



Figure 4: South (side) Elevation at 68 Morshead Drive Connells Point (Source – AUSDAC)



Figure 5: East (rear) Elevation at 68 Morshead Drive Connells Point (Source – AUSDAC)

The Site and Locality

17. The site is legally described as legally described as Lot 8 in DP 236988 and is known as 68 Morshead Drive, Connells Point.
18. The site is generally rectangular in shape with an irregular splay at the rear and has an area of 980.10sqm with a 17.26m frontage.
19. The site is currently occupied by an existing one and two storey dwelling with associated structures, driveway, landscaping and a number of mature trees. Existing vehicular access is available from Morshead Drive.
20. The site has a significant slope of approximately 17.5% towards the street from rear (east) to front (west) with a steeply sloping landscaped embankment and rocky outcrops facing the street.
21. Adjoining the site to the north and south are two storey dwellings with steeply sloping driveway, landscaping, rock outcrops and mature trees facing the street. Adjoining the site to the rear (east) are one and two storey dwellings. A public reserve is located opposite the site on the western side of Morshead Drive.
22. An aerial photo and views of the subject site and surrounds are provided below.



Figure 6: Aerial view of the subject site outlined in blue



Figure 7: Subject site as viewed from the street

Background

Application History

23. On 4 September 2020, 16 December 2020, 19 January 2021 and 3 March 2021, Council wrote to the applicant requesting additional information in relation to bulk and scale, driveway gradient, stormwater and tree impacts.

24. On 1 April 2021, the applicant submitted amended architectural plans and stormwater plans, to accompany the traffic report and arborist report submitted in February 2021.

Compliance and Assessment

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

State Environmental Planning Policies (SEPPs)

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

Compliance with State Planning Policies

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

Deemed State Environmental Planning Policy – Georges River Catchment

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

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

28. A BASIX Certificate has been issued for the proposed development and the commitments required under the certificate have been satisfied.

State Environmental Planning Policy No 55 - Remediation of Land

29. 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.
30. 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.
31. A review of the site history indicates that the site has been used for residential purposes for extended periods of time, and such uses and/or development are not typically associated with activities that would result in the contamination of the site. The proposed works do not include any change to the use of the land that would result in any concerns with respect to contamination. There is no indication of previous uses that would cause contamination. In this regard there is no indication that the land is contaminated.

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

32. The Vegetation SEPP aims to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

33. 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).*
34. The Vegetation SEPP repeals clauses 5.9 and 5.9AA of the Standard Instrument - Principal Local Environmental Plan with regulation of the clearing of vegetation (including native vegetation) below the BOS threshold through any applicable DCP.
35. The proposal seeks to retain the following trees.

Tree Species	Location of Tree / Tree No.	Tree Protection Zone (metres) TPZ as per AS4970 - 2009 Fencing distance from trunk
T1 – <i>Angophora costata</i>	Within the site, lower front of site	11.4 metres radially out from its trunk
T2 – <i>Cupressus glabra</i>	Within neighbours site, 70 Morshead, front	2.0 metres radially out from its trunk
T3 – <i>Camellia sasanqua</i>	Within neighbours site, 70 Morshead, front	2.0 metres radially out from its trunk
T9 – <i>Callistemon viminalis</i>	Within neighbours site, 66 Morshead, front	2.5 metres radially out from its trunk
T11 – <i>Eucalyptus pilularis</i>	Within neighbours site, 66 Morshead, front	15.0 metres radially out from its trunk
Trees not assessed within arborist reports are below and must be protected		
<i>Corymbia maculata</i>	Within neighbours site, 66 Morshead, front side of fence	3.5 metres radially out from its trunk
<i>Eucalyptus Spp</i>	Within neighbours site, 66 Morshead, front side of stairs	2.5 metres radially out from its trunk
<i>Strelitzia nicolai</i>	Within neighbours site, 66 Morshead, front side boundary	3.0 metres

36. Council's Consultant Arborist has reviewed the proposal and requires a condition for the deletion of the retaining wall in front of Tree 1 and no ground level changes within the Tree Protection Zone (TPZ).
37. However, the proposed location of the driveway and ground levels changes associated with the proposed stormwater design are within the TPZ of Tree 1 and, as such, the proposal conflicts with the requirements of Council's Arborist to ensure no adverse impacts to the existing tree to be retained.
38. Given the above, the proposal is not considered to satisfy the provisions of the SEPP

State Environmental Planning Policy (Coastal Management) 2018

39. 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”*.
40. A small portion of the front of the site has been identified as being located within the Coastal zone, Coastal Environment area, the Coastal Use Area and also the proximity area for coastal wetlands as per NSW State Environmental Planning Policy (Coastal Management) 2018 - Maps.

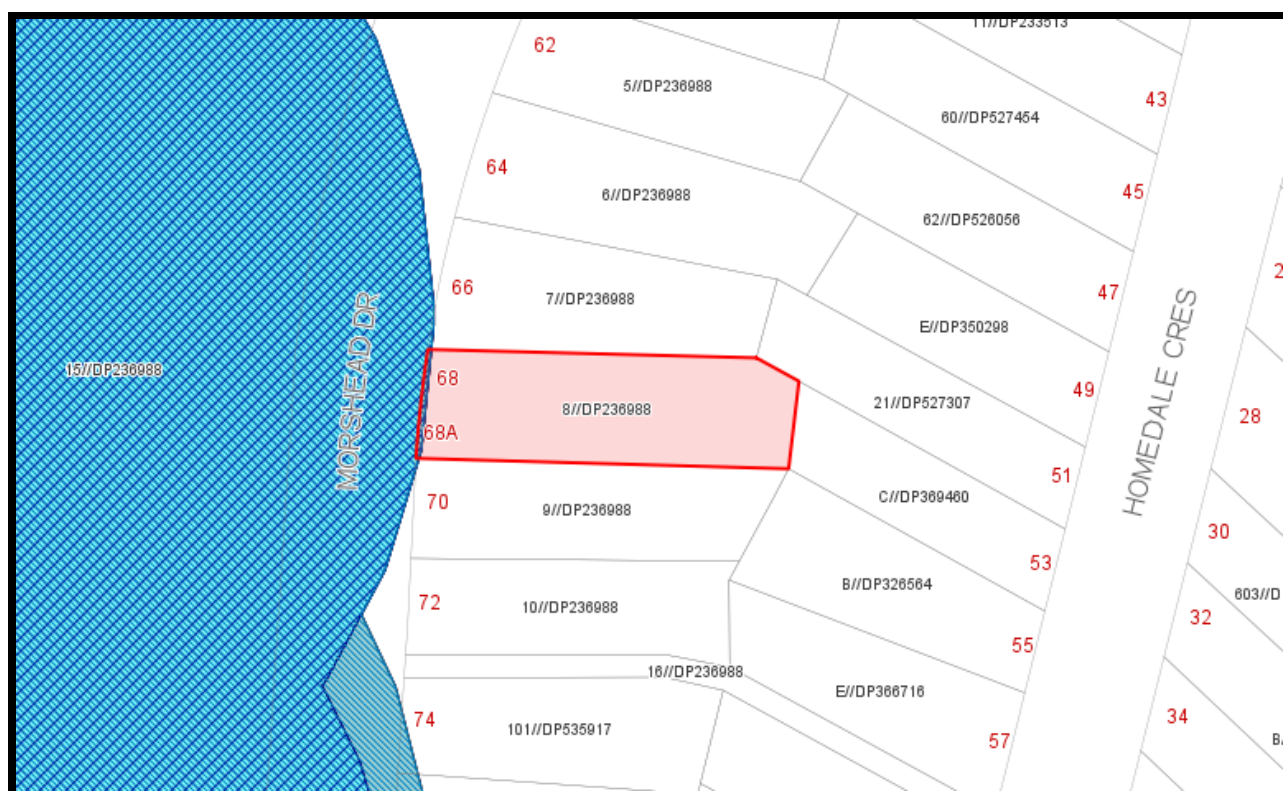


Figure 8: SEPP (Coastal Management) land map (Source Intramaps 2021)

41. 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 1 Coastal Wetlands and littoral rainforests area	
Clause 11 Development on land in proximity to coastal wetlands or littoral rainforest	
<p>(1) Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the <i>Coastal Wetlands and Littoral Rainforests Area Map</i> unless the consent authority is satisfied that the proposed development will not significantly impact on—</p> <p>(a) the biophysical, hydrological or ecological integrity of the adjacent</p>	Generally acceptable

coastal wetland or littoral rainforest, or (b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.	Generally acceptable
Division 3 Coastal Environment Area	
13 Development on land within the coastal environment area	
Control	Comment and compliance
(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, (b) coastal environmental values and natural coastal processes, (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, (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms, (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, (f) Aboriginal cultural heritage, practices and places, (g) the use of the surf zone.	Satisfies; the proposed will have minimal impacts on the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment. Satisfies; the proposed development will have minimal impacts on the coastal environmental values and natural coastal processes. Satisfies; the proposed development does not adjoin the waterway, and it is not expected the proposed development will adversely impact the water quality. Satisfies; the development will have minimal impacts on marine and native vegetation. Satisfies; the proposed development does not adjoin the waterway. It is not expected the proposed development will adversely impact foreshore open space. Satisfies; The works are respectful of the cultural heritage, practices and places. Satisfies; Works are not located within the surf zone.
(2) Development consent must not be	

<p>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 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>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 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>

(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or	Satisfies; development will have minimal impact on the coastal zone and its processes.
(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or	Satisfies; development will have minimal impacts on the coastal zone and its processes.
(iii) if that impact cannot be minimised - the development will be managed to mitigate that impact, and	Satisfies, impacts are minimal.
(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.	The application has considered the surrounding coastal area. The proposed development is of a built form that is not acceptable from a planning perspective although unlikely to affect the surrounding coastal area with regards to bulk and scale.
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 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	Satisfies.

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

Draft State Environmental Planning Policies

Draft Environment SEPP

43. 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.

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

Draft Remediation of Land SEPP

45. 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.*

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

Draft Design and Place SEPP

47. 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.

Environmental Planning Instruments

Kogarah Local Environmental Plan 2012 (KLEP 2012)

Zoning

48. The subject site is zoned Zone R2 Low Density Residential under the provisions of the Kogarah Local Environmental Plan 2012 (KLEP2012). Refer to zoning map below. The proposed development is defined as a dual occupancy which is a permissible land use in the zone.



Figure 9 - Zoning map – site outlined in blue

49. The objectives of the zone are as follows:
- *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.*
50. The proposal satisfies the objectives of the R2 Zone as it will continue to provide housing for the needs of the community.
51. The extent to which the proposal complies with the relevant standards of Kogarah Local Environmental Plan 2012 (KLEP2012) is outlined in the table below.

Kogarah Local Environmental Plan 2012 Compliance Table

Clause	Standard	Proposed	Complies
Part 1 – Preliminary			
1.2 – Aims of the Plan	In accordance with Clause 1.2 (2)	The development is considered to be consistent with the aims of the plan.	Yes
1.4 - Definitions	<i>dual occupancy (detached) means 2 detached dwellings on one lot of land, but does not include a secondary dwelling.</i>	The proposed development is consistent with the definition.	Yes
Part 2 - Permitted or prohibited development			
2.3 - Zone	Meets objectives of R2-	The proposal is	Yes

objectives and Land Use Table	Low Density Residential Zone. Development must be permissible with consent	permissible with development consent.	
Part 4 - Principal Development Standards			
4.1B – Minimum lot size for dual occupancies	(2) Despite clause 4.1, development consent must not be granted for the erection of a dual occupancy on a lot unless— (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 (b) in relation to a dual occupancy (detached)—the lot has at least 2 road frontages and each dwelling has a frontage to a road.	980.1sqm Proposal is attached	Yes N/A
4.1C – Minimum subdivision lot size for dual occupancies	(2) Despite clauses 4.1 and 4.1B, development consent may be granted for the subdivision of land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential, but only if— (a) there is a dual occupancy on the land that was lawfully erected, and (b) the lot size for each resulting lot will be at least 300 square metres	Dual occupancy will be constructed prior to subdivision Proposed lots are 484sqm and 495sqm respectively	Yes Yes
4.3 – Height of Buildings	9m as identified on Height of Buildings Map	The proposal has a maximum overall height of 7.8m.	Yes
4.4 – Floor Space Ratio	0.55:1 as identified on Floor Space Ratio Map	Despite clause 4.4 (2), the floor space ratio for residential accommodation on land in Zone R2 Low Density Residential, Clause 4.4A applies.	Refer to Clause 4.4A
4.4A – Exceptions to	2) Despite clause 4.4 (2), the floor space ratio for	The proposed development has a	Yes

<p>floor space ratio for residential accommodation in Zone R2</p>	<p>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.</p> <p>Site area</p> <ul style="list-style-type: none"> less than 1000sqm but not less than 800sqm $[(\text{lot area} - 800) \times 0.2 + 402.5] \div \text{lot area}:1$ <p>Site area: 980.1sqm</p> <p>0.447:1 or 438.1sqm</p>	<p>total gross floor area of 437.2sqm or FSR of 0.446:1</p>	
Part 6 - Additional Local Provisions			
<p>6.2 – Earthworks</p>	<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> <p>(3) Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—</p> <p>(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</p> <p>(b) the effect of the development on the likely future use or</p>	<p>The proposed earthworks are ancillary to the proposed development.</p> <p>However, the extent of the proposed cut and fill within the front setback to remove the existing landscaped embankment and rocky outcrop is considered to result in adverse impacts to the streetscape, and the existing tree to be retained, as well as likely adverse visual bulk amenity impacts to neighbouring</p>	<p>No</p>

	redevelopment of the land, (c) the quality of the fill or the soil to be excavated, or both, (d) the effect of the development on the existing and likely amenity of adjoining properties, (e) the source of any fill material and the destination of any excavated material, (f) the likelihood of disturbing relics, (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area, (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.	properties due to proposed retaining walls up to 2.9m high.	
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Draft Georges River Local Environmental Plan 2020

52. 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.
53. Consideration is given to the provisions of Draft Georges River Local Environmental Plan 2020 in the assessment this application.
54. In this regard, the provisions have no determining weight as a result of proposed operation of Clause *“1.8A Savings provisions relating to development applications”* of the Draft Plan which provides *“If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.”*

Development Control Plans

KOGARAH DEVELOPMENT CONTROL PLAN NO 2013 (KDCP)

55. The following compliance table is an assessment of the proposal against the Chapter C1 controls.

Control	Standard	Proposed	Complies
1.2 Building Scale and Height			
1.2.1 Floor Space Requirements	(3) Notwithstanding compliance with the numerical	This proposal complies with the KLEP 2012 floor space control as	No

	<p>requirements in Table 1, applicants must demonstrate that the bulk and relative mass of the proposed development is acceptable in the street and on adjoining dwellings, in terms of the following impacts:</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; <p>the size and shape of the allotment; and topography of the site.</p>	<p>previously stated within this report.</p> <p>However, the proposal is not an appropriate response to the constraints of the sloping site and existing rocky outcrop and mature trees. It does not result in appropriate visual scale and massing as viewed from the street due to the proposed extent of cut and fill, retaining walls and hardstand and driveway area and likely impacts to the mature tree to be retained.</p>	
	<p>(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.</p>	<p>The proposed development is sufficiently articulated.</p>	Yes
	<p>(6) The overall building should present a building mass that is in proportion with the allotment size, provides opportunities for modulation and articulation of the building and does not detract from the satisfaction of any other applicable design principle.</p>	<p>The proposed building mass is not suitable for the site and the locality as discussed above.</p>	No
	<p>(7) Where proposed development includes a two (2) residential level element, then the second level should</p>	<p>34.73m (57.79%)</p>	Yes

	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.		
1.2.2 Building Heights	<p>(1) The maximum building height must comply with the requirements specified in table below:</p> <p>Semi detached dwellings: 7.8m to the top of the parapet</p> <p>7.2m maximum ceiling</p> <p>(2) The maximum number of residential levels is two (2), except where the site has a slope exceeding 1:8 (12.5%), where the maximum number of residential levels is three (3).</p> <p>(3) Regardless of the number of levels, the maximum height of the building must be consistent with the maximum height requirements.</p>	<p>7.8m (flat roof)</p> <p>7.2m</p> <p>The site slopes greater than 12.5% and therefore presents as three storeys at the front and tapers to two storeys at the rear.</p> <p>Complies</p>	<p>Yes</p> <p>Yes</p> <p>No</p> <p>Yes</p>
	(4) 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.	Basements do not have a wall height of more than 1m.	Yes
1.2.3 Rhythm of the Built	(1) The primary building façade should	Less than 40% for each dwelling.	Yes

Elements in the Streetscape	<p>not exceed 40% of the overall width of the total frontage.</p> <p>(2) The secondary building façade should be set back a minimum of 1.5 metres from the primary building façade.</p> <p>(3) 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>1.5m (garage recess) from front building alignment.</p> <p>The proposed roof forms are considered to be consistent with residential development within the surrounding area which is undergoing transitional urban change from established dwellings to new contemporary infill residential housing.</p>	<p>Yes</p> <p>Yes</p>
1.2.4.2 Front Setbacks	<p>(1) Where the setback of an adjacent building is greater than 5m, an appropriate setback may be achieved by ensuring development is setback:</p> <p>The same distance as one or the other of the adjoining buildings, provided the difference between the setbacks of the two adjoining buildings is less than or equal to 2.0m</p>	<p>The proposal adopts a front setback ranges from 16.14m – 16.86m.</p>	<p>Yes</p>
1.2.4.3 Side and Rear Setbacks	<p>Single dwelling, dual occupancy development and Secondary dwellings (attached to primary dwelling)</p> <p><u>Rear Setback</u> Buildings are to have a minimum rear setback of 15% (8.88m) of the average site length, or</p>	<p>The proposal seeks a rear setback of 18.8m</p>	<p>Yes</p>

	<p>6m, whichever is greater. Note: lot depth from centreline = 59.23m</p> <p><u>Side Setback</u> For buildings having a wall height of 3.5m or less, the minimum side boundary setback is 900mm.</p> <p>For buildings having a wall height of greater than 3.5m, the minimum side boundary setback is 1200mm.</p>	<p>900mm (northern and southern elevations).</p> <p>Minimum 1.212m side setbacks proposed to northern and southern side boundaries for wall heights over 3.5m (northern and southern elevations).</p>	<p>Yes</p> <p>Yes</p>
1.2.5 Fenestration and External Materials	<p>(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.</p> <p>(2) Garage doors should not dominate the street front elevation (Figure 16).</p> <p>(3) The roof should be similar to the angle of pitch, materials and colour of roofs in the streetscape (Figure 14).</p> <p>(4) The colours of garages, window frames, and balustrading on main</p>	<p>Materials and finishes are considered to be consistent with the broader streetscape.</p> <p>Garage doors do not dominate the street front elevation as they have been integrated behind the façade of each dwelling.</p> <p>Materials and finished proposed are consistent with roofs in the broader streetscape and are commensurate with that of contemporary infill housing.</p> <p>A materials and colours schedule has been submitted with the proposal which</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

	<p>facades and elevations are to be integrated with the external design of the building.</p> <p>(5) Glazing shall be limited to a maximum 35% of the total area of the overall street front façade. This includes both primary and secondary façade bays (Figure 15).</p> <p>(6) Where garaging is in the front façade it should be limited to a maximum of two garage bays, with separate garage door openings of a maximum width of 3 metres.</p>	<p>demonstrates that the colours are consistent with the modern contemporary built form.</p> <p>Less than 33% glazing proposed along the total front façade which spans over two levels. This also factors in balustrading on the balconies forward of the windows when viewed from the street.</p> <p>3m proposed for each single garage door.</p>	<p>Yes</p> <p>Yes</p>
1.3 Open Space	<p>(1) 15% of the site area must be deep soil landscaped area. Site: 980.10sqm (147.01sqm min)</p> <p>(2) 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>(3) Development should take advantage of opportunities to provide north facing private open space to achieve comfortable year-round use.</p> <p>(5) Existing significant trees and vegetation</p>	<p>(316.47sqm) 32.29% of site area: Proposed deep soil area within the front and rear setbacks allows for appropriate landscaping to be provided on site.</p> <p>The principal private open spaces are located within the rear setbacks and are directly accessible from the key habitable rooms.</p> <p>The proposed private open spaces are located to the rear of each dwelling which receives a north-eastern aspect which is considered to be acceptable.</p> <p>The proposed ground level changes and</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>No</p>

	must be incorporated into proposed landscape treatment.	retaining wall within the TPZ of Tree 1 are not supported and likely to result in adverse tree impacts.	
1.4 Vehicular access parking and circulation	(1) Car parking is to be provided in accordance with the requirements in Section B4.	The proposal is not satisfactory having regard to Section B4. Council's Engineer has reviewed the proposal and does not support the proposed driveway gradient and access arrangements given non-compliance with AS2890.1.	No
	(4) Crossings are to be positioned so that on-street parking and landscaping on the site are maximised, and removal or damage to existing street trees is avoided.	The proposed driveway is located within the TPZ of Tree 1 to be retained and is likely to result in adverse impacts.	No
	(5) Garaging should be setback behind the primary façade.	Garaging is behind the ground floor balcony overhang above.	Yes
	(6) The maximum driveway width between the street boundary and the primary building façade is 4m.	5.82m proposed as a shared driveway.	No
	(12) Car parking layout and vehicular access requirements and design are to be in accordance with the Australian Standards, in particular AS 2890.1-2004.	The gradient of the driveway exceeds 1:16, which is required for the wheel to stop for a tandem space in front of the garage.	No
	(13) Dual occupancy development must have only one single fronted garage per dwelling. Where garaging is required for 2 cars, this must be	Single fronted garages to Moreshead Drive.	Yes

	tandem parking.		
1.5 Privacy			
1.5.1 Visual Privacy	(1) Windows from active rooms are to be offset between adjacent dwellings so as to avoid direct overlooking onto neighbouring windows.	Windows are suitable located (complying setbacks and some first floor windows are screened) and limited in number to neighbours.	Yes
	(2) Where terraces and balconies are proposed and are elevated more than 1.5m above ground level (finished) and are located behind the street front façade, they are restricted to a maximum width of 2.5m and must be setback a minimum 3m from any adjoining property boundary.	Balconies on the first floor and ground floor are elevated above 1.5m and have a width of 5.694m (max). The first floor balconies are set back 1.212m from the northern and southern property boundaries.	No
	(3) The area of balconies or terraces greater than 1.5m above ground level is limited to a cumulative total of 40sqm per dwelling.	Dwelling A: 14.06sqm Dwelling B: 14.76sqm	Yes
	(5) For active rooms or balconies on an upper level, the design should incorporate placement of room windows or screening devices to only allow oblique views to adjoining properties.	No loss of privacy will result from the proposal given that privacy treatments are proposed along the northern and southern side elevations of the ground floor and first floor front balconies which minimise impacts to adjoining properties.	Yes
1.6 Solar Access			
	(1) At least 50% of the primary private open space of the proposed development should have access to a minimum of four hours	The proposed private open space will receive the minimum 4 hours sunlight between 9am–3pm on 21 June.	Yes

	<p>of sunlight between 9am–3pm on 21 June.</p> <p>(3) Where the neighbouring properties are affected by overshadowing, at least 50% of the neighbouring existing primary private open space or windows to main living areas must receive a minimum of 3 hours sunlight between 9am–3pm on 21 June (Figure 21).</p>	<p>The proposal will result in overshadowing of the main living area window of the adjoining property to the south, but this is considered to be unavoidable due to site orientation.</p>	No
1.7 Views and view sharing			
	<p>(1) Development shall provide for the reasonable sharing of views. Note: Assessment of applications will refer to the Planning Principle established by the Land and Environment Court in Tenacity Consulting vs Warringah Council (2004) NSWLEC140</p>	<p>The proposed development is not expected to impact any adjoining properties or public space access to view corridors.</p>	Yes
4.2 Fences and Walls			
4.2.1 Front Fences	<p>(2) Fences over 1.4m must be setback 1.2m from the street alignment, except where Council considers a lesser distance is warranted due to the siting of the existing residence, levels or width of the allotment or exceptional circumstances of the site.</p>	1.2m.	Yes
4.2.1 Dual Occupancies	<p>Minimum frontage: 18m</p>	<p>The frontage is 17.26m, but this is in line with the Interim DCP.</p>	<p>No, refer to comments following this table in relation to minimum site width control as per</p>

	<p>Minimum site area: 850sqm</p> <p>(6) Access to garaging and additional parking spaces for dual occupancy dwellings should not result in large expanses of paved surfaces to the front of the building.</p> <p>(9) Attached dual occupancies should not have central garages or driveways (examples of these are shown under unacceptable designs).</p>	<p>980.1sqm</p> <p>The proposal results in large expanses of paved surface in front of the building as viewed from the street with terraced retaining walls up to 2.9m high adjacent to the proposed driveways within the front setback and overall 9.7m width of the centrally located driveways and main access stairs</p>	<p>the Georges River Development Control Plan 2020 (Interim Policy).</p> <p>Yes</p> <p>No</p>
4.2.3 Retaining walls	<p>(3) A retaining wall that is visible from the street or public area must:</p> <p>(i) be constructed to a height no greater than 1.0m, and</p> <p>(ii) be designed so that there is a minimum setback of 1.0m between retaining walls and landscaping is provided in the setback areas, and</p> <p>(iii) be constructed of materials that do not detract from the streetscape.</p>	<p>The proposed retaining walls are up to 2.9m in height and result in adverse streetscape impacts</p>	No
Swimming Pools, spas and enclosures			
4.6.1 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</p>	<p>Swimming pool located within rear setback behind the dwellings.</p> <p>1.5m from northern and southern side</p>	<p>Yes</p> <p>Yes</p>

	<p>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>(5) Provided one point on the swimming pool or one side of the swimming pool is at or below existing ground level, then one other point or one other side may be up to 500mm above existing ground level.</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 development consent.</p> <p>(7) On steeply sloping sites, Council may consider allowing the</p>	<p>boundaries.</p> <p>The swimming pools for the most part are within the existing ground levels.</p> <p>The swimming pools for the most part are within the existing ground levels.</p> <p>600mm above existing ground level at low side.</p> <p>600mm above existing ground level at low side.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
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	<p>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 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>(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.</p>	<p>No filling proposed between properties boundaries adjoining the swimming pool.</p>	<p>Yes</p>
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Georges River Development Control Plan 2020

56. The Georges River Development control Plan was made by the Georges River Local Planning Panel on 24 March 2021.
57. This does not come into effect until the Georges River Local Environmental Plan is gazetted.

Interim Policy – Georges River Development Control Plan 2020

58. Council at its Environment and Planning Committee Meeting dated 11 June 2019 resolved to adopt the Georges River Interim Policy DCP.
59. The Interim Policy is a public policy that is to be used as a guide to set a consistent approach for the assessment of residential development within the LGA. It is a supplementary document, meaning that current DCP controls will prevail if they are considered best practice. The Interim Policy has no statutory recognition in the assessment of DAs pursuant to the Environmental Planning and Assessment Act 1979 (EP&A Act).

60. An assessment of the proposal has been carried out against the provisions of the Interim Policy as set out in the following table.

Section	Interim Policy Control	Proposal	Complies
Minimum Lot Size	Refer to KLEP 2012: 650sqm	980sqm	Yes
Frontage (attached)	15m	17.26m	Yes
Frontage (Detached)	Minimum site width is: a) 18m for a detached 'front (maximum 2 storeys) and back' (maximum single storey) dual occupancy with a dwelling at the rear with access to the street via an access handle or right of carriageway b) 22m for a detached dual occupancy in a 'side by side' configuration where both dwellings have direct street frontage	N/A	N/A
Parking	Each dwelling is to provide one (1) garage and one (1) driveway space (unless otherwise provided for in the building envelope).	A single garage is proposed for each dwelling with tandem space on driveway, but the gradient of the driveway exceeds that permitted for a car space	No
Building Setback (side)	Retain existing controls – refer to KDCP controls	Complies.	Refer to DCP table.
Basement/ Land Modification	Basements are permitted where Council's height controls are not exceeded, and it is demonstrated that there will be no adverse environmental impacts (e.g. affectation of watercourses and geological structure). • Basements for low grade sites (ie < 12.5% grade front to rear): c) Basements on land where the average grade is less than 12.5% are permitted only where they are not considered a storey (see definition below)	The gradient of the site is 17%. A semi basement parking level is proposed.	Yes

	<p>and the overall development presents as 2 storeys to the street.</p> <p>d) A basement is not considered a storey if it is: situated partly below the finished ground and the underside of the ceiling is not more than 1m above the natural ground at the external wall for a maximum of 12m in length, with the exception of the façade in which the garage door is located.</p>		
Solar Access	<p>Kogarah:</p> <p>Where the neighbouring properties are affected by overshadowing, at least 50% of the neighbouring existing primary private open space or windows to main living areas must receive a minimum of 3 hours sunlight between 9am–3pm on the winter solstice (21 June).</p>	At least 50% of the neighbouring existing primary private open space or windows to main living areas will receive a minimum of 3 hours sunlight between 9am–3pm on the winter solstice (21 June).	Yes

DEVELOPER CONTRIBUTIONS

61. The proposed development would require payment of developer contributions under Section 7.11 of the Environmental Planning and Assessment Act 1979. If the development consent is granted a condition outlining the required contributions will be imposed.

IMPACTS

Natural Environment

62. The proposed development is likely to adversely affect the natural environment given the proposed works within the TPZ of existing trees to be retained and removal of existing landscaped rocky outcrop.

Built Environment

63. The proposal includes extensive excavation with retaining walls up to 2.9m high, which is not considered reasonable design response in the context of the site and results in adverse streetscape impacts.

Social Impact

64. No adverse social impacts have been identified as part of the assessment. The proposed development, in principle, will continue 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

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

Suitability of the site

66. The site is zoned R2 – Low Density Residential. The proposal is a permissible form of development in this zone, but has not been designed to reflect the constraints of the sloping site and existing trees and features within the site.

SUBMISSIONS AND THE PUBLIC INTEREST

67. The application was neighbour notified in accordance with Kogarah DCP 2013 for a period of fourteen (14) days. Four (4) submissions were received. Amended plans were received in April 2021 which were re-notified. No further submissions were received. In summary the following issues and concerns were raised.

Issue	Comment
Loss of trees from the site	The proposal is likely to result in adverse impacts to the existing tree to be retained within the front setback
Not in keeping with character for the area	Dual occupancy is a permitted land use and is not considered out of character for the low density residential zoning of the land, but the design of the proposal is not considered to be an appropriate response to the constraints of the site and character of the area.
Excessive excavation, removal of rocky outcrop	The proposal is considered to result in adverse streetscape impacts due to the extent of excavation and removal of existing rocky outcrop
Overshadowing and privacy impacts	The proposal is not considered to result in any undue adverse overshadowing or privacy amenity impacts having regard to the orientation of the site and siting of adjacent dwellings.
Excessive bulk and scale and visual impacts	The proposed retaining walls and extent of hardstand is considered to result in adverse visual impacts
Unsatisfactory access and parking	Council's engineer has reviewed the proposal and does not support the proposed driveway gradient and tandem parking on driveway
Structural impacts due to excavation of rock	This matter could be the subject of a condition for a dilapidation report and structural and geotechnical report.

REFERRALS

Council Referrals

Development Engineer

68. The application was referred to Council's Development Engineers for comment. While no concerns were raised in relation to the proposed stormwater management, the proposed access and parking arrangements are not supported.

Consultant Arborist

69. Council's Consultant Arborist requires the deletion of the retaining wall and no ground level changes within the TPZ of Tree 1, which conflicts with the proposed design.

External Referrals

Ausgrid

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

CONCLUSION

71. The proposal has been assessed using the matters for consideration listed in Section 4.15 of the Environmental Planning and Assessment Act 1979. The proposed scale, bulk and height is not considered to be an acceptable planning and design outcome for this site and will result in adverse streetscape and amenity impacts.
72. The proposal has been assessed against the provisions of the Kogarah Local Environmental Plan 2012 and Kogarah Development Control Plan 2013 and is not considered to satisfactorily address the requirements of Clause 6.2 Earthworks under the LEP and the streetscape, parking and dual occupancy design controls under Section C1 of the DCP.

DETERMINATION AND STATEMENT OF REASONSStatement of Reasons

73. The reasons for this recommendation are:
- The proposed development fails to comply with the requirements of Clause 6.2 Earthworks under Kogarah Local Environmental Plan 2021.
 - The proposed access and parking arrangements fail to comply with the requirements of Kogarah DCP 2013 and will result in adverse traffic and parking impacts.
 - The proposed extent of excavation, retaining walls and hardstand within the front setback results in adverse bulk and scale and visual impacts as viewed from the streetscape.
 - The proposal fails to provide a suitable response to the constraints of the sloping site and will establish an unsatisfactory urban design outcome, and poor planning precedent in the area.

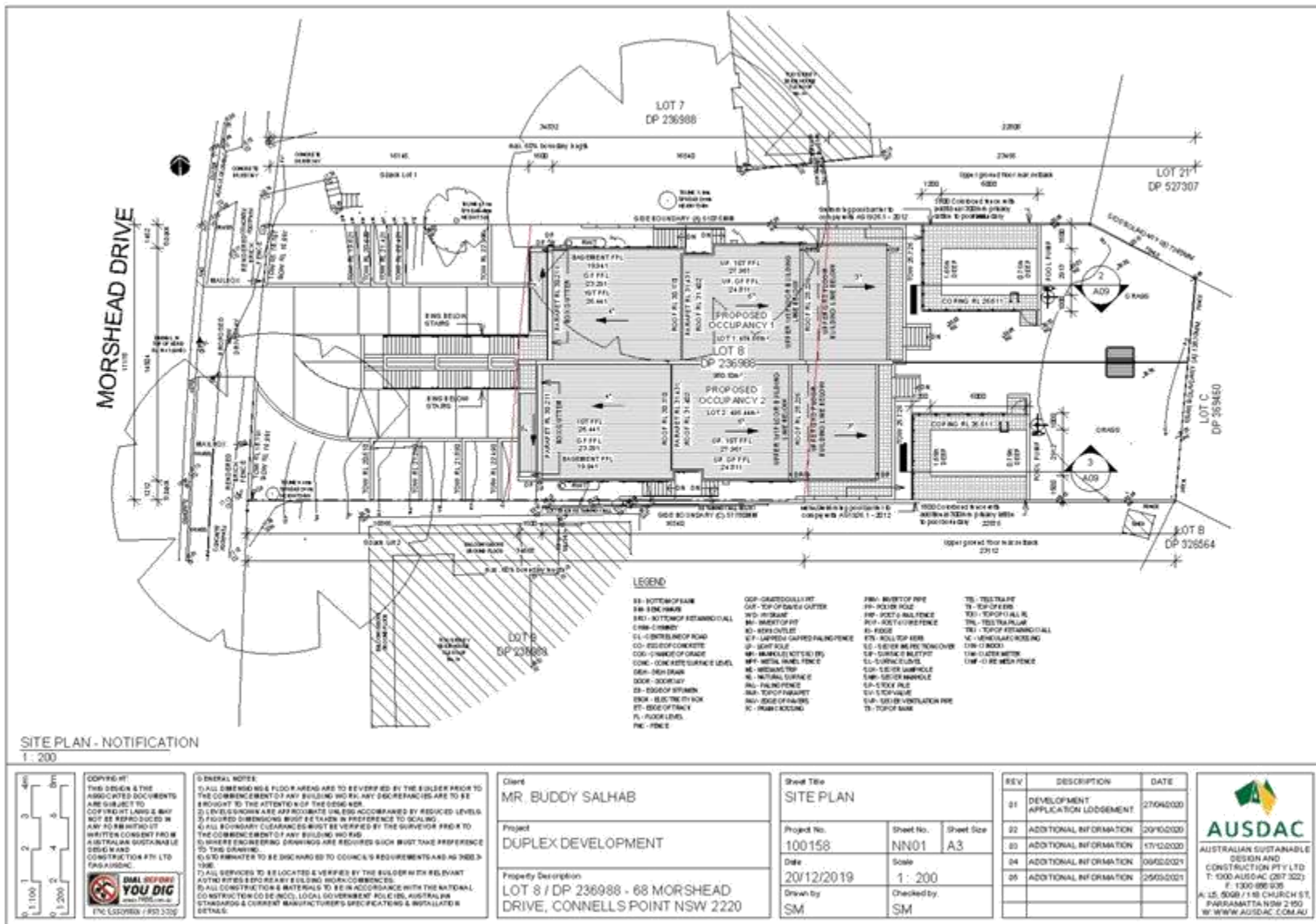
Determination

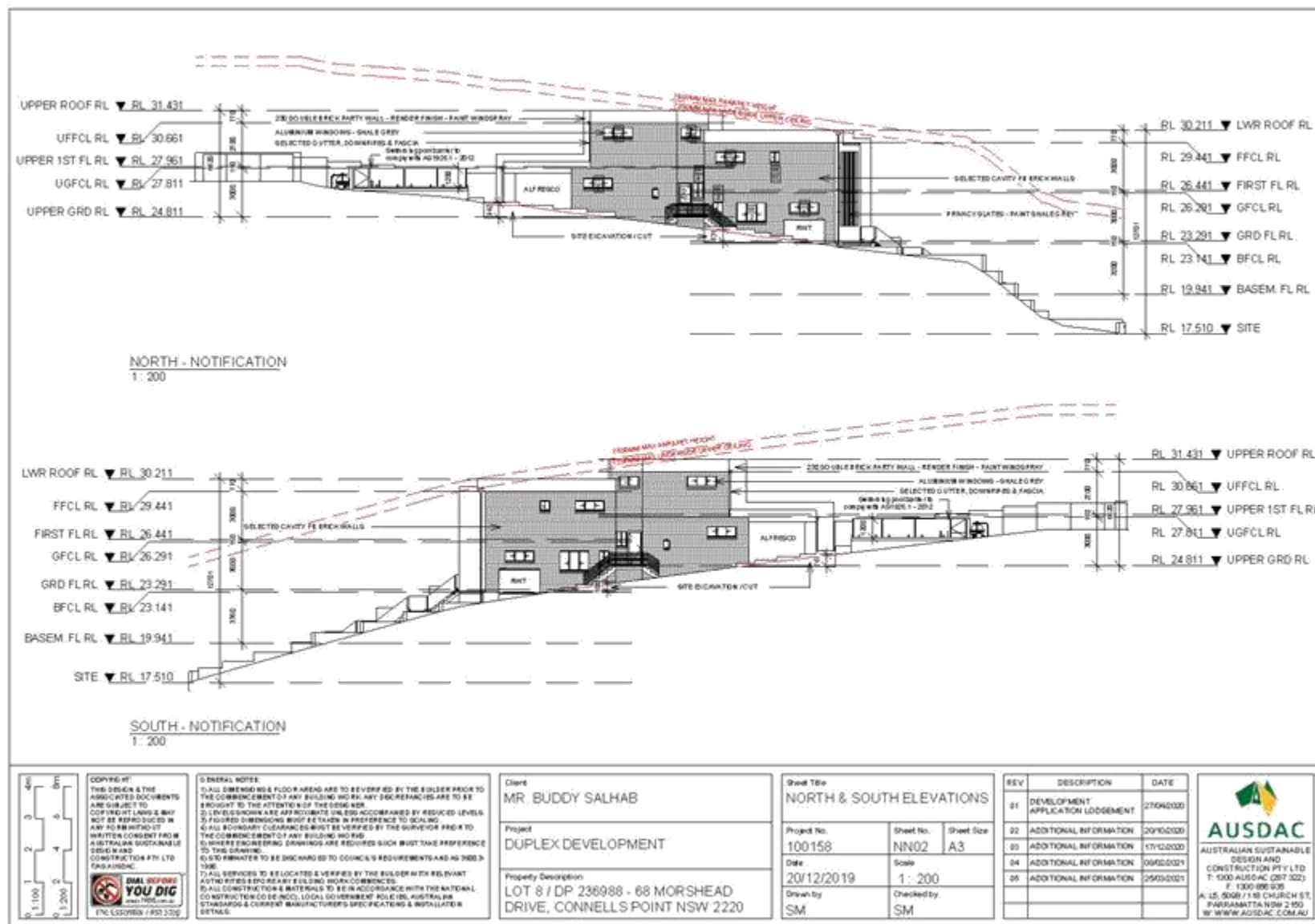
74. THAT pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act, 1979, as amended, the Georges River Local Planning Panel, refuses DA2020/0192 for demolition of existing structures, construction of a dual occupancy with basement parking, associated swimming pools, driveways, retaining walls, drainage, landscaping and tree removal, and subdivision on Lot 8 in DP236988 known as 68 Morshead Drive, Connells Point, subject to the reasons for refusal referenced below.
1. The proposed development is inconsistent and has not demonstrated compliance with the Kogarah Local Environmental Plan 2012, pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979:
 - a) Clause 1.2 – Aims of the Plan; and
 - b) Clause 6.2 – Earthworks.
 2. The proposed development is inconsistent and has not demonstrated compliance with the following provisions of Kogarah Development Control Plan 2013, pursuant to Section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979:
 - a) Part C1 – Low Density Housing (1.1 Streetscape Character, 1.4 Vehicular access parking and circulation, and 2.1 Dual Occupancies)

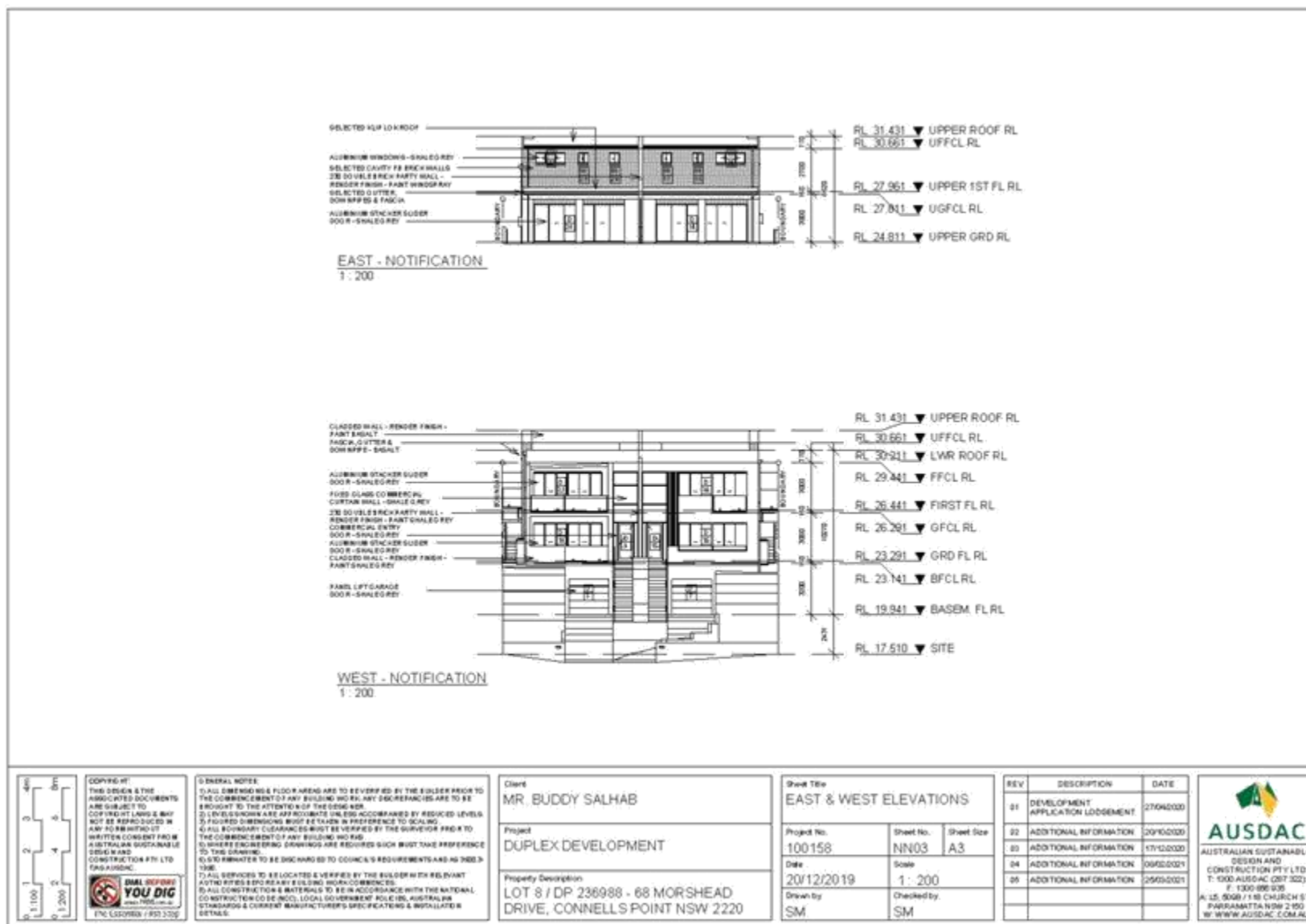
3. The proposal will result in adverse environmental impacts in the locality, pursuant to Section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979.
4. The adverse environmental impacts of the proposal mean that the site is not considered to be suitable for the development as proposed, pursuant to Section 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979.
5. The public submissions raised valid grounds of objection and approval of this application is considered contrary to the public interest, pursuant to Section 4.15 (1)(d) and (e) of the Environmental Planning and Assessment Act 1979.

ATTACHMENTS

Attachment [↓](#) 1  Site Plan and Elevations - 68 Morshead Drive, Connells Point







**REPORT TO GEORGES RIVER COUNCIL
LPP MEETING OF THURSDAY, 07 OCTOBER 2021**

LPP057-21

LPP Report No	LPP057-21	Development Application No	DA2021/0148
Site Address & Ward Locality	36-38 Chapel Street Kogarah - St Patricks Catholic School Kogarah Bay Ward		
Proposed Development	Upgrade the existing playground by constructing a concrete platform including a new shade structure, seating, landscaping and associated site works		
Owners	Trustees of the Roman Catholic Church for the Archdiocese of Sydney		
Applicant	Mr Edward O'Hanlan		
Planner/Architect	O'Hanlan Design and Resolve Urban Planners		
Date Of Lodgement	31/03/2021		
Submissions	Nil		
Cost of Works	\$383,339.00		
Local Planning Panel Criteria	Sensitive Development – Local Heritage Item (St Patricks Church) located within the school site		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy 55 – Remediation of Land, State Environmental Planning Policy - Vegetation in Non-Rural Areas, Greater Metropolitan Regional Environmental Plan No.2 – Georges River, State Environmental Planning Policy - Educational Establishments and Child Care Facilities, Draft State Environmental Planning Policy - Remediation of Land, Draft State Environmental Planning Policy, 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	Statement of Environmental Effects Arboricultural Assessment Architectural Plans Heritage Impact Assessment		
Report prepared by	Senior Development Assessment Planner		

Recommendation	That the application be approved in accordance with the conditions included in the report.
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Summary of matters for consideration under Section 4.15 Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?	Yes
Clause 4.6 Exceptions to development standards	

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

Site Plan



Aerial Photo – site outlined in blue

Executive Summary

Proposal

1. Council is in receipt of a Development Application No. DA2021/0148 for alterations and additions to improve an existing central playground at St Patricks Catholic Primary School located at 36-38 Chapel Street, Kogarah. The location of the playground area to be upgraded is shown in Figure 1 below.



Figure 1 - Site outlined in blue the playground area within the school ground to be upgraded as part of this application (courtesy: Resolve Planning, 2021).

2. The proposal involves raising and leveling the subject playground by the provision of a concrete platform to make it a more functional and useable space and includes the construction of a shade structure above this area (south eastern section) for additional weather protection for students as well as new seating and associated landscaping.
3. The subject site includes a designated Local Heritage Item identified as I98 within Schedule 5 of the Kogarah Local Environmental Plan 2012 and known as Lot 1 DP86635 St Patricks Catholic Church which forms part of the school site (refer to Photo 1 below).
4. The determination authority in this case is the Georges River Local Planning Panel (GRLPP) as the subject site includes 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.
5. The proposed works are considered to be small in scale and beneficial to the overall utilisation of the school and will improve the amenity of the existing space.

Site and Locality

6. The subject site is located on the western side of the Princes Highway and is known as St Patricks Catholic Primary School located at 36-38 Chapel Street, Kogarah. St Patricks Catholic Church forms part of the site however the Church faces Princes Highway and its address is also known as 143 Princes Highway.
7. The site is an irregular shaped allotment with the main pedestrian and vehicular access off Chapel Street. The site has a total site area of 7,697sqm with a legal description of Lot 1 DP1207162. The survey plan of the site is shown in Figure 2 below.

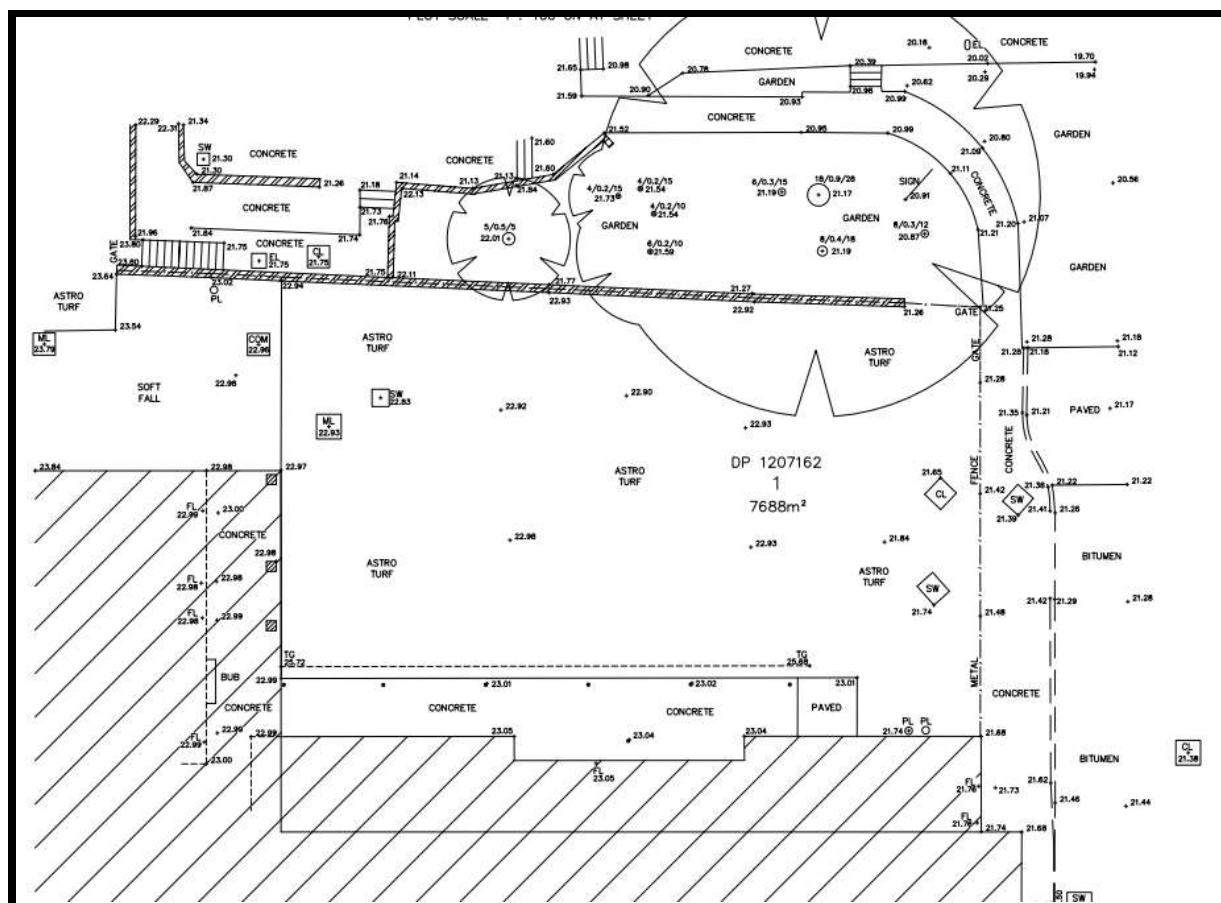


Figure 2: Older survey plan showing the dimensions and site characteristics (courtesy: Georges River Intramaps)

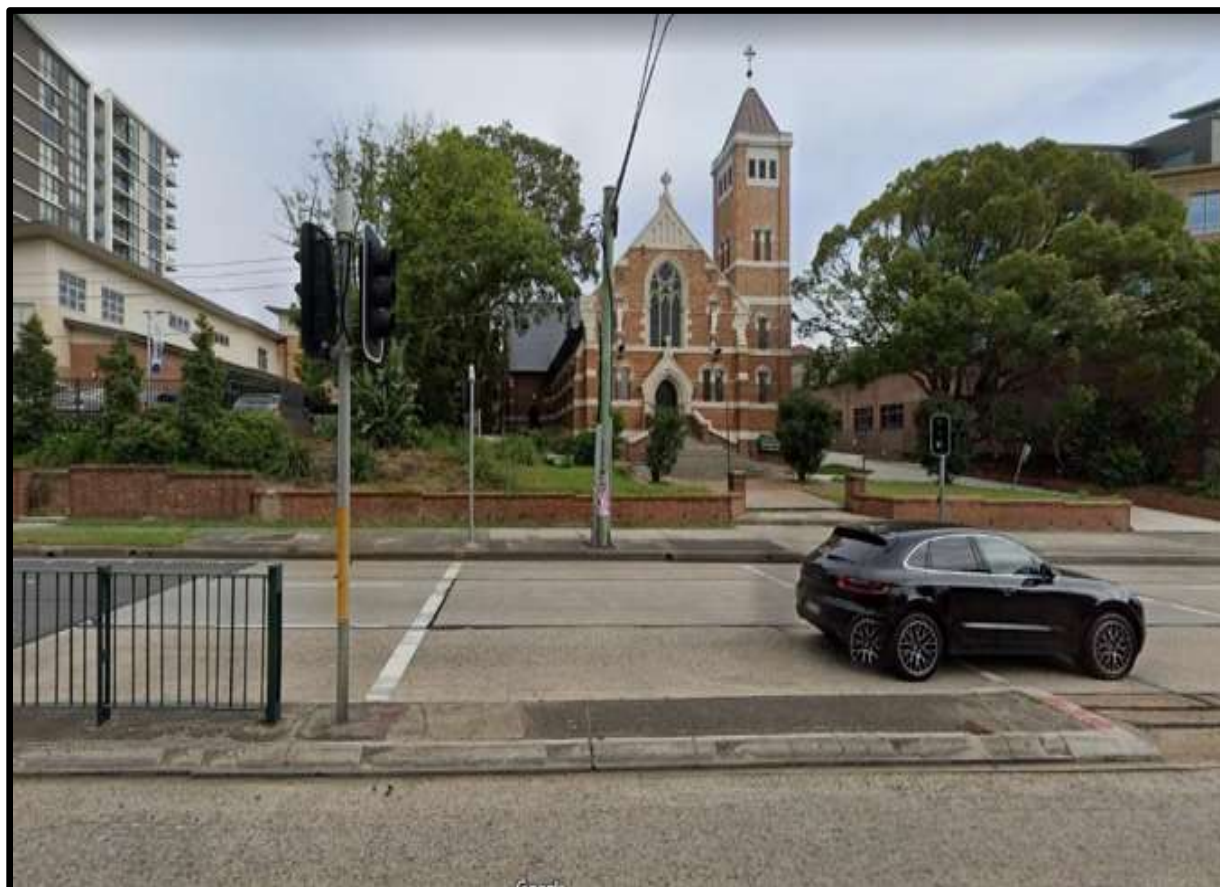


Photo 1: St Patricks Catholic Church located at 143 Princes Highway, Kogarah (courtesy: Resolve Planning, 2021)

8. Existing on site are a series of detached modern school buildings and areas of open space, playgrounds and the historic St Patricks Church.
9. The site is located in a busy mixed-use precinct surrounded by medium to higher density residential buildings, schools, commercial uses and is within close proximity to the St George Hospital.

Zoning and Permissibility

10. The subject site is zoned SP2 – Educational Establishment in accordance with the provisions of the Kogarah Local Environmental Plan 2012.
11. Alterations to the school are a permissible use in the zone and satisfy the objectives of the zone.

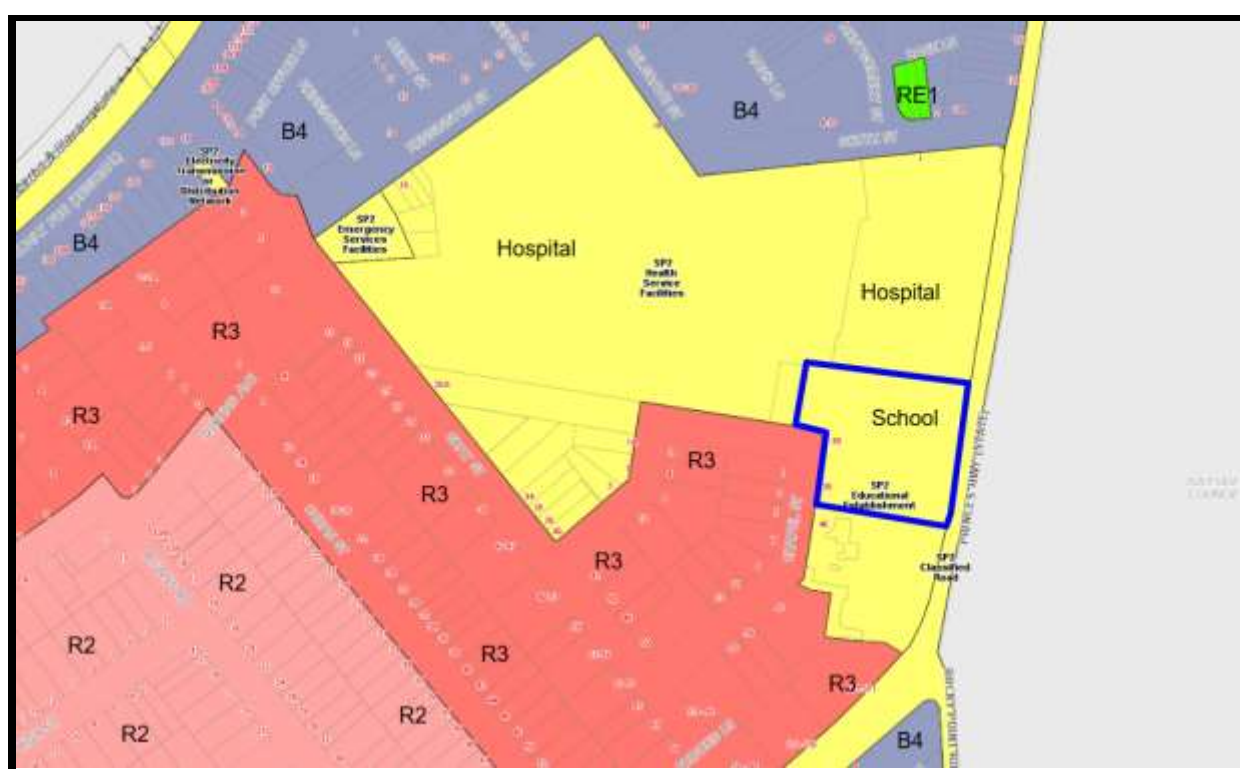


Figure 3 - Zoning Map – site outlined in blue

Submissions

12. 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.
13. No submissions were received.

Conclusion

14. The proposed alterations and additions to improve the existing playground are considered to be small scale works that aim to improve the functionality, aesthetics, appearance and amenity of the space.
15. The proposal was referred to Council's Heritage Advisor who raised no concerns or objections to the proposed works.

16. 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 functionality of the area as a playground and will have a positive contribution to the school without adversely affecting the historic significance and integrity of St Patricks Church.
17. 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 (DA2021/0148) is recommended for approval subject to the conditions referenced at the end of this report.

Report in Full Proposal

18. The proposal involves the following works:
 - Upgrade to the small internal centralised playground located adjacent to the sports hall.
 - Construct a new suspended concrete slab to create a level playground area.
 - A new concrete hob is proposed with a balustrade around the perimeter of the elevated structure.
 - New artificial turf to be installed.
 - Inclusion of a shade structure above the space (south eastern section).
 - Include timber and sandstone seating within the space.
 - Landscaping and specific planting to improve the visual qualities of the area and soften its appeal (the provision of a Water Gum including additional shrubs and decorative plantings)
 - Removal of the balustrade at the eastern end of the sports hall verandah and addition of a new concrete stair, landing and gates.
 - The existing statue will be relocated to the proposed central garden in the new playground.
 - New fencing and associated gate to be provided along the eastern side.
19. Figure 5 and 6 below show the proposed physical works. The playground is setback a substantial distance from the Princes Highway (over 10m) and will be screened by the existing trees along this roadway and the car parking area.
20. The works will not affect the existing trees located to the north of the area. There will be no tree loss. Figure 4 below shows the intended design of the space.

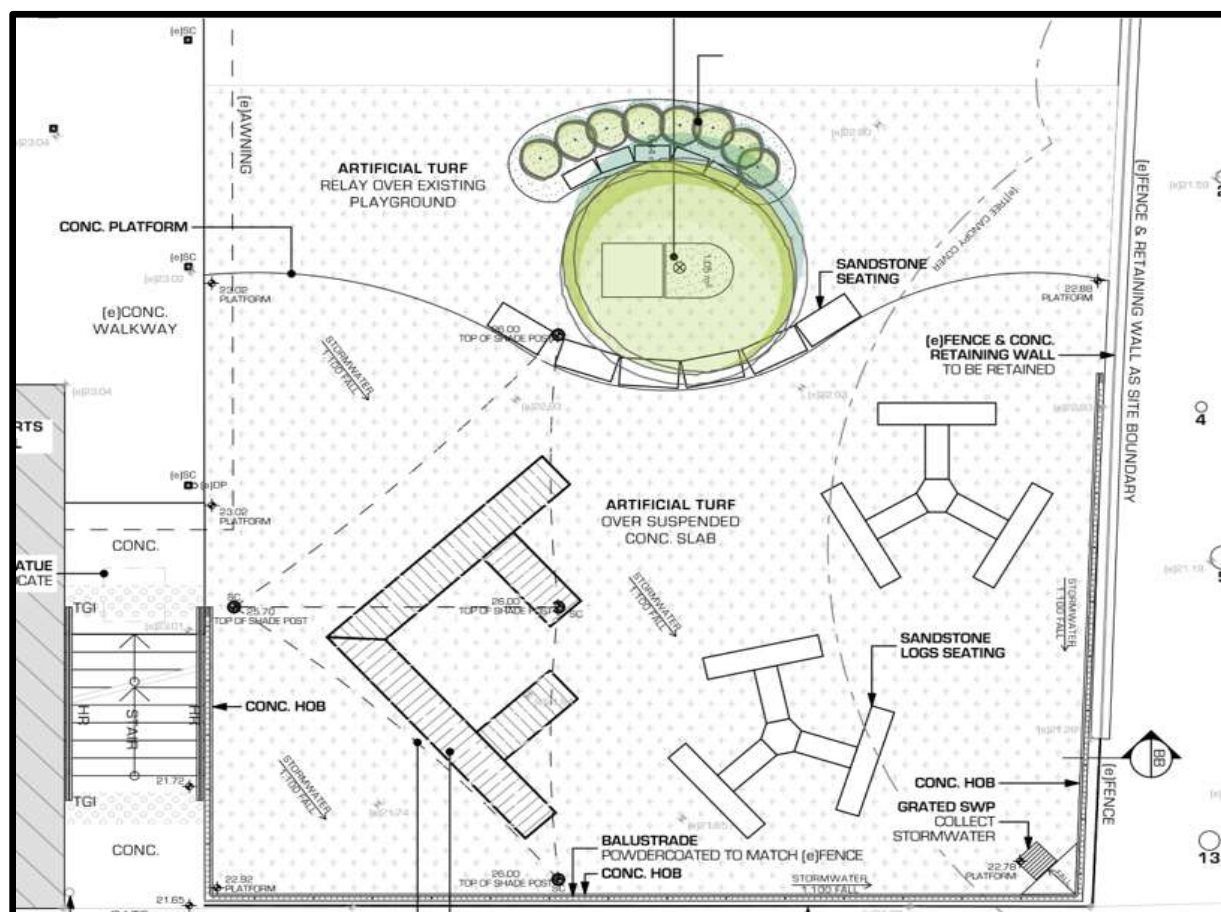


Figure 4: Landscape plan that shows the proposed design and improvements (courtesy: OHD Landscape Architects, 2020)



Figure 5: Elevation of the proposal from Princes Highway

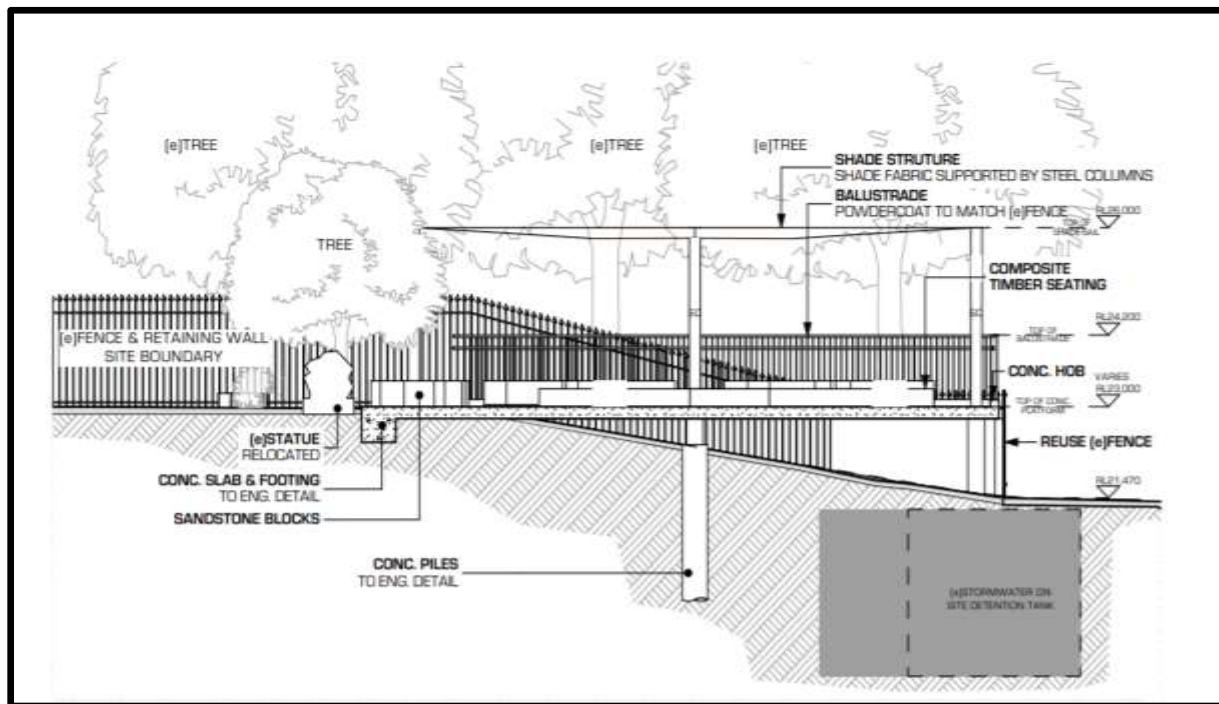


Figure 6: Cross section of the proposed area.

The Site and Locality

21. The subject site is located at 36 Chapel Street, Kogarah known as the St Patricks Catholic Primary School and comprises of Lot 1 DP1207162. The site is an irregular shaped allotment with a total site area of 7,697sqm. The works are centrally located and aim at upgrading a small playground, area of open space to the north of the existing sports hall and to the south of St Patricks Church.
22. The area to be upgraded is setback from Princes Highway by a series of car parking spaces and is fenced for security and safety.
23. The main pedestrian and vehicular access to the school is via Chapel Street. The St Patricks Church forms part of the site, however pedestrian access to this building is via Princes Highway.
24. The site is located within a busy mixed- use precinct. Immediately to the east is the Princes Highway and Moorefield Girls High School. To the north is St George Private Hospital and associated medical services and amenities. To the south are a series of larger scale, contemporary residential flat buildings. To the west is the St George Public Hospital and associated buildings.
25. The site is within a very accessible and popular precinct often referred to as a health precinct and although specialises in medical services includes a diversity of other land uses.

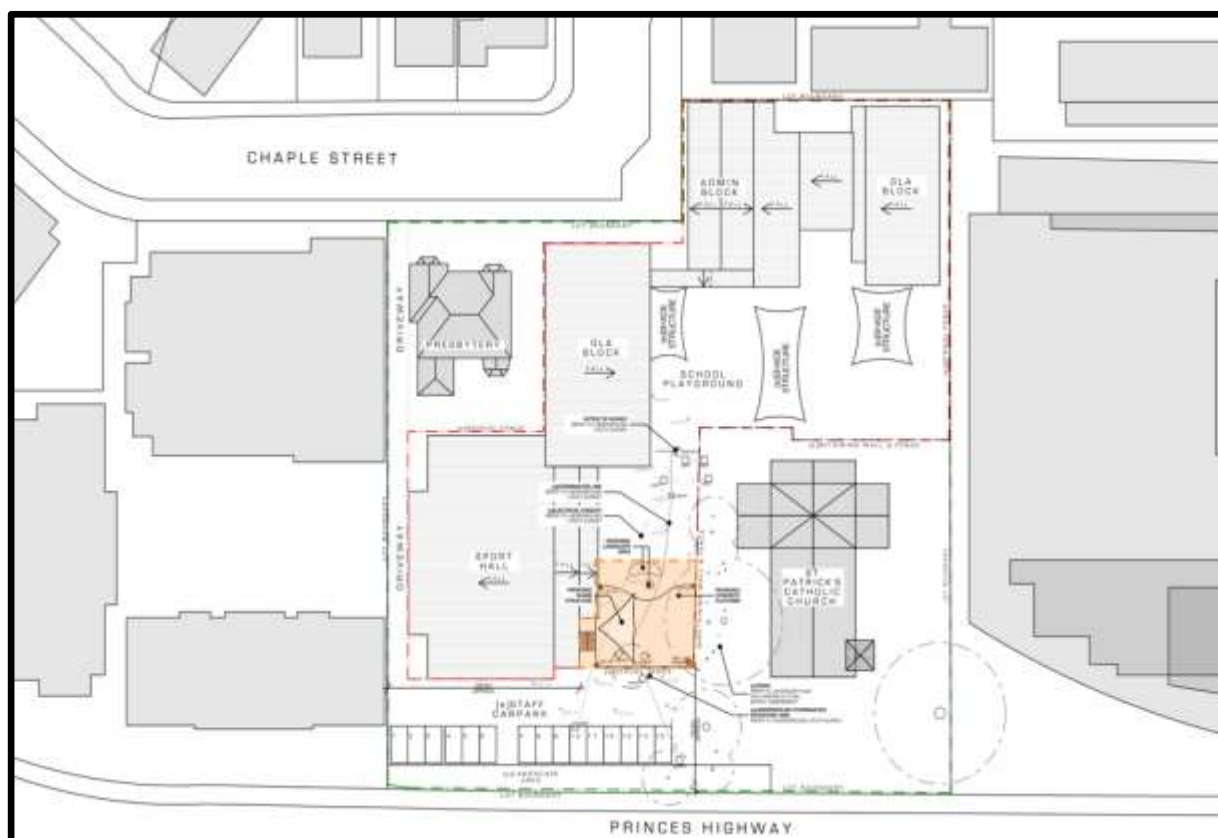


Figure 6: Site Plan showing the school, church and area where subject works are proposed (courtesy: OHD Landscape Architects, 2020)

Background

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

PLANNING ASSESSMENT

27. 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)

28. The proposal is considered to be consistent with the aims and objectives of the Act.

Environmental Planning and Assessment Regulation 2000

29. The proposal is considered to have met the statutory requirements under Schedule 1 of the Regulations.

STATE ENVIRONMENTAL PLANNING POLICIES

30. 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 (Vegetation on Non-Rural Areas)	Yes
Greater Metropolitan Regional Environmental Plan No.2 – Georges River	Yes

Catchment	
Draft Environment State Environmental Planning Policy	Yes
Draft Remediation of Land State Environmental Planning Policy	Yes
State Environmental Planning Policy – Educational Establishments and Child Care Facilities	Yes

LPP057-21

State Environmental Planning Policy No 55 – Remediation of Land

31. 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.
32. 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.
33. The proposed modifications primarily relate to aesthetic changes to the landscaping and the only earthworks proposed are to raise the eastern portion of the site to ensure the space is level and its functionality, safety and visual appearance is improved.
34. The subject site has been historically utilised for educational 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.

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

35. 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”*.
36. 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 established trees to the north of the playground which will be retained. In fact, the proposal aims to increase the amount of landscaping and include some plants as the site currently has no landscaping elements.
37. Photo 2 below shows the subject area of open space and the existing trees to the north which will be retained for privacy, screening and general weather protection.
38. Council's mapping system doesn't highlight the presence of any important vegetation of species at the site.
39. The proposed development satisfies the intentions, aims and objectives of the SEPP.

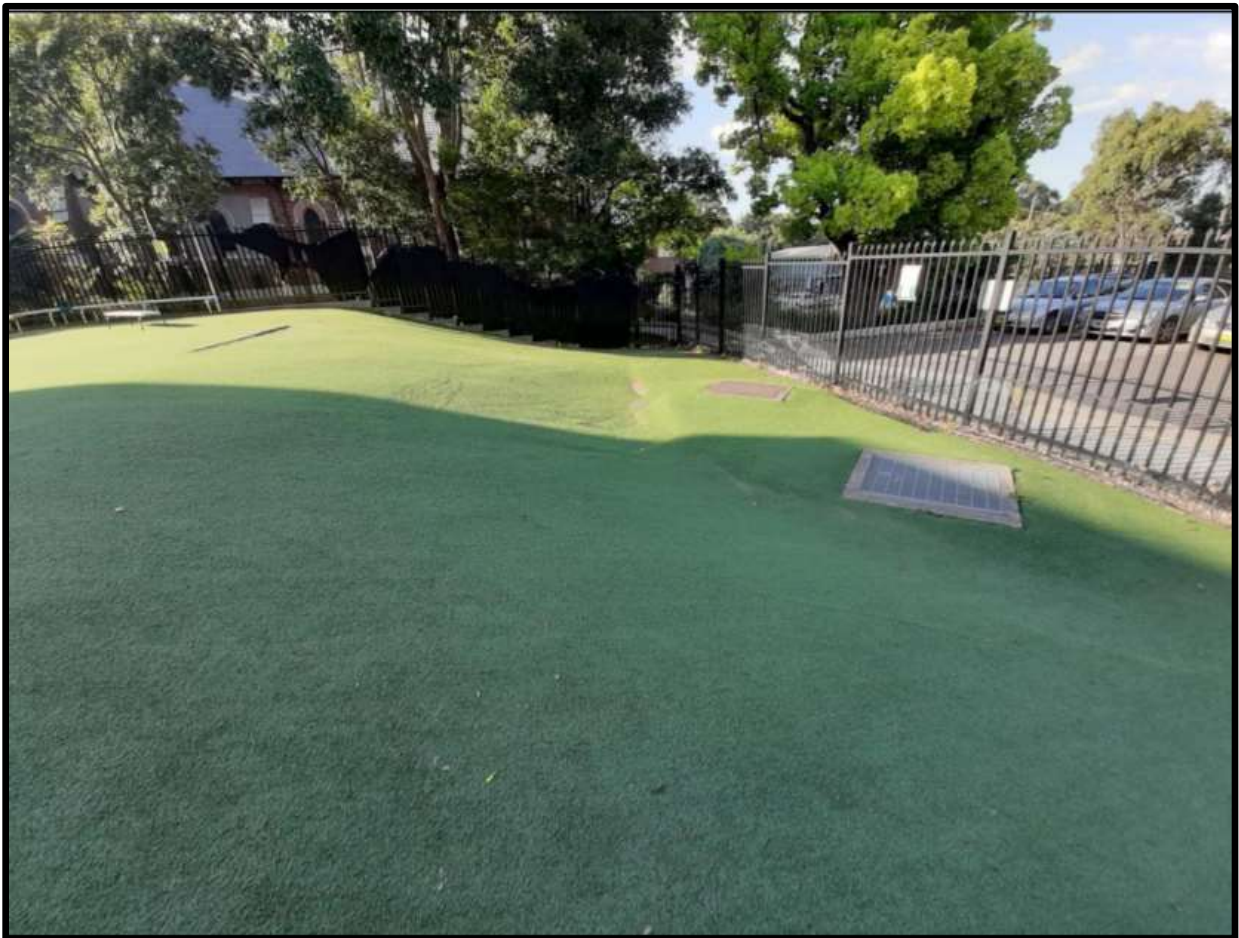


Photo 2: The subject site and existing trees to the north which will be retained as part of the proposal (courtesy: Resolve Planning, 2020)



Photo 3: The subject site looking towards the south-east showing the entry to the sports hall and associated statute which will be relocated into the centre of the playground (courtesy: Perumal Murphy, Alessi, 2020)

40. The proposed works are ancillary to the existing use of the site as a school and as such the Educational Establishments and Child Care SEPP is applicable. Some of the aims of the policy are:
- (a) improving regulatory certainty and efficiency through a consistent planning regime for educational establishments and early education and care facilities, and*
 - (b) simplifying and standardising planning approval pathways for educational establishments and early education and care facilities (including identifying certain development of minimal environmental impact as exempt development), and*
 - (c) establishing consistent State-wide assessment requirements and design considerations for educational establishments and early education and care facilities to improve the quality of infrastructure delivered and to minimise impacts on surrounding areas, and*
 - (d) allowing for the efficient development, redevelopment or use of surplus government-owned land (including providing for consultation with communities regarding educational establishments in their local area), and*
 - (e) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing.*
41. The SEPP provides exemptions for certain works to promote efficiency in the planning, assessment and determination process. Unfortunately, the exempt and complying development provisions facilitated under this policy are not applicable to this site given the heritage listing of the Church on site.
42. Given the works are minor in nature and are ancillary to the existing approved School a response is not required to Schedule 4 of the SEPP which is applicable to a new school or new community facility within an existing school.

Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment

43. 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.
44. 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.
45. The proposal satisfies the provisions, aims and objectives of the Plan.

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.

Draft Remediation of Land State Environmental Planning Policy

49. 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.

50. 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 above.

Kogarah Local Environmental Plan 2012 (KLEP)

51. The subject site is zoned SP2 – Educational Establishment on the zoning map and in accordance with the provisions of the KLEP. The proposed alterations to the existing area of open space at the school are permissible works in the zone as they satisfy the provision which states:

“The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose”

in the permissible with consent category. As the zoning map highlights the site as educational establishment and the proposed works are ancillary to the school use they are permissible subject to Council's consent. The proposal generally satisfies the objectives of the zone which include the following:

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

52. Figure 7 below shows the subject site within the mapped SP2 zone in accordance with the KLEP.

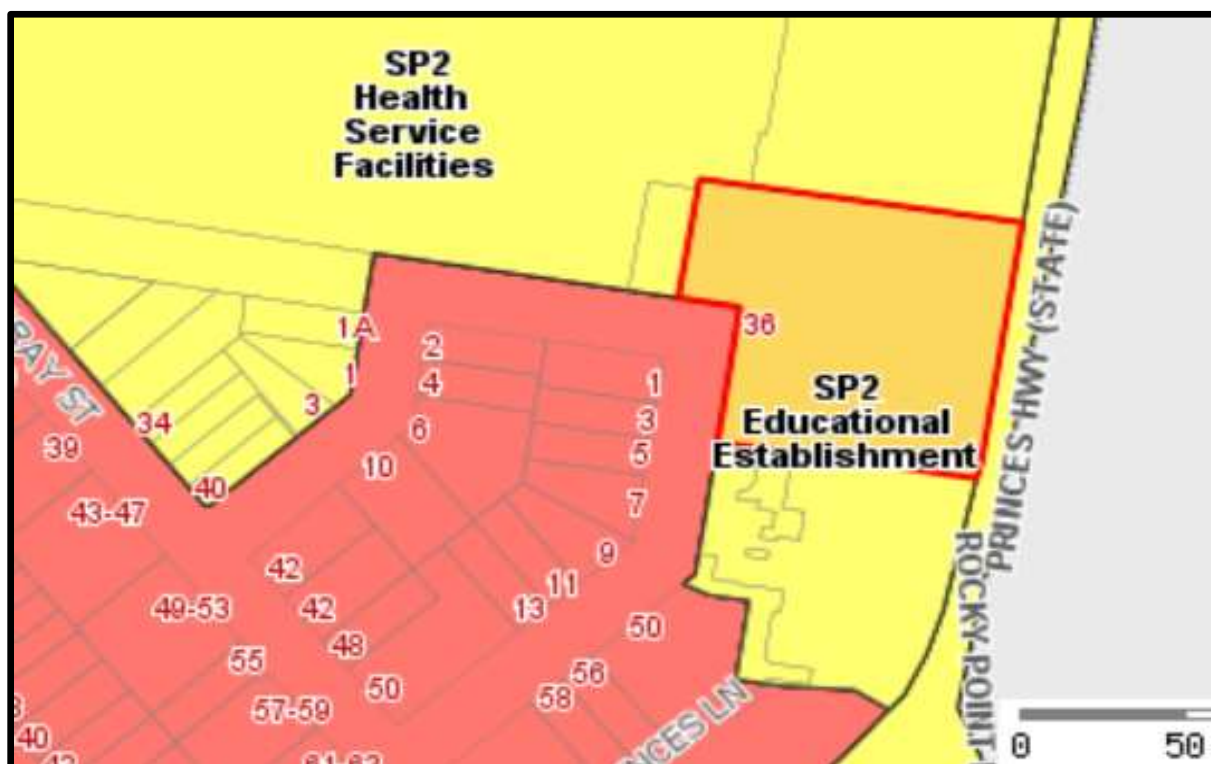



Figure 7: The subject site which is located in the SP2 – Educational Establishment zone (courtesy: KLEP zoning map)

53. Table 2 below summarises the proposals compliance against the key LEP provisions and controls.

Table 2: KLEP2012 Compliance Table

Clause	Standard	Proposed	Complies
2.2 Zone	SP2 - Infrastructure	The proposed improvements to the small playground and area of open space are small scale and ancillary to the school use.	Yes
2.3 Objectives	Objectives of the Zone	Consistent with zone objectives.	Yes
4.3 – Height of Buildings	No specified height in this zone	No change to the height of any buildings is proposed as part of this application.	N/A
4.4 – Floor Space Ratio	No specified floor space ratio is stipulated for this site	There is no additional gross floor area proposed as part of this proposal.	N/A
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>	The proposal does not exceed any key statutory planning controls relating to height and/or floor space and therefore no Clause 4.6 Statement is required in this case.	N/A

	- to achieve better outcomes for and from development by allowing flexibility in particular circumstances.		
5.10 – Heritage Conservation	The objectives of this clause are: (i) to conserve the environmental heritage of Kogarah, (ii) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views.	The subject site is a designated local item of heritage pursuant to Schedule 5 of the KLEP. St Patricks Church at 143 Princes Highway Kogarah, is located within the school site and is a heritage item of local significance. The application is accompanied by a Heritage Impact Statement prepared by Perumal Murphy Alessi Heritage Consultants dated October 2020. The proposed works are located to the south of the Church building and are largely screened by fencing and the existing large trees. 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.	Yes
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 not affected by Acid Sulphate Soils.	N/A
6.2 Earthworks	To ensure that earthworks do not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land	No excavation or earthworks are proposed. The proposal satisfies the intentions of this clause through its design.	Yes
6.3 Flood Planning	The objectives of this clause are as	The site is not impacted by flooding or located within flood	N/A

	<p>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> <i>taking into account projected changes as a result of climate change</i></p>	<p>prone land and is not included on the flood planning map. The probable maximum flood level is mapped across the whole LGA and although comes close to the subject site (north western corner) it doesn't affect the actual site (refer to Figure 8 below)</p>  <p>Figure 8: The probable maximum (courtesy: Council's intranet mapping system).</p>	
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 unless the applicant has obtained approval for the controlled activity under regulations made for the purposes of that Division.</p>	<p>This control is not applicable to the small scale works especially as the overall height of the buildings on site remain unchanged.</p>	N/A

Heritage Conservation

54. Clause 5.10 of the KLEP relates to Heritage Conservation. The subject property known as "St Patricks Church" is identified as an item of local heritage (I98) in accordance with Schedule 5 of the KLEP. The church sits within the school grounds. Refer to Figure 9.



Figure 9: The subject site identified as a local heritage item I98 as part of the Heritage mapping of the KLEP.

55. The Statement of Cultural Significance for St Patrick's Catholic Church, taken from the State Heritage Inventory (SHI) Database is reproduced and states:
56. *'The Roman Catholic Church and school have historical significance as they are representative of the progressive development of the area. The Church 1917, is a grand substantial development located on one of the major transport routes in the locality. The scale of the development reflects the surrounding development of the area and the social standing of the church c1920. It is also a good example of an Inter War Gothic Church.'*
57. The application is accompanied by a Heritage Impact Assessment prepared by Perumal Murphy Alessi Heritage Consultants and dated October 2020. The statement summarises the historical significance of the item which is reproduced below:
58. *"St Patrick's Catholic Primary School was opened on a site on Rocky Point Road in 1862 and was moved to the site of the present Church following the purchase of 1 acre of land in 1865 and construction and opening of a stone Church/ School building in 1866. The current Church was constructed in stages with the first foundation stone laid in 1887. A new School building was constructed in 1914 following the acquisition of more land and additions to the Church were carried out in 1917. The old Church/ School building was demolished in 1954 to make way for a new School. The School was initially administered by the Sisters of Charity and then by the Sisters of St Joseph and has been led by a lay principal, leadership team, teachers and parish since 1986. Since that time works to the School and Church have been undertaken. The playground areas and buildings were upgraded as part of the Building Education Revolution (BER). A new multi-purpose hall, library and classroom facilities replaced existing buildings and were opened in 2011. The Church occupies a separate area and addresses the Princes Highway. High modern fencing and well planted garden areas separate the Church and School buildings and playground areas. Fencing also extends around the Presbytery.*

59. *It is currently proposed to upgrade and improve part of the existing playground area that is located between the Hall, a staff carpark and fenced Church area. No change is proposed to the car park, School, Presbytery or Church buildings, address or site access.*
60. *The site has not been listed on the State Heritage Register and has not been classified by the National Trust of Australia (NSW). However, St Patrick's Catholic Church at No. 143 Princes Highway has been listed as a local item under Schedule 5 of the Kogarah Local Environmental Plan 2012 (I98)."* Figure 10 below is an aerial view of the site taken in 1943.

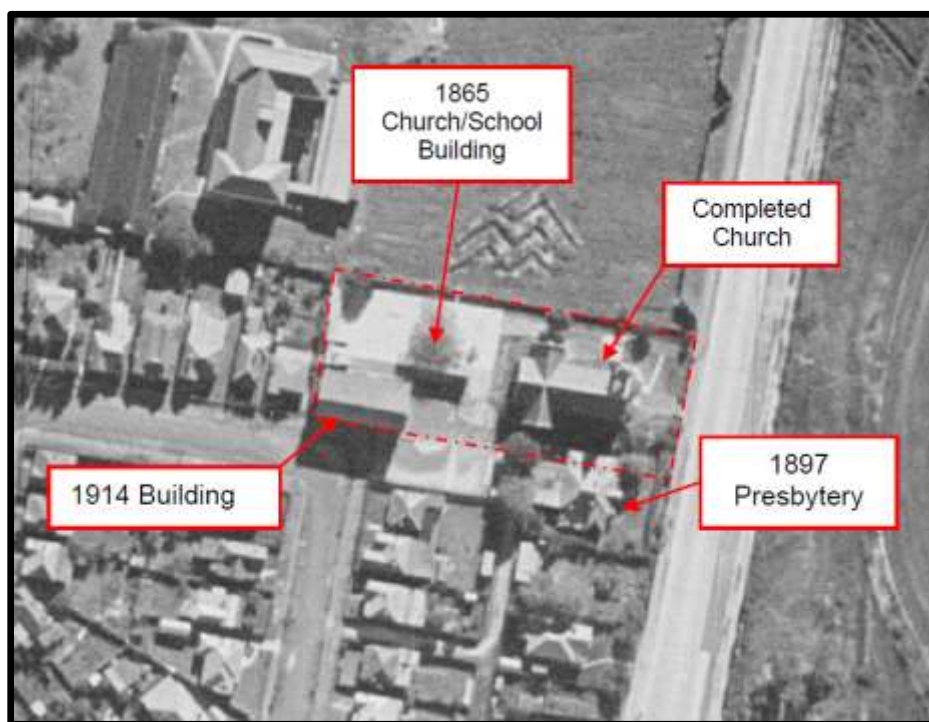


Figure 10: Aerial view of the subject site dating back to 1943 (courtesy: Perumal Murphy Alessi, 2020)

61. It is acknowledged that the Church is of local historic, aesthetic and social significance and is a largely intact example of a late Victorian brick and stone Catholic Church with Gothic details. Associated with prominent architects Sheerin and Hennessy, the Church retains its original character and details of the front façade and tower which make positive visual contribution to this section of the Princes Highway and School site.
62. The site is significant as part of an early subdivision and for its use early development as a Catholic Church and School that has continued to be a focus of the local Catholic community since 1865. The development of the site, Church and School buildings represents the growth and development of the local area.
63. The heritage impact statement (HIS) considered the proposed works and their potential impact on the heritage item (no works are proposed to the item itself). They are within close proximity/vicinity of the item and within the heritage curtilage of the heritage item determined that *"The proposed playground upgrade is considered to be acceptable from a heritage point of view as the works will have no adverse impact on the historic, aesthetic or social significance of the Church or its ongoing use and relationship with the School and site."*
64. *The works are confined to an existing playground area that has previously undergone some change and successive upgrades. The Church building and its existing address*

and primary curtilage and use will be retained with no change. The existing fences and retaining walls separating the Church and School areas, also the setback and trees and plantings on the southern side of the Church will also remain and continue to separate the areas and enhance the Church.

65. *The works are proposed to improve the use and provide a safe and relatively level play area and do not infringe on the primary curtilage and existing setbacks and setting of the Church. Whilst the eastern end of the playground is proposed to be raised and a new balustrade, garden and seating are proposed, the height of the area and balustrade will not detract from the height and scale of the Church or primary views to its distinctive façade and high tower. The proposed new garden and seating are low. The playground and fence is relatively open and will allow continued views through the space. The existing form and fabric of the Church will continue to be a distinctive historic and a visually prominent feature of this section of the Princes Highway."*
66. The HIS and application was referred to Council's Heritage Officer for comment. Council's Heritage Officer raised no objection to the proposed works subject to the implementation of conditions if approval is to be recommended. The following specific comments were made:
67. *"The proposed development involves changes to an existing children's playground associated with the St Patrick's Primary School and includes a new partly elevated concrete slab to provide for an extended level playing surface, new perimeter fencing and shade structure.*
68. *A Heritage Impact Statement (HIS) has been submitted with the Development Application and has been reviewed.*
69. *The HIS provides a well-informed impact assessment of the proposed development, concluding that the proposed works have an acceptable heritage impact.*
70. *A visual inspection of the site was undertaken by Council's Heritage Advisor and Strategic Planning Staff in September 2020 where the existing children's playground was observed and its visual and physical relationship to the adjoining St Patrick's Catholic Church.*
71. *While it is acknowledged that the works are situated on the heritage-listed site, the heritage significance of the site is principally embodied within the St Patrick's Catholic Church building itself, which is afforded a reduced curtilage, being framed by existing mature treed vegetation and extant built forms.*
72. *The proposed works will retain the existing treed canopy that affords a screening effect to the children's playground and location of the proposed works, and while the proposed partly elevated concrete slab will increase the height of the playground at the existing fence line adjoining the church, there is still a sufficient visual and physical buffer maintained and the overall scale of the proposed works will not visually dominate the heritage item nor diminish its landscaped setting and curtilage. The proposed works will therefore have a minor but acceptable visual impact on the adjoining St Patrick's Catholic Church.*
73. *While the works are situated on the site of the late 19th century former presbytery, which was demolished in c1991, the previous ground disturbance in this location is such that the archaeological potential and sensitivity of the site in the location of the proposed*

works is low. Furthermore, the proposed works involve little ground disturbance and the imposition of standard 'precautionary' conditions regarding unexpected archaeological finds is considered sufficient in this regard."

Draft Georges River Local Environmental Plan 2020

74. 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"*.
75. The gazettal of the Draft LEP is imminent. The zoning of the site and key planning controls remain unaffected by the draft provisions and the site will be zoned SP2 – Educational Establishment and Place of Public Worship.
76. Otherwise, the proposed development remains permissible and will satisfy the draft provisions of the Plan.

DEVELOPMENT CONTROL PLANS

77. The proposed development is subject to the provisions of the Kogarah Development Control Plan 2013 (KDCP). Table 3 below summarises the key planning controls which need to be satisfied and considered in the assessment of the application.
78. 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 E1 – Kogarah Town Centre
 - The site falls within two precincts within Part E1 being the Princes Highway Precinct (section 2.5 of the KDCP) and also the Hospital Precinct (section 2.7 of the KDCP).

Table 3: 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	The application has been assessed against the considerations pursuant to Clause 5.10 of the KLEP. A detailed heritage assessment has been undertaken, see above and the proposal is considered satisfactory and will not affect the	Yes

	professional.	significance and integrity of the St Patricks Church.	
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 3m in diameter An application to ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree	The proposal does not seek to remove or affect any existing trees. All existing trees will be retained and protected.	Yes
Green web requirements	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.	The subject site is not mapped as part of the Greenweb as such the requirements of this section are not applicable to the proposal.	N/A
Part E1 – Kogarah Town Centre			
2.5 Princes Highway Precinct			

	Design high quality corner buildings at the new intersection of Princes Highway and President Avenue, to signal arrival at Kogarah town centre from President Avenue and the Princes Highway. Emphasise corners with taller buildings, and the use of geometric design elements, entries, parapets and roof forms.	existing. The proposed works relate to an existing playground.	
Heritage	Respect heritage buildings in adjacent redevelopment	The proposed works will not adversely affect the historical importance and integrity of the heritage item being the St Patricks Church on site.	Yes
Pedestrian movement	Enhance the pedestrian amenity of the Princes Highway with awnings or substantial planting inbuilding setbacks	No change proposed to the existing pedestrian movements and existing access arrangements.	Yes
2.7 The Hospital Precinct			

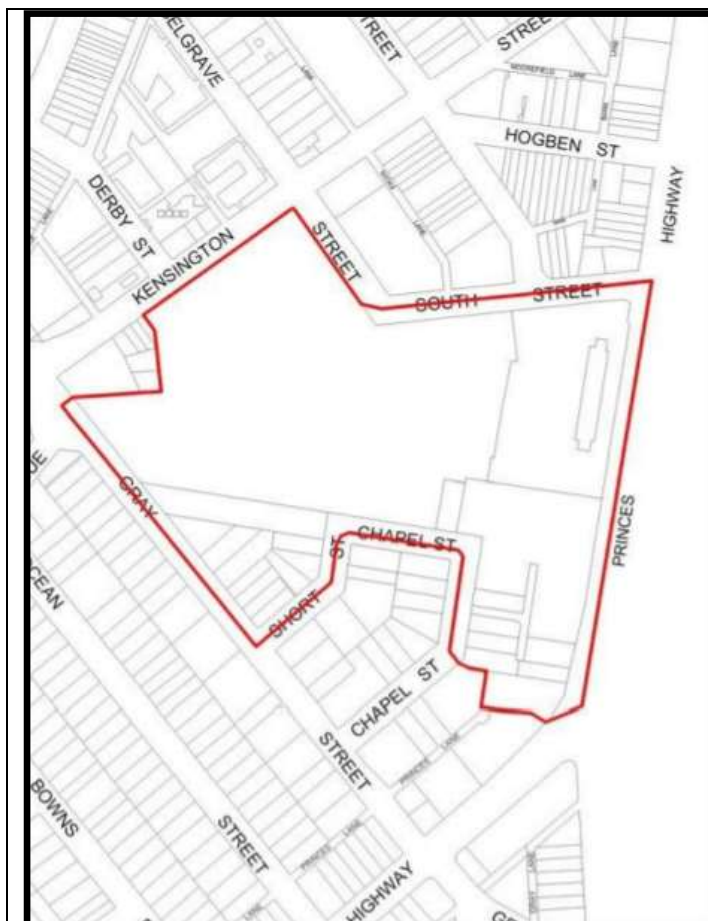


Figure 12: The Hospital Precinct

Princes Highway

The character of this section of the precinct is defined below;

The character of the Princes Highway at this point is a high-quality streetscape composed of grand buildings and landscaped open spaces. The St George Private Hospital is a sweeping facade on a podium, which together address the highway and signal the presence of the hospital. Its uncompromising street alignment is relieved by the open space in front of St Patrick's

Retain the existing monumental character of the St George Private Hospital and the Roman Catholic Church.

As discussed within the report the heritage significance and curtilage of the St Patricks Church has been considered when designing and upgrading the small playground space. The character of the precinct will remain largely unchanged as the playground is centrally located within the school and setback from the church and Princes Highway. It is screened by existing trees and car parking and the existing fencing defines the space to provide security and safety for students.

Yes

Church, which is a fine church in a beautiful setting. The former Bethany College site is currently vacant and being considered for redevelopment.			
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LPP057-21

79. 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

80. 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 proposed educational establishment and its ancillary works are not covered by the provisions of the Interim Policy as provisions in the policy relate to residential developments specifically dwelling houses, dual occupancy, multi-dwelling housing and residential flat buildings.

DRAFT GEORGES RIVER DEVELOPMENT CONTROL PLAN 2020 (GRDCP)

81. 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 (gazettal of which is imminent).
82. The GRDCP 2020 will become effective upon gazettal 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
83. 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

84. 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 aims to improve the functionality of the school and will have a positive contribution to the streetscape and the school grounds.

Built environment

85. The proposed development will not have an impact on the existing built form of 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 school.

Social impacts

86. The proposal will not generate any adverse social impacts.

Economic impacts

87. The proposed works are small scale in nature and are unlikely to result in any unreasonable economic impacts.

Suitability of the site

88. The proposed development is permissible in the zone and involves ancillary works to one of the school's playgrounds. The works are minor in nature and are consistent with the context of the area and in keeping with the character of the streetscape and locality without adversely affecting the heritage integrity and significance of the St Patricks Church.

SUBMISSIONS, REFERRALS AND THE PUBLIC INTEREST

89. The application was notified and a sign placed on site for a period of 28 days in accordance with the provisions of the KDCP. No submissions were received.

Council referralsHeritage Advisor

90. The application was referred to Council's Heritage Advisor for comment. No objection was raised with respect to the works subject to the imposition of conditions if approval is recommended. The Heritage Officers response has been addressed in detail earlier in this report. Conditions are referenced at the end of this report.

Landscape Officer

91. 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. Conditions are referenced at the end of this report.

Development Engineer

92. The proposal was referred to Council's Development Engineer for comment. No objection was raised subject to the implementation of conditions if consent is to be issued. Conditions are referenced at the end of this report.

External referralsAusgrid

93. The application was referred to Ausgrid in accordance with the provisions of the Infrastructure SEPP. Ausgrid raised no objections to the proposal. A standard condition is imposed if approval is recommended to protect Ausgrids assets during the construction process.

Public Interest

94. 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 small scale nature 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

95. Section 7.12 contributions apply to the proposed works and based on a construction cost of \$383,339 a contribution of \$3,833.93 is applicable in this instance which is based on 1% contribution for works exceeding \$100,000.
96. Council has prepared a Draft Georges River Council Local Infrastructure Contributions Plan 2021 – Section 7.11 and Section 7.12. The draft plan was exhibited for 28 days. The Section 7.12 contribution proposed is the same as currently imposed so the monetary contribution in this case would be the same under the Draft scheme.

CONCLUSION

97. 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 Local Environmental Plan 2020 and Draft Georges River Development Control Plan 2020.
98. 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

99. The reasons for the recommendation are:
- The development complies with the key planning objectives and controls within the Kogarah Local Environmental Plan 2012 and the Kogarah Development Control Plan 2013.
 - The proposal is small scale and seeks to improve the amenity of the playground space and make it more useable and functional.
 - The works also aim to improve the visual quality of the space.
 - The proposed alterations will not adversely or detrimentally affect adjoining and neighbouring properties especially by retaining the historical integrity and significance of the St Patrick Church, a local heritage item that adjoins the site.
 - The proposal will retain the significance and integrity of the Heritage Item on site and will not adversely affect the character of the locality.
 - The development is in the public interest and will not establish an undesirable precedent for the area.
 - 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

100. 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 DA2021/0148 for alterations to a playground including levelling the space, new seating, landscaping, new shade structure and associated works at St Patricks Catholic School at 36-38 Chapel Street, Kogarah known as Lot 1 DP1207162 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	Drawing No.	Date	Revision	Prepared by
Site Plan	DA100	7/12/2020	-	OHD Landscape Architects

Architecture Plan	DA220	7/12/2020	-	OHD Landscape Architects
Site Elevation Plan	DA300	7/12/2020	-	OHD Landscape Architects
Section AA and BB	DA350	7/12/2020	-	OHD Landscape Architects
Landscape Plan	DA800	7/12/2020	-	OHD Landscape Architects
Landscape Detail, Erosion and sediment control plan	DA801	7/12/2020	-	OHD Landscape Architects
Materials and Finishes Schedule	-	7/12/2020	-	OHD Landscape Architects
Stormwater Management Plans	HDA01 HDA02 HDA03 HDA04	3/12/2020	-	Inline Hydraulic Services
Site Survey	-	17/4/2020	Issue A	Bill and Blume Consulting Surveyors
Utility Survey	D17416-UT-01 and D17416-UT-02	21/9/2020	-	Durkin
Additional reports and plans				
Waste Management Plan	-	28/10/2020	N/A	O'Hanlon Design
Statement of Environmental Effects	-	October 2020	N/A	Resolve Urban Planning
Geotechnical Report	N/A	23/10/2020	N/A	Douglas Partner
Heritage Impact Statement	N/A	undated	N/A	Perumal Murphy Alessi
Arboricultural Impact Assessment	A403573_02	27/11/2020	N/A	Arbor Safe

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 AND 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. **Ausgrid cables** - Special care should also be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with any existing underground 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.

5. **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.
6. **Stormwater System** – The submitted stormwater plan has been assessed as concept plan only. Final detailed plans of the drainage system, prepared by a qualified engineer shall be submitted for approval with the Construction Certificate.
 - (a) All stormwater shall drain by gravity to the existing drainage system in accordance with the Australian/New Zealand Standard AS/NZS 3500.3:2015 (as amended)
7. **Heritage (Protection of trees and vegetation)** - All trees and shrubs not expressly consented to for removal under this development consent, shall be appropriately protected during construction works.

No materials, equipment or the like, shall be stockpiled or stored on the landscaped vegetation buffer between the children's playground and St Patrick's Catholic Church. Similarly, no construction access shall be permitted across the vegetation buffer.

8. **Landscape Plans** - All landscape works shall be carried out in accordance with the approved landscape plans and specifications, drawn by OHD Landscape Architects, Ref No 986, DA800/801, Issue A and dated 07/12/20. The landscaping shall be maintained in accordance with the approved plans in perpetuity, subject to the following -
 - a) All trees and works 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;
 - b) 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;
9. **Compliance with submitted Arborist Report** - The recommendations outlined in the Arborist's Report titled Arboricultural Impact Assessment prepared by Arborsafe Australia dated 27th Nov 2020 must be implemented throughout the relevant stages of site set up, demolition, excavation construction and landscaping. Details of tree protection measures to be implemented must be detailed and lodged with the Construction Certificate application for approval and shall be in accordance with Section 4 - Australian Standard AS 4970-2009: *Protection of trees on development sites*.

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

Tree Numbers	Location of Trees	Tree Protection Zone (metres) TPZ as per AS4970 - 2009 Fencing distance from trunk
21 x trees as shown within	Within the church grounds	To be placed upon

Arborist Report, Appendix E. Tree Assessment Data, Page 28		boundary fence line
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- 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 engaged 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 (Church grounds), to be retained must be protected before site set up and maintained during demolition, excavation and construction of the site.
- e) All scaffolding within any trees TPZ, for the purposes of building works must be in accordance with AS4970 -2009, *Protection of trees on development sites*, Section 4.5.6 Scaffolding and Figure 5 and signed off by the engaged AQF 5 Arborist, forming compliance.
- f) No existing soil level changes are permitted within the schools grounds embankment, for the ongoing protection of the trees within the church grounds.
- g) 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.
- h) 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.
- i) 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 boundary must be approximately one (1) metre to ensure works can proceed whilst ensuring trees can be protected. 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.
- j) 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.
- k) To preserve the trees within the church grounds and protection from machinery and

foot traffic, no work shall commence until the Tree Protection Zone has been protected with 100mm of organic mulch laid, timber sleepers at 200mm x 100mm laid over the top and secured with metal framing bands as per AS4970 -2009, clause 4.5.3 Ground protection.

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

Excavation works near tree to be retained

- n) Excavations around the trees to be retained on the church grounds must be supervised by the AQF 5 Project Arborist to ensure that the root systems will not adversely be affected.
- o) All pier holes must be conducted as per 7.3 Specific Protection Measures within the Arborist Report, with no strip footings permitted.
- p) Where the Tree Protection Zone (TPZ) of trees on site or adjoining sites become compromised by any excavation works, the AQF 5 Project arborist shall be consulted to establish the position of any major roots and determine the necessary measures to protect these roots. The recommendations of the Arborist shall be submitted to Council prior to any further demolition or construction works taking place.
- q) Tree Protection Zones around the trees to be retained are not to have soil level changes, building product / materials stored or services installed in this area. Any structures proposed to be built in this area of the trees are to utilise pier and beam or cantilevered slab construction.

Pier and Beam / Cantilever / Post and rail –

- r) To preserve the trees within the church grounds the works must only consist of isolated pier and beam construction. The piers shall be hand dug and located such that no roots of a diameter greater than 50mm are severed or injured in the process of any site works during the construction period. The beam shall be located on or above the existing soil levels.
- s) Removal or pruning of any other tree (that would require consent of Council) on the site is not approved. All pruning must be undertaken by a qualified Arborist in accordance with AS4373 -2007 Pruning of Amenity Trees and Amenity Tree Industry, Code of Practice (SafeWork NSW August 1998).

Tree pruning

Tree pruning required for trees within the church grounds –

- t) Any necessary pruning of overhanging branches relating to three (3) trees located within the church grounds, 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.

10. **Tree Removal & Replacement** - No trees are to be removed under this consent.

11. **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.
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	N/A
Inspection Fee for Refund of Damage Deposit	N/A
DEVELOPMENT CONTRIBUTIONS	
Kogarah Section 7.12 Contribution of	\$3,833.39
Total S7.12 Contributions	\$3,833.39

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. **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.

14. **Erosion and Sedimentation Control** - Erosion and sediment controls must be provided to ensure:

- (a) Compliance with the approved Erosion and Sediment Control Plan
- (b) Removal or disturbance of vegetation and top soil is confined to within 3m of the approved building area (no trees to be removed without approval)
- (c) All clean water runoff is diverted around cleared or exposed areas
- (d) Silt fences, stabilised entry/exit points or other devices are installed to prevent sediment from entering drainage systems or waterways
- (e) All erosion and sediment controls are fully maintained for the duration of demolition, excavation and/or development works
- (f) Controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadway
- (g) All disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar
- (h) Compliance with [Managing Urban Stormwater - Soils and Construction \(Blue Book\) produced by Landcom 2004](#).

These measures are to be implemented prior to the commencement of work (including demolition and excavation) and must remain until works are completed and all exposed surfaces are landscaped/sealed.

15. **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.

16. **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.

17. **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

18. **Heritage site induction ('toolbox talks')** - Prior to the commencement of any works, all contractors, tradesmen and the like, shall be given a heritage site induction ('toolbox talk'). The heritage site induction shall be delivered by a suitably qualified Heritage Consultant and shall ensure that all contractors, tradesmen and the like, are made aware that:
- i) The site contains an item of heritage significance.
 - ii) There are statutory obligations under the National Parks and Wildlife Act 1974 and Heritage Act 1977 for all works to cease and Council and Heritage NSW notified of any unexpected built archaeological or Aboriginal archaeological finds during works.
19. **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.
20. **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.

21. **Servicing 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

22. **Site sign - Soil and Erosion Control Measures** - Prior to the commencement of works (including demolition and excavation), a durable site sign, issued by Council in

conjunction with this consent, must be erected in a prominent location on site. The site sign warns of the penalties which apply to pollution, storing materials on road or footpath and breaches of the conditions relating to erosion and sediment controls. The sign must remain in a prominent location on site up until the completion of all site and building works.

23. **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.
24. **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.
25. **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.
26. **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: 8.00am to 5.00pm (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.
27. **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.
28. **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 OCCUPATION CERTIFICATE

29. **Completion of Landscape Works** - All landscape works must be completed before the issue of the Final Occupation Certificate and to the satisfaction of Councils Tree Management Officers.
30. **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.
31. **Tree Protection Measures** - A final certificate of compliance letter, once all construction 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.

32. **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)

33. **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.
34. **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.
35. **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.
36. **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.

37. **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.
38. **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 AND ASSESSMENT ACT 1979

39. **Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued.
40. **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.

41. **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.
42. **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.

43. **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](#).
44. **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.

PRESCRIBED CONDITIONS

45. **Clause 98 - Building Code of Australia and 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.
46. **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.
47. **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

48. **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.

49. **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.
50. **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.
51. **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.
52. **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.

53. **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.

54. **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.

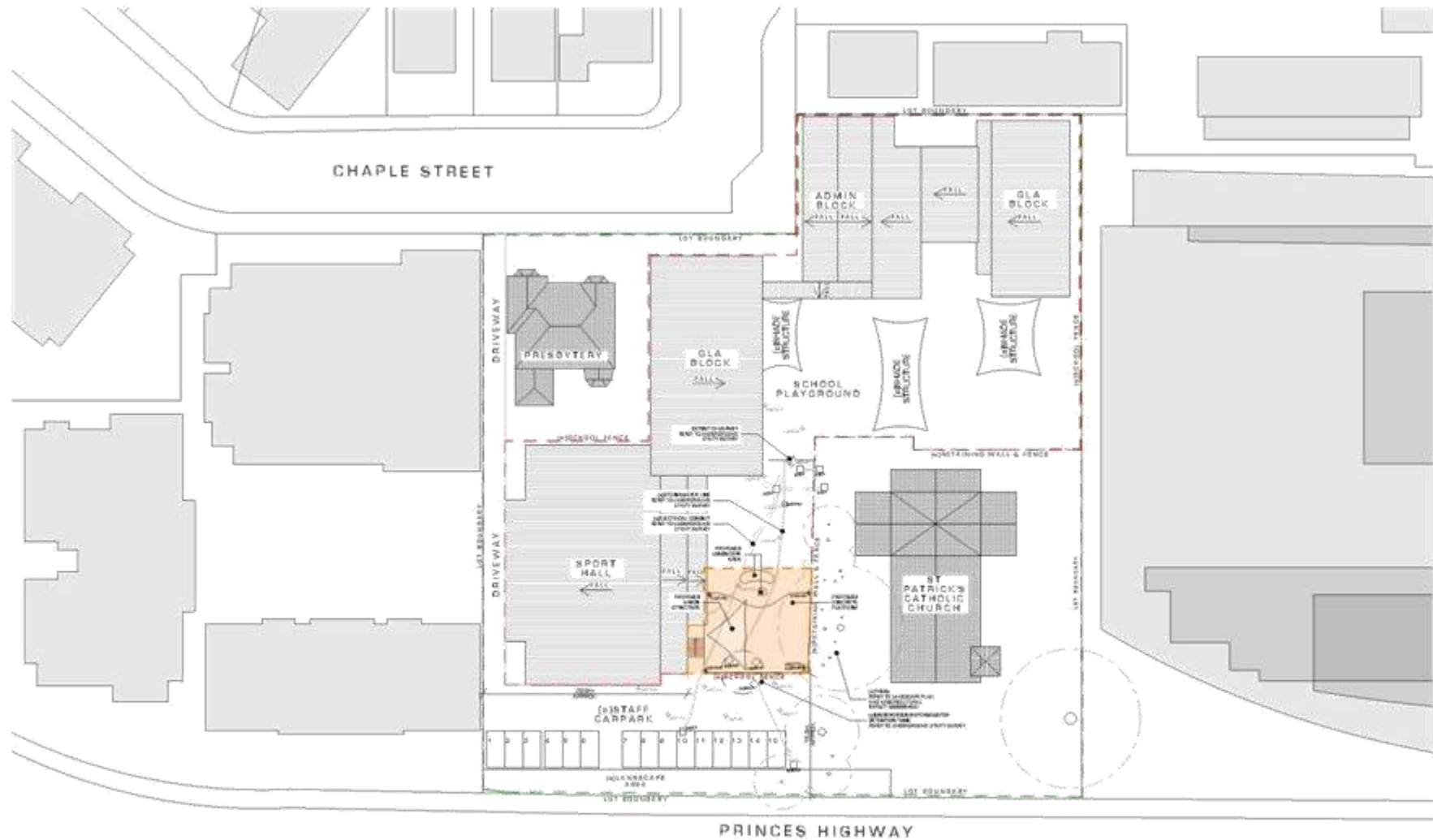
NOTE: A minimum of four weeks should be allowed for assessment.

55. **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.
56. **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 - 36-38 Chapel St Kogarah
- Attachment [2](#)  Landscape Plan - 36-38 Chapel St Kogarah
- Attachment [3](#)  Section AA and BB - 36-38 Chapel St Kogarah



SITE PLAN
1:500



**ST PATRICK'S
PRIMARY SCHOOL**

36 CHAPEL STREET
KOGARAH NSW 2217



Sydney Catholic Schools



LOT 1 IN DP1007160 IS AFFECTED BY
EASEMENT FOR SERVICES OVER THE WHOLE LOT

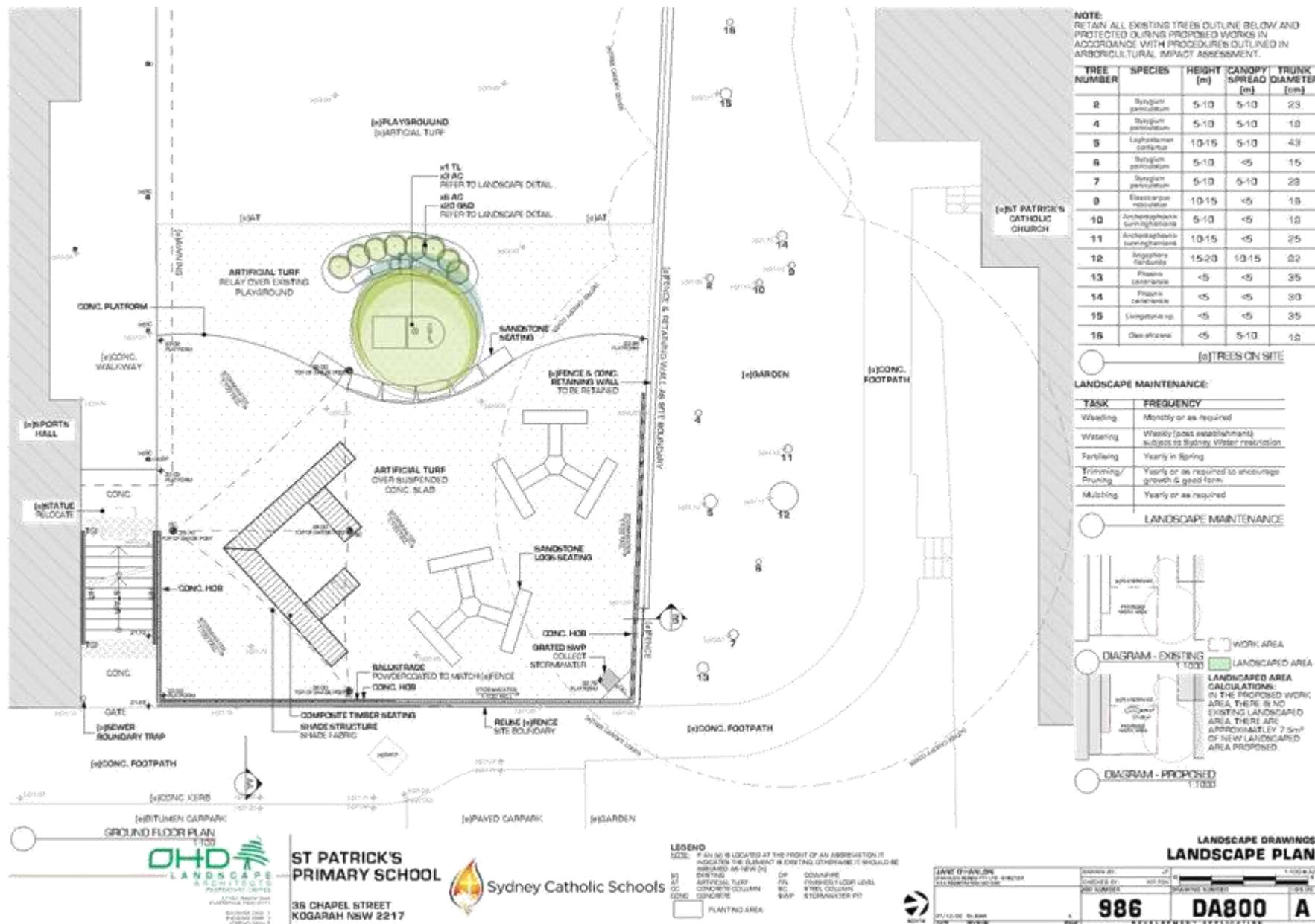


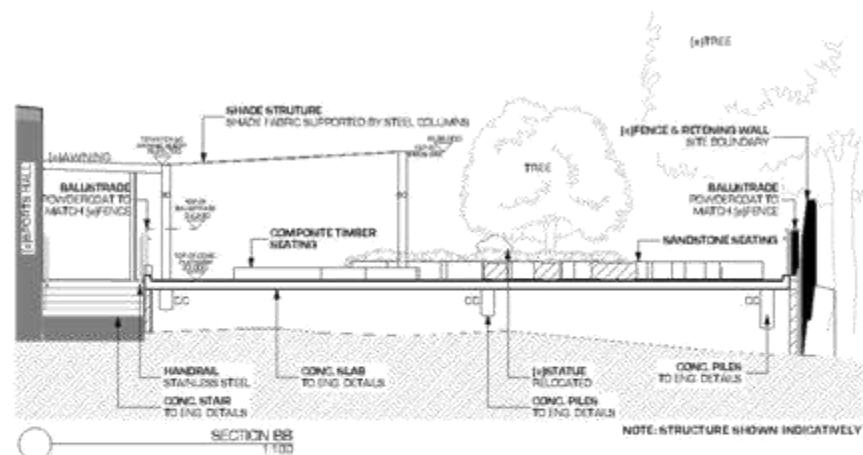
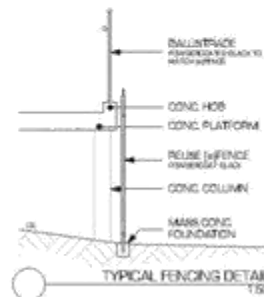
JANE WILSON
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STREET VIEW FROM PRINCES HIGHWAY