

AGENDA - LPP

Meeting:	Georges River Local Planning Panel (LPP)
Date:	Thursday, 09 December 2021
Time:	4.00pm
Venue:	Online Meeting
Participants:	Stephen Davies (Chairperson) Judy Clark (Expert Panel Member) Anthony Hudson (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	
LPP071-21	Level 1, 288 Forest Road, Hurstville – DA2021/0291 (Report by Principal Planner)
LPP072-21	723-729 Princes Highway Blakehurst – MOD2021/0134 (Report by Senior Development Assessment Planner)
LPP073-21	22 Merriman Street Kyle Bay – DA2020/0475 (Report by Principal Planner)
LPP074-21	33-35 Treacy Street, Hurstville – MOD2021/0137 (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, 09 DECEMBER 2021**

LPP071-21

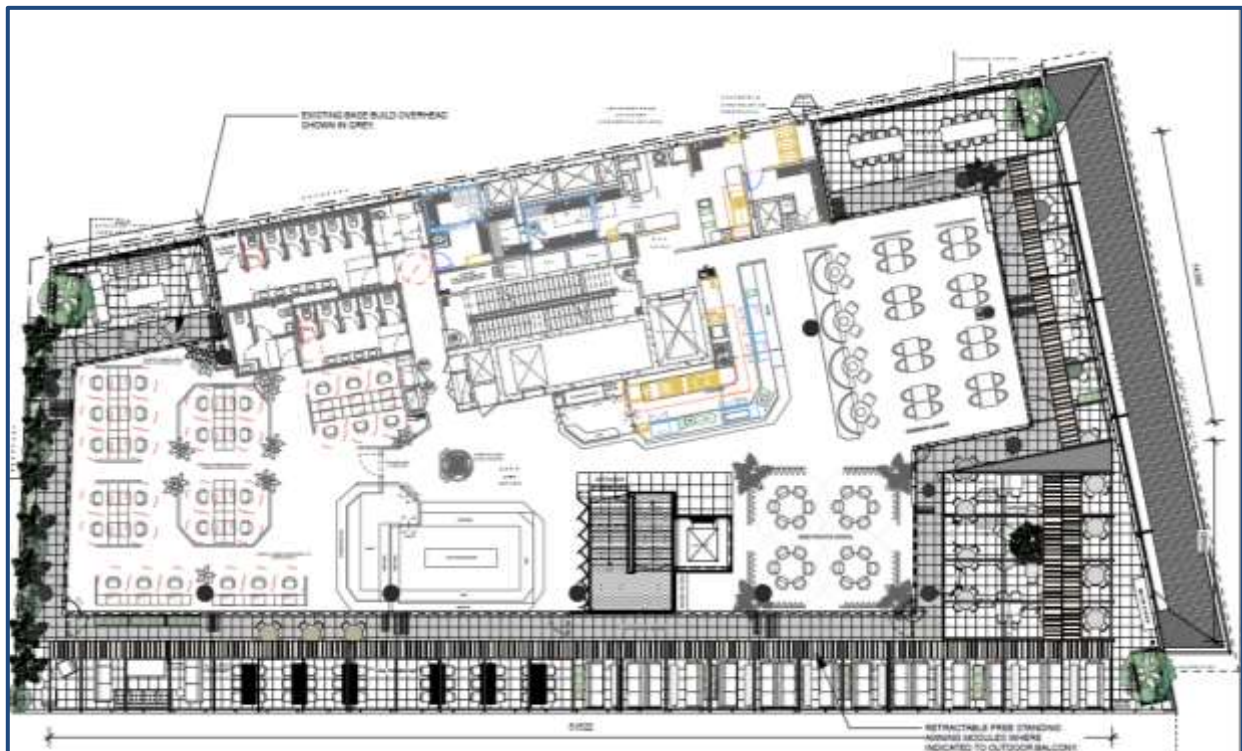
LPP Report No	LPP071-21	Development Application No	DA2021/0291
Site Address & Ward Locality	Level 1, 288 Forest Road, Hurstville Hurstville Ward		
Proposed Development	The use and fit out of a 'pub' and associated restaurant at Level 1, 288 Forest Road, Hurstville also known as One Hurstville Plaza. Consistent with the land use being a 'pub' and associated restaurant.		
Owners	CFT NO. 11 P/L		
Applicant	Joseph Arnott		
Planner/Architect	Urbis/ Melissa Collison		
Date Of Lodgement	31/07/2021		
Submissions	Two (2)		
Cost of Works	\$3,233,558.00		
Local Planning Panel Criteria	General Managers Delegation - Pub		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy No 55 - Remediation Of Land; Hurstville Local Environmental Plan 2012; Greater Metropolitan 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 State Environmental Planning Policy Hurstville Development Control Plan 2 – Hurstville City Centre, Central Plaza, Hurstville Plan of Management Community Land: General Community Use		
List all documents submitted with this report for the Panel's consideration	Statement of Environmental Effects, Architectural Plans, Social Impact Assessment, NSW Police Submission, Revised Acoustic report, Applicant response to Council RFI letter, Gaming Management Plan, Gaming Harm Minimisation Management Plan, Revised Plan of Management, Economic Impact Assessment		
Report prepared by	Principal Planner		

Recommendation	Approval – subject to conditions
-----------------------	----------------------------------

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

Site Plan



Executive Summary Proposal

- The proposal seeks first use consent and fit out for level 1, 288 Forest Road, Hurstville as a pub (licensed premises).

Reason for Referral to the Local Planning Panel

2. The application is referred to the Georges River Local Planning Panel for determination as the proposal is for a pub, which is a type of development that falls under the General Managers Delegations to the LPP, dated 3 February 2020.

Background

3. On 16 August 2017 the Sydney South Planning Panel approved DA2016/0322 for the demolition of existing structures and construction of a fourteen (14) storey building with three (3) levels of retail floor area, eleven (11) levels of commercial floor area, and basement parking accessed from Humphreys Lane to the north. The development is in final stages of construction. A condition of consent requires consent for first use/ fit out of each tenancy/unit, as per condition 90:

90.ONG2009 - Development Assessment - Development consent is to be obtained for the first use of each retail/commercial unit within the development unless such use is authorised by State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

4. This application, DA2021/0291 for the first use and fit out of level 1, 288 Forest Road Hurstville was lodged on 31 July 2021, and was notified between 11 August 2021 and 25 August 2021.
5. Council wrote to the applicant on 5 October 2021, requesting additional information.

Site and Locality

6. The site is known as 288 Forest Road and legally described as Lot 100, DP1036230. The land is an irregular rectangular shape with a frontage to Forest Road of 28.975m, a frontage to Humphreys Lane of 18.99m and a site area of 1248m². The subject tenancy is level one, and a ground floor entry foyer to this level above.
7. The subject site is located adjoining land owned by Georges River Council, to the west of the site, known as Hurstville Central Plaza, Lot 16, DP 4799 with a street address of 296 Forest Road, Hurstville.
8. The recently constructed building at 288 Forest Road, Hurstville was approved with the ground floor retail area opening into the plaza and part of the first-floor terrace overhanging Hurstville Central Plaza.

Zoning and Permissibility

9. The subject site is zoned B3 Commercial Core under the provisions of the Hurstville Local Environmental Plan 2012 and the proposed pub, (food and drink premises, a form of retail premises) is permitted in the zone with consent.

Notification and Submissions

10. The development application was publicly exhibited in accordance with the provisions of the Councils Community Engagement Strategy. In response, two (2) submissions were received, these are discussed in further detail below.

Conclusion

11. It is recommended that the application be approved by the Georges River Local Planning Panel, subject to recommended conditions of consent.

Report in Full

Proposal

12. The applicant seeks the consent for the first use of the first-floor tenancy as a pub (Figure 1), including a gaming area, outdoor dining, smoking areas and a restaurant, with access from the basement of via the ground floor foyer, with pedestrian access from the Hurstville Central Plaza (Figure 2).

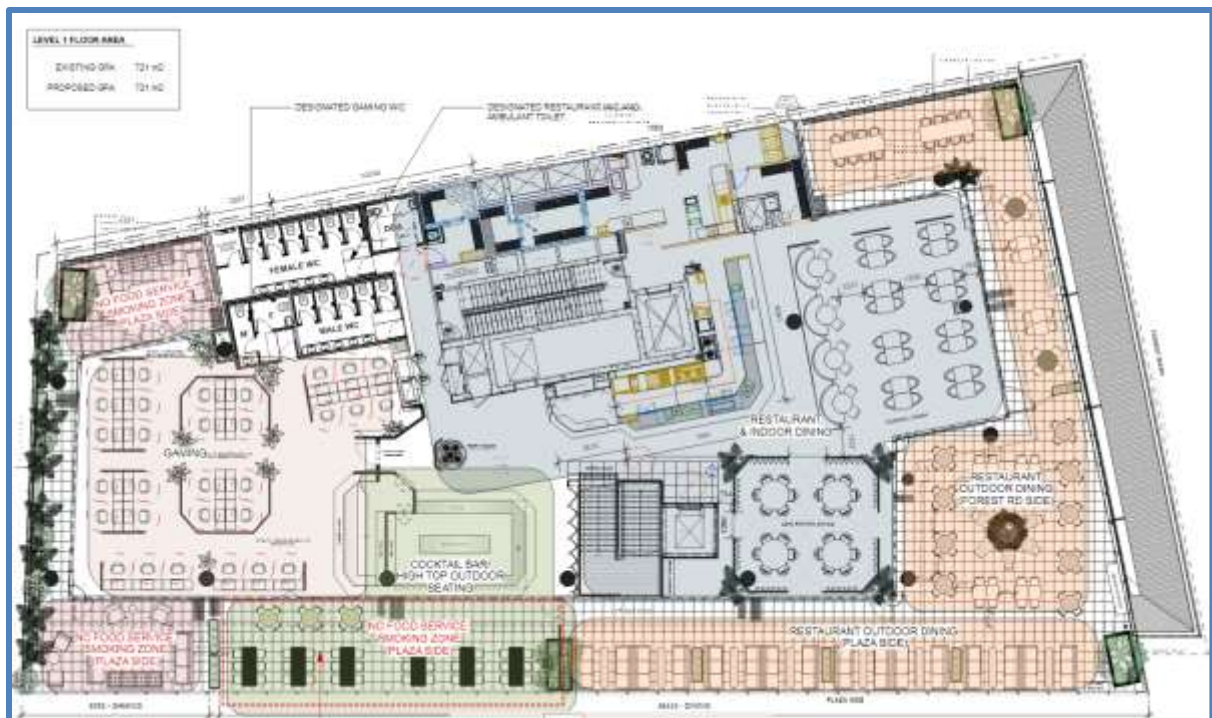


Figure 1: Floor Plan – Level 1 showing areas of the proposed pub.

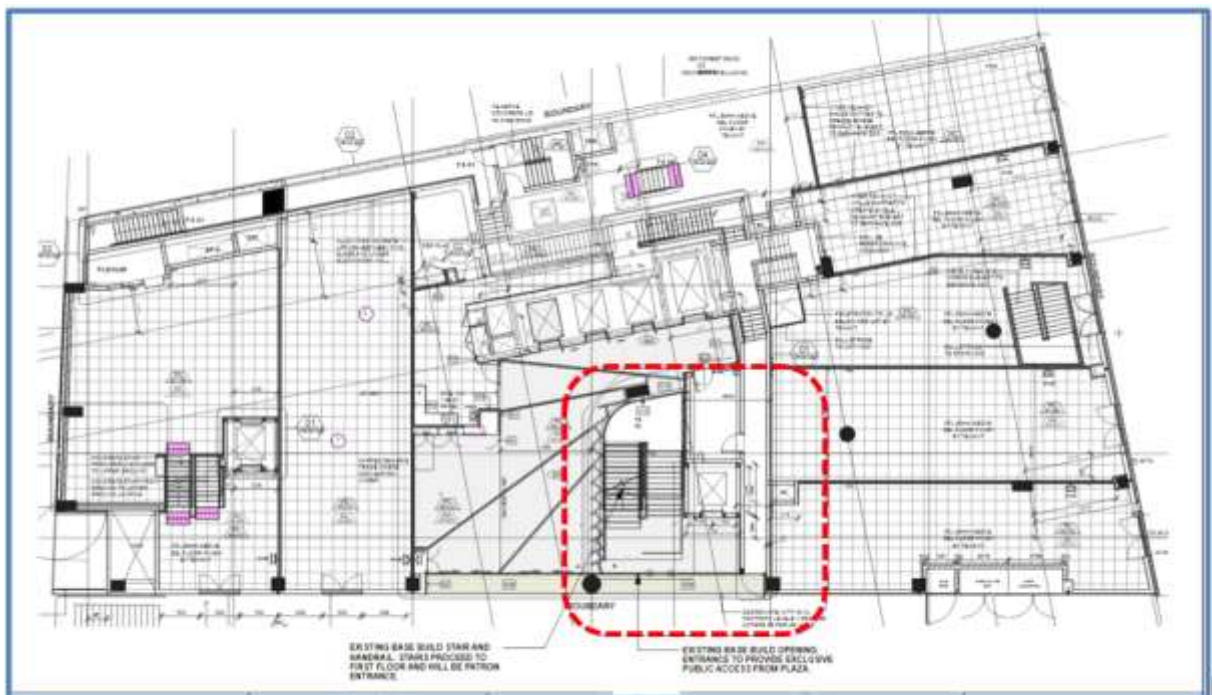


Figure 2: Ground floor access.

13. The applicant proposes the following hours of operation:
- Internal Areas of the Hotel (Restaurant, and Gaming)*
- Monday to Sunday: 7.00am -4.00am

- b) External Areas (including balcony, outdoor dining, outdoor smoking, and gaming lounge area)
 - i) *Fronting Hurstville Plaza*
 - Sunday to Thursday: 7.00am -12:00am
 - Friday to Saturday : 7:00am -2:00am
 - ii) *Forest Road Side*
 - Monday to Sunday:7:00am -2:00am
 - iii) *External (gaming Lounge, no gaming machines, sitting area only)*
 - Monday to Sunday: 7:00am -12:00am
 - c) Staff are expected to arrive 1 hour prior to opening and leave 1 hour after close.
14. There are fourteen (14) parking spaces allocated to the tenancy at Basement Level 02. The ground floor is accessible via lifts from this basement level. There are host desks proposed at ground and first floor level entrances, for greeting and security purposes, as per figure 3 below.

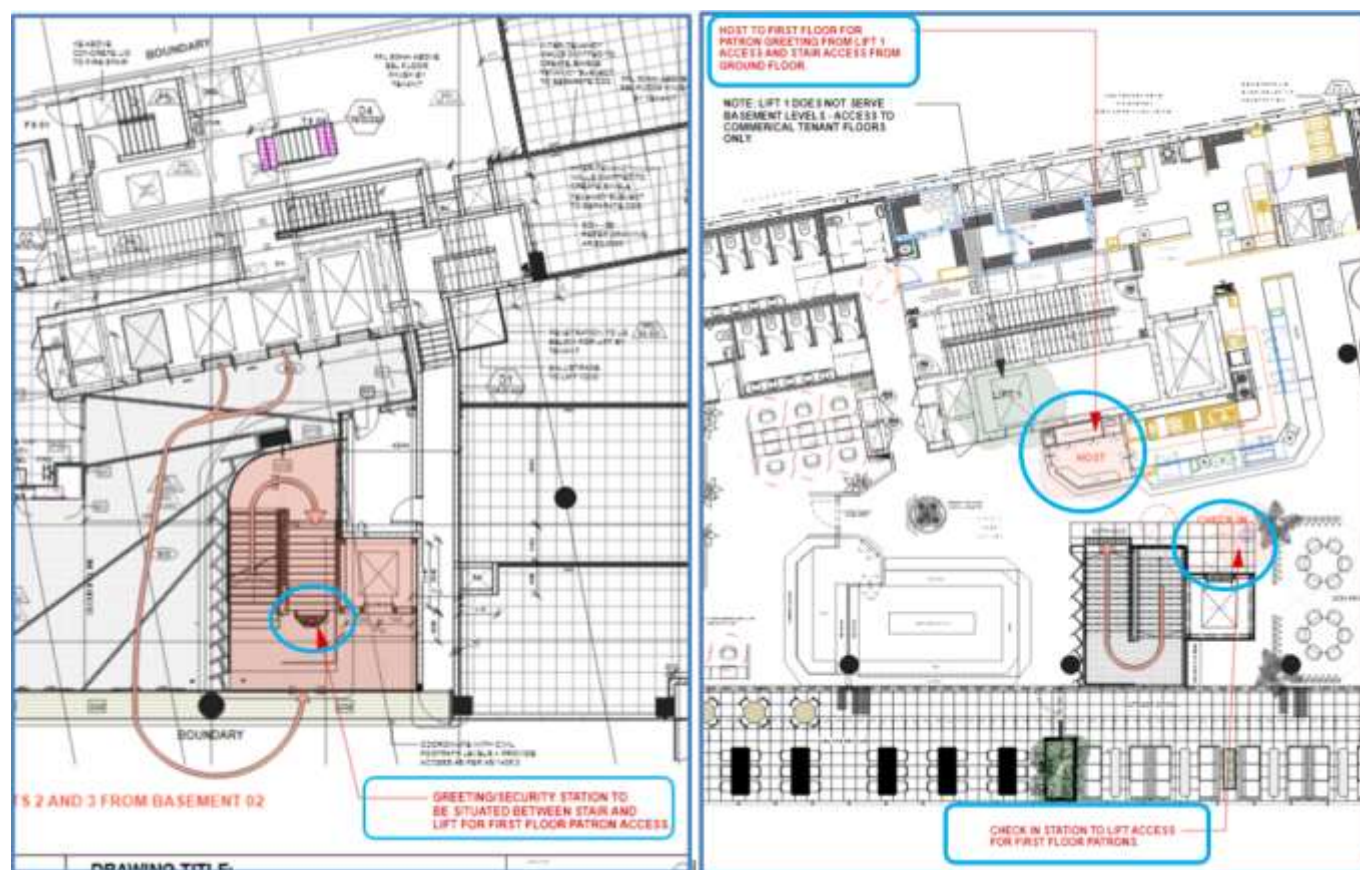


Figure 4: Ground floor entry and host desk to left, and First floor entry and host desk to the right

15. The applicant advises that there is no further signage proposed for the use of level 1, other than the signage already in place:

"The existing illuminated under awning sign box will be utilised as well as existing shop numbering. Please note signage graphics will be submitted as part of a separate application"

16. Future signage will be subject to a separate consent if required, and a recommended condition of consent reflects this.

The Site and Locality

17. The site is known as 288 Forest Road, Hurstville, and is legally described as Lot 100, DP1036230. The land is an irregular in shape with a frontage to Forest Road of 28.975m, a frontage to Humphreys Lane of 18.99m and a site area of 1248m².



Figure 5: Locality Plan, site shown in red.

18. There are a number of ground floor tenancies within 288 Forest Road, Hurstville facing south, onto Forest Road, and west onto Hurstville Central Plaza.
19. The site is located in the Hurstville City Centre, and immediately to the north east, across Humphreys Lane, is Westfield Shopping Centre, there is a pedestrian ramp to Westfield almost directly adjacent to the north of the site, access from Hurstville Central Plaza and Crofts Avenue.
20. The subject tenancy is located on level 1 of 288 Forest Road, Hurstville, and has lift access from the basement parking, as well as further lift and stair access from the ground floor, off Hurstville Central Plaza. The main pedestrian entry foyer is located at the ground floor level.
21. The subject site is located adjacent to land owned by Georges River Council, to the west of the site, known as Hurstville Central Plaza, Lot 16, DP 4799 with a street address of 296 Forest Road, Hurstville.
22. The recently constructed building at 288 Forest Road, Hurstville was approved under DA2016/0322, with the ground floor retail area opening into the plaza and part of the first-floor terrace overhanging Hurstville Central Plaza. However consent to use the terraces has not been granted under DA2016/0322 (as modified).



Figure 6: Aerial view, site shown in red, with adjacent Council owned land, to the west, at 296 Forest Road, shown in blue.

Background

23. DA2016/0322 was approved by the Sydney South Planning Panel on 16 August 2017 for the demolition of existing structures and construction of a fourteen (14) storey building with three (3) levels of retail floor area, eleven (11) levels of commercial floor area, and basement parking accessed from Humphreys Lane to the north.
24. A number of modifications to DA2016/0322, have been lodged as per the table below:

Application	Consent
MOD2018/0038	Deletion of Schedule 1 – Approved
MOD2019/0161	Changes to the external façade, changes to roof plant and equipment screen, relocation of the retail lift and deletion of composite metal panels – approved 18/11/2019
MOD2020/0237	Minor changes to external finishes and internal layout – approved 22/2/2021
MOD2021/0041	Minor change of use to part of the lower ground floor and part of the ground floor, including the addition of 410m ² of GFA. Consent was granted under delegation on 28 April 2021.
MOD2021/0177	Minor change of use to part of the lower ground floor and part of the ground floor. This application is currently under assessment.

25. A pre-lodgement meeting for the use of level 1 as a pub, was held on 1 June 2021 at Georges River Council. Minutes from this pre-lodgement meeting were provided by Council on 29 June 2021.
26. This DA was lodged on 31 July 2021.
27. Council wrote to the applicant on 5 October 2021, requesting the following the following additional information:
 - Further Acoustic Assessment.
 - Basement Parking – detail on parking allocation to the tenancy.
 - Further Plan detail
 - floor plans for the bar, restaurant and waste storage areas.
 - Elevation plans and a full ground floor plan of 288 Forest Road.
 - Layout detail between smoking/ and the non smoking outdoor restaurant seating, including the provision of barriers to minimise smoke between the two areas.
 - Wayfinding detail from basement to the first floor, and ground to first floor, access detail from the ground floor lobby to the first floor.
 - Revised documentation – Further social impact commentary, revised Plan of Management, including total patron detail, and hours of operation for each different area of the tenancy, and hours of staff attendance; revised Gaming Strategy.
 - Signage Detail.
 - Further Security Detail – including CCTV detail, security at Hurstville Central Plaza level.
28. The applicant lodged their response via the NSW Planning Portal on 29 October, 2021.

Planning Assessment

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

ENVIRONMENTAL PLANNING INSTRUMENTS

Environmental Planning and Assessment Act, 1979 (as amended) No.203

30. The development has been inspected and assessed under the relevant Section 4.15 "Matters for Consideration" of the Environmental Planning and Assessment Act 1979.

Land Owners Consent

31. The applicant seeks consent for use of the airspace over Council owned land, to the west, at Lot 16, DP4799, 296 Forest Road, Hurstville, known as Hurstville Central Plaza. The outdoor terrace area, above the plaza, measures approximately 168m².
32. This development application proposes the use of existing level 1 outdoor terrace area for outdoor dining purposes, part of which is located above 296 Forest Road, as identified on the submitted architectural plans. However the applicant *has not* identified the Council owned land on their application form, nor have they submitted landowners' consent from Council with this application. Therefore any proposed use of the airspace above the Hurstville Central Plaza cannot be consented to under this development application.
33. The western boundary of the site, in relation to level 1 terrace is shown in red in Figure 4 below:

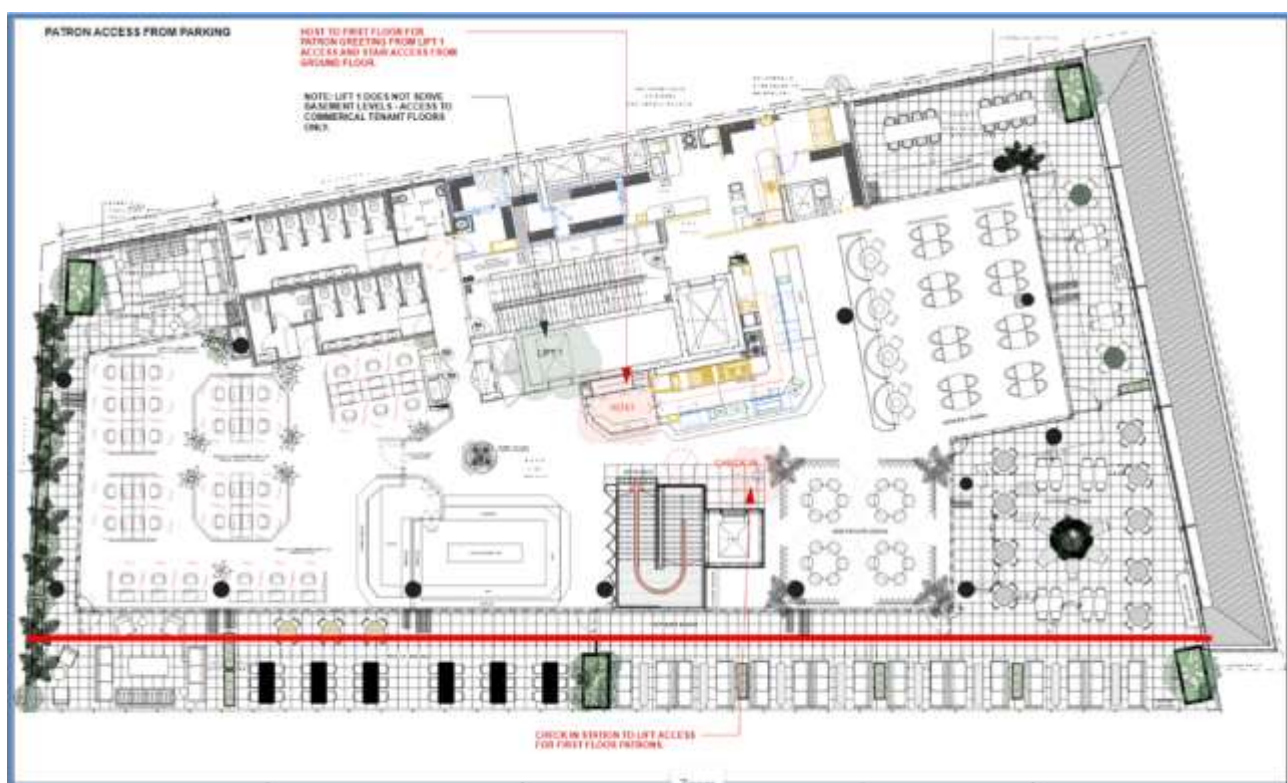


Figure 7: Floor plan of level 1 outdoor terrace, with western boundary shown in red.

34. This DA was lodged on 31 July 2021, without landowners' consent from Council, however a letter granting landowners consent from Council was provided to the owner of 288 Forest Road, Hurstville, dated 6 August 2021. The applicant did not seek to submit this landowner's consent, nor change their application to include Lot 16, DP4799, 296 Forest Road, Hurstville, known as Hurstville Central Plaza.
35. This DA was notified with reference to Lot 100, DP1036230 only, based on the application form submitted with this DA. Therefore as landowners' consent has not been submitted for use of the airspace over 296 Forest Road, and the development application not updated to include Lot 16, DP4799, 296 Forest Road, Hurstville, any proposed uses over this space cannot be legally consented to as part of this application. A condition of consent is recommended, to ensure that *any* proposed use or structure outside Lot 100 DP1036230, 288 Forest Road, Hurstville, is not consented to under this development application.
36. Historically consent has not been granted to use this terrace under DA2016/0322 (as modified) with specific conditions regarding this terrace.
37. The applicant may seek to lodge a separate application for the use of the terraces over the airspace of 296 Forest Road, Hurstville, which may include a development application, or other approval under the Local Government Act.

Environmental Planning Instruments

Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment

38. 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,*

39. The modification does not alter the approved building footprint, as a result there are no changes to the stormwater and drainage arrangement, and it is considered that the proposal is consistent with the aims, objectives and purpose of the Regional Plan.

State Environmental Planning Policies

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

State Environmental Planning Policy	Complies
State Environmental Planning Policy No 55 - Remediation of Land	Yes
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017	Yes
Draft Environment – State Environmental Planning Policy	Yes
Draft Remediation of Land State Environmental Planning Policy	Yes

State Environmental Planning Policy No 55 - Remediation of Land

41. State Environmental Planning Policy 55 aims to promote the remediation of contaminated land in order to reduce the risk of harm to human health or any other aspect of the environment.
42. Clause 7 requires contamination and remediation to be considered in determining a development application. The consent authority must not consent to the carrying out of development on land unless it has considered whether or not the land is contaminated.
43. The issue of contamination is assumed to have been considered at the time of the original assessment. Earthworks have been completed on site in accordance with DA consent DA2016/0322. The works subject of the development application do not require further excavation.

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

44. The State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 ('Vegetation SEPP') regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.
45. The Vegetation State Environmental Planning Policy applies to clearing of:
- a. Native vegetation above the Biodiversity Offset Scheme (BOS) threshold where a proponent will require an approval from the Native Vegetation Panel established under the *Local Land Services Amendment Act 2016*; and

- b. Vegetation below the BOS threshold where a proponent will require a permit from Council if that vegetation is identified in the Council's Development Control Plan (DCP).
46. The Vegetation State Environmental Planning Policy repeals clauses 5.9 and 5.9AA of the Standard Instrument - Principal Local Environmental Plan, with the regulation of the clearing of vegetation (including native vegetation) below the BOS threshold being through any applicable Development Control Plan.
47. The proposed amendments do not seek any significant changes to landscaping arrangements as the extent of works are contained within the approved building footprints.

Draft Environmental Planning Instruments

Draft Environment State Environmental Planning Policy

48. The Draft Environment State Environmental Planning Policy was exhibited from 31 October 2017 to 31 January 2018.

This consolidated State Environmental Planning Policy proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property.

- Changes proposed include consolidating the following seven existing State Environmental Planning Policies:
 - State Environmental Planning Policy No. 19 – Bushland in Urban Areas
 - State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
 - State Environmental Planning Policy No. 50 – Canal Estate Development
 - Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
 - Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)
 - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
 - Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property.
49. Comment: The proposal is generally consistent with the provisions of this Draft Instrument.

Draft Remediation of Land State Environmental Planning Policy

50. The Department of Planning and Environment has announced a Draft Remediation of Land State Environmental Planning Policy, which will repeal and replace the current State Environmental Planning Policy No 55—Remediation of Land.
51. The main changes proposed include the expansion of categories of remediation work which requires development consent, a greater involvement of principal certifying authorities particularly in relation to remediation works that can be carried out without development consent, more comprehensive guidelines for Councils and certifiers and the clarification of the contamination information to be included on Section 149 Planning Certificates.
52. Whilst the proposed State Environmental Planning Policy will retain the key operational framework of State Environmental Planning Policy 55, it will adopt a more modern approach to the management of contaminated land.

53. The proposal is not inconsistent with the provisions of this Policy.

HURSTVILLE LOCAL ENVIRONMENTAL PLAN 2012

54. The proposal is for a pub, which is a type of food and drink premises. A food and drink premises are a type of retail premises as defined in the HELP 2012 and is permissible with consent in the B3 Commercial Core zone.
55. The extent to which the proposal is assessed against the relevant standards of Hurstville LEP 2012 is outlined in the table below.

Clause	Standard	Proposed	Complies
Clause 1.2 Aims of the Plan	In accordance with Clause 1.2 (2)	The development is consistent with the aims of the plan	Yes
Clause 1.4 Definitions	Proposal is defined as a “pub”, which falls within the definition of <i>“food and drink premises”</i> which is means a <i>“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;</i> <ul style="list-style-type: none"> - A restaurant or café - Take away food or drink premises - A pub - A small bar” 	The proposed development meets the definition which falls within the category of pub (food and drink premises, a type of retail premises) The proposal is permissible with consent in the B3 zone.	Yes
Clause 2.3 Zone objectives and Land Use Table	Meets objectives of B3 Commercial Core Zone Development must be permissible with consent	Development meets objectives. Is permissible development with consent	Yes
4.3 Height of Buildings	60m	60m	Yes – no change to approved height of building under DA2026/0322
4.4 Floor Space Ratio	9:1	Approved: 9.33:1 (11,642sqm) 3.65% variation	An additional 410m ² of GFA was approved under MOD2021/0041

			There is no additional GFA proposed as part of this application.
--	--	--	---

Georges River Local Environmental Plan 2020

56. Consideration is given to the provisions of Georges River Local Environmental Plan 2020 in the assessment this application. The GRLEP2021 was gazetted on 8 October 2021.
57. In this regard, the provisions have no determining weight in this application, 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

58. The proposed development is subject to the provisions of the Hurstville Development Control Plan 2 – Hurstville City Centre. The site is located in the Retail Core Precinct.
59. The following table outlines compliance with the relevant provisions of this policy to the application.

Applicable Development Control Plan Controls	Development Control Plan Provisions	Development Proposal	Comment
7.1 This section applies to Commercial premise as defined in the Dictionary of the Hurstville LEP 2012.	<p>Standard Trading Hours Standard trading hours are 6am – 12am (midnight), daily</p> <p>Extended Trading Hours Extended trading hours are 12am (midnight) – 6am, daily.</p>	<p>a) Internal Areas of the Hotel (Restaurant, and Gaming) - Monday to Sunday: 7.00am to 4.00am</p> <p>b) External Areas (including balcony, outdoor dining, outdoor smoking and gaming lounge area)</p> <p>i) <i>Fronting Hurstville Plaza</i> - Sunday to Thursday: 7.00am to 12:00am - Friday to Saturday : 7:00am to 2:00am</p> <p>ii) <i>Forest Road Side</i> -Monday to Sunday:7:00am to 2:00am</p> <p>iii) External (gaming Lounge, no gaming machines, sitting area only) - Monday to Sunday: 7:00am to 12:00am</p>	Does not fully comply - see discussion below

		c) Staff are expected to arrive 1 hour prior to opening and leave 1 hour after close.	
	The following matters need to be considered when assessing an application for extended trading hours:		
	(a) Additional information to be submitted with the DA to include: <ul style="list-style-type: none"> ▪ Detailed description of the activity and its potential impact on adjoining premises ▪ Potential impact on the amenity of the area ▪ Litter generation ▪ Anticipated patronage numbers ▪ Responsibilities of staff, staffing levels and qualifications (if relevant) ▪ External and internal lighting ▪ Security measures ▪ Toilet facilities 		The applicant has submitted this information, further discussion is included below
	(b) Additional advertising requirements for extended trading hours DAs can be considered.	N/A Notified in accordance with the community engagement Strategy	N/A
	(c) Referral of the DA to the NSW Police for comment and input.	The application was referred to the NSW Police who raised no concerns regarding the hours of operation proposed by the applicant	Yes
	(d) Where appropriate, conditions of consent may include requirements for monitoring activities and operations for security, safety, noise, car parking or other related reasons.	-	Conditions regarding management, security and noise are recommended
	(e) Option of time limited consent where Council can review the business'	-	It is recommended that a trial period

	operation after a designated time period, at which time additional controls may be placed on the business.		of 12 months be included as a condition of consent see discussion below
--	--	--	---

Assessment

Hours of Operation

60. The proposed hours of operation extend beyond the control in the Hurstville Development Control Plan 2. The applicant has included security management detail in their Plan of Management, regarding the proposed use, as well as providing other facilities such as toilets and lighting. However given the location of this site in relation to a community space, being Hurstville Central Plaza, a trial of extended hours is considered appropriate in this instance, in order to determine any impacts of the extended trade, including congregating around the pub and surrounding public spaces at ground level and any potential disturbances as a result.
61. In order to ensure compliance with the Development Control Plan the following condition of consent is recommended, with a 12 month trial period for the extended hours:

A) **Standard Trading Hours**

*The approved **standard trading hours** of operation shall be restricted to the following:*

- a) *Internal Areas of the Hotel (Restaurant, and Gaming)*
 - *Monday to Sunday: 7:00am to 12:00am (midnight)*
- b) *External Areas (including balcony, outdoor dining, outdoor smoking and gaming lounge area)*
 - i) *Fronting Hurstville Plaza*
 - *Sunday to Thursday: 7:00am to 12:00am (midnight)*
 - *Friday to Saturday: 7:00am to 12:00am (midnight)*
 - ii) *Forest Road Side*
 - *Monday to Sunday: 7:00am to 12:00am (midnight)*
 - iii) *External (gaming lounge sitting area only, no gaming machines)*
 - *Monday to Sunday: 7:00am to 12:00am (midnight)*

B) **Occupation of the site**

The premises must not be occupied by staff or contractors one (1) hour prior to commencement of trading on any day, and beyond (one) 1 hour after the cessation of trading on any day.

C) **Extended hours of operation**

The extended hours of operation are:

- a) *Internal Areas of the Hotel (Restaurant, and Gaming)*
 - *Monday to Sunday: 12:00 am (midnight) to 4.00am*
- b) *External Areas (including balcony, outdoor dining, outdoor smoking and gaming lounge area)*
 - i) *Fronting Hurstville Plaza*
 - *Sunday to Thursday: No extended hours required*
 - *Friday to Saturday : 12:00 am (midnight) to 2:00am*
 - ii) *Forest Road Side*
 - *Monday to Sunday: 12:00 am (midnight) to 2:00am*
 - iii) *External (gaming lounge sitting area only, no gaming machines)*
 - *No extended hours required*

The use may operate over the extended hours of operation for a trial period of **twelve (12) months** from the date of the Occupation Certificate (where one is issued) or the date at which the use commences operation where no Occupation Certificate is required to be issued.

Should the applicant intend to continue operating over the extended hours of operation, the consent is to be modified by an application under Section 4.55 of the [Environmental Planning and Assessment Act 1979](#). The assessment of this application will be based on the operation of the use over the nominated trial period.

Where a Section 4.55 application is not received before the trial period ends, the hours of operation will revert to the standard hours of operation nominated in (A) **Standard Trading Hours**.

62. The above is reflected in a recommended condition of consent.

Central Plaza, Hurstville Plan of Management Community Land: General Community Use.

63. A Plan of Management applies to the adjacent Hurstville Plaza. Under the Local Government Act 1993, Georges River Council is required to prepare a Plan of Management for all community land including parks, open spaces and community land identified for general community use. The land to which this Plan of Management applies is identified in Figure 8 below:

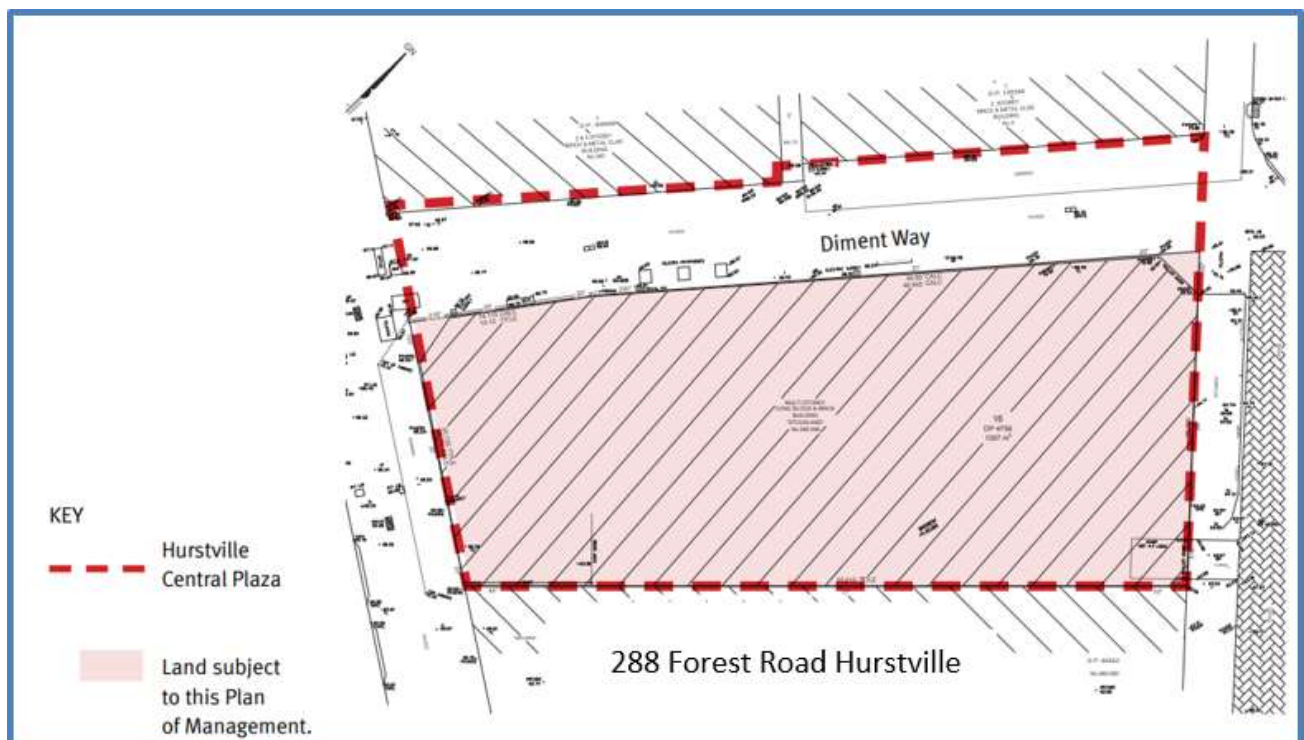


Figure 8: Land to which the management plan applies.

64. The management plan states:

“This plan applies to public land to be known as Central Plaza, Hurstville currently known as Lot 16 DP 4799 to be gazetted as Public land categorised as General Community Use under the Local Government Act 1993. The land to be known as Hurstville Central Plaza includes Diment Way which is a road and while a road does not require a Plan of Management to be prepared, as it will form part of the Central plaza redevelopment it will

be managed in general accordance with principals outlined in this Plan of Management. The public land covered by this Plan of Management is shown in Figure 1.2 and Appendix A. This specific Plan of Management ensures consistent management which supports a cohesive approach to meeting the diverse needs of the community.”

65. Further this plan indicates that the plaza serves as pedestrian way to facilitate entry to adjacent buildings, this includes the subject site at 288 Forest Road.
66. The proposed development contributes to the broad values and management objectives included in the Central Plaza, Hurstville Plan of Management Community Land. These include:
 - improving visual connections across and through the site; and improving natural surveillance,
 - encouraging passive interaction with this plaza which includes cultural representations of the community, through pedestrian access to the tenancy, directly from other surrounding areas via the plaza.
 - The site is well connected to public transport and is walkable from the surrounding residential development.
 - As the tenancy forms part of the retail/commercial edge of the plaza, it further activates this public space.
 - The proposal meets the objective regarding local businesses and local employment associated with the community use and open space of this plaza. The proposal achieves this through the use of the pedestrian environmental provided by the plaza, to the proposed first floor pub.

IMPACTS

Natural Environment

67. The proposed development does not involve excavation or earthworks. The proposed works will have minimal impact upon the natural environment as it does not result in the loss of vegetation or impacts upon other sensitive environments.
68. There will be no detrimental impact on the natural environment, as a result of the proposed development.

Built Environment

69. The proposed development is unlikely to have an adverse impact on the built environment. The proposed works will improve and contribute to the commercial character of the streetscape and Town Centre.
70. The proposal seeks to retain the use of existing, approved materials and finishes. Therefore the proposal is acceptable in this instance and will have minimal impacts upon the built environment.

Social Impact

71. The applicant has submitted a Social Impact Assessment and provided further social impact discussion in their response to information letter.
72. The Social Impact Assessment contains a number of recommendations:
 - *Consider working with Council and other relevant businesses to promote Hurstville as a night time destination.*

- *Prepare a separate POM, or specific clauses in the existing POM, with additional safety measures to manage the greater risks created by large events.*
- *Consider preparing a CPTED assessment to address the potential crime and risk areas within the pub, particularly the interface between the different internal and external uses proposed and the design and layout of the pub.*
- *To further promote social interaction and visibility within the gaming room, consider removing or reducing the height of the screening provided around the gaming machines situated at the centre.*
- *Provide a community benefit to help offset the negative social impact of EGMs. Initial consultation with Council has generated a number of potential activities, such as provision of community and recreation events in Hurstville Central Plaza and a range of support programs and activities for young people*

These recommendations have been included in recommended conditions of consent, as well as for inclusion in a revised Plan of Management.

73. The applicant has submitted a Gaming Harm Minimisation Management Plan and a Gaming Management Plan. Both of these documents contain recommendations with regards to reducing impacts, and management strategies relating to gaming upon future patrons who attend the venue and the gaming section. Both of these plans have included in recommended conditions of consent.
74. The application has also been reviewed by the NSW Police, who raised no objections to the development, subject to conditions of consent relating including CPTED, and endorsement of the Plan of Management.
75. The hours of operation relating to gaming and the consideration of the number of gaming machines, is a matter for the licencing agency being the Independent Liquor and Gaming Authority (ILGA). The applicant has also proposed social impact mitigation/management practices in their Plan of Management, which is recommended to be endorsed via a condition of consent.
76. The assessment demonstrates that the proposal in its current form will have adequate management practices in place with regards to social impact arising from gaming, and other uses within the tenancy and external to the site, through use of security cameras and security personnel. These are further strengthened through recommended conditions of consent.
77. The impacts on the social environment are considered to be reasonable subject to recommended conditions and the application is supported.

Economic Impact

78. The proposed development has no perceived adverse economic impacts. The proposed development will create additional employment opportunities and will stimulate the local economy, which is a positive outcome. The fit out and associated works will also generate construction jobs.
79. The proposal will further contribute to pedestrian activity and activation of a public space in Hurstville Central Plaza, with pedestrian access from the ground floor at plaza level.

Suitability of the Site

80. The site is zoned B3 Commercial Core, and the proposed use of the tenancy as a pub (food and drink premises) is permissible with consent.
81. The proposal, subject to recommended conditions of consent, including conditions relating to management of the pub, such as management of patron behaviours, staff training, security and other CPTED measures, noise attenuation and hours of operation, the site is considered suitable for the proposed development.
82. The site is suitable for the proposed development and consistent with existing and future desired character of this locality.

SUBMISSIONS, REFERRALS AND THE PUBLIC INTEREST

Submissions

83. In accordance with the provisions of Council's Public Notification pursuant to the Georges River Community Engagement Strategy, the application was placed on neighbour notification from 11 August 2021 to 25 August 2021. In response, two (2) submissions were received.
 - **Issue:** Creation of an additional commercial competitor in the market, with three other existing hotels and two registered clubs in the vicinity all offering gaming and alcohol consumption.
Comment: The applicant has submitted an Economic Impact Assessment with the revised information submitted. Typically economic impact on individual business types, bought about by competition, is not a matter for consideration under the EP&A Act. Nor is it Councils or the Consent Authority's role to ensure the viability of similar businesses in the LGA. The impact upon other businesses in the event of approval of this application cannot be reasonably predicted given the many variables involved, and even if that were possible, it is unlikely that limiting local competition in a particular sector would be a positive economic outcome. It is noted however that the proposed pub will contribute to the local economy by way of local jobs, and the activation of the locality in an easily accessible location.
 - **Issue: Management and operational impacts and issues upon other similar existing venues in the locality as result of the proposed development.** These issues include: existing issues with respect to crime and public order may be worsened with an additional large scale pub, and alcohol related harm and problem gambling; the proposed pub will impact upon the harm minimisation efforts of other similar venues as well as impact upon their security requirements if clients leave the proposed venue and move on to the other venues in the locality, *"potentially creating disputes and adverse interactions with our security and staff if patrons having left the new venue attempt to gain entry into ours and are refused"*.
Comment: The applicant has submitted a Plan of Management, a Gaming Plan of Management, and a Gaming Harm Minimisation Management Plan, as well as a Social Impact Assessment. Conditions of consent are recommended regarding patron management and security; as well as gambling mitigation and management protocol, including training of staff. The aforementioned documents are recommended to be incorporated into conditions of consent. Further the NSW Police have reviewed the application and have raised no matters of concerns subject to conditions of consent including but not limited to CCTV, Plan of Management, management of patrons.

It is noted additionally that these matters are also closely regulated through the liquor licencing process by Liquor and Gaming NSW.

- **Issue: Hours of operation** - *“If Council decides to grant consent, it should only do so subject to stringent conditions and trading beyond midnight should not be permitted.”*

Comment: The applicant proposes the following hours of trade, with staff to attend the site one hour before and one hour after:

- a) *Internal Areas of the Hotel (Restaurant, and Gaming)*
 - *Monday to Sunday: 7.00am -4.00am*
- b) *External Areas (including balcony, outdoor dining, outdoor smoking and gaming lounge area)*
 - i) *Fronting Hurstville Plaza*
 - *Sunday to Thursday: 7.00am -12:00am*
 - *Friday to Saturday : 7:00am -2:00am*
 - ii) *Forest Road Side*
 - *Monday to Sunday:7:00am -2:00am*
 - iii) *External (gaming Lounge, no gaming machines, sitting area only)*
 - *Monday to Sunday: 7:00am -12:00am*

As recommend above under the *Hurstville* Development Control Plan 2 assessment, the proposed hours will be reduced via a condition of consent, with a trial period of 12 months for extended hours.

- **Issue: That the venue will be mainly focussed on gaming and alcohol consumption** - *“The proposal indicates a high end dining and family friendly facility, but this is inconsistent with a pub trading beyond midnight. This is really a trojan horse for a high impact gaming venue to be imposed on a community which already has sufficient supply of gaming facilities and a demographic which is particularly vulnerable to problem gambling.”*, and *“If the applicant wishes to operate a high end restaurant, then it is not essential that the premises be approved as a pub.”*

Comment: The proposed pub includes a number of proposed uses within the venue, including the restaurant, gaming area, lounges and bar areas. Given that there is food service proposed it is considered that this proposal is not solely focused on gaming and alcohol consumption.

The future clientele and marketing of the venue are not a matter for planning consideration. However, as discussed above and throughout the report there are a number of management conditions recommended with regards to patron behaviour recommended should consent be granted. Further, also as discussed above the NSW Police have not raised any objections to the development subject to conditions.

The proposal is permissible in the zone with consent. The mix of permissible uses within the tenancy is a matter for the applicant to determine/propose. There are recommended conditions regarding the hours of operation for each use within the level 1 tenancy. The applicant, if consent is granted, will be required to apply for liquor and gaming licenses which may have further restrictions upon it as issued by the Liquor and Gaming NSW, noting that part of the licencing process is to consider the social impact of gaming specifically with regards to the immediate locality of the venue prior to issuance of a license.

Council's assessment of the proposal does not indicate that the proposal would have a significant adverse social impact on the local community beyond that of the surrounding licensed premises, noting the substantial number of these within close proximity to the site, and with the recommendations outlined in the social impact assessment being recommended as conditions of consent, it is considered that any such impacts can be appropriately managed.

- **Issue:** Access to the site from the basement and street level - wayfinding and security at ground and first floor levels and external to the tenancy.
Comment: The applicant has provided detailed wayfinding plans from both basement and street level, which are recommended for approval. The wayfinding plans also form part of the Plan of Management. The wayfinding plans indicate clear paths of travel for vehicles into the basement and clear paths of travel for pedestrians.
- **Issue:** *"Plan of Management submitted is limited and management of the facility is not appropriately detailed for such a large venue".*
Comment: The applicant has submitted a revised PoM with further details on security and gaming, as well as on social impact of operation. Additional conditions of consent are recommended regarding the Plan of Management including information regarding social impact, and the details and practices regarding complaints management.
- **Issue:** A submission has reviewed the applicant's Social Impact Assessment (SIA), and the submitters advises *"While the SIA acknowledges the potential for the subject application to generate a very high negative impact on residents and visitors, it notes that the proposed recommendations outlined in the SIA are sufficient to mitigate these."*
Comment: The recommendations within the Social Impact Assessment submitted with this application have been incorporated into recommended conditions of consent.¹

External Referrals

NSW Police

84. The NSW Police reviewed the application, and raised no objection to the proposal subject to conditions of consent, relating to security and safety, including, condition relating to the *Plan of Management, Neighbourhood Amenity, Security, CCTV, Noise, Live Entertainment, Responsible service of alcohol and Liquor Accord Membership*.

Internal Referrals

Council Health Officer

85. Council's Health officer raised no objection to the development subject to the imposition of conditions regarding food safety and food handling, noise, and amenity.

Building Surveyor

86. Council's Building Surveyor raised no objection to the development subject to recommended conditions of consent

Traffic Engineering

87. Traffic and parking were assessed as part of the original DA2016/0322. This proposal does not impact upon approved parking and traffic requirements and therefore the Traffic

Engineer had no further comment to provide on this proposal. No comments traffic and parking assessment undertaken for original approval

CONTRIBUTIONS

88. The development is subject Georges River Council Local Infrastructure Contributions Plan 2021 (S7.11 and S7.12) contribution as the proposed cost of works exceeds \$100,000.00. In accordance with Council's contributions plan, Section 7.12 contributions are applicable proposed development, calculated at a rate of 1% of the total development cost of \$3,233,558.00. The contribution payable is \$32,335.58. A condition of consent requiring payment of the contribution has been imposed.
89. Contributions on this application have been determined in accordance with the Georges River Council Local Infrastructure Contributions Plan 2021 (Section 7.11 and Section 7.12). This plan applies to a development application (DA) and application for a complying development certificate (CDC) that had been submitted but not determined on the date on which this plan took effect.

CONCLUSION

90. The application seeks approval for the first use, and internal fit out of the tenancy location of the first floor of 288 Forest Road, Hurstville as a pub, including a restaurant gaming room, bar, and seating areas; and pedestrian access from ground level and the basement.
91. The application has been assessed having regard to the Matters of Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, the provisions of the relevant State Environmental Planning Policies, Local Environmental Plans and Development Control Plans. The proposal is an appropriate response to the context of the site and will result in a good planning and urban design outcome in the locality. It is considered that Development Application No DA2021/00291 should be approved subject to conditions of consent.

DETERMINATION AND STATEMENT OF REASONS

Statement of Reasons

92. The reasons for this recommendation are:
- The proposed development will not have unacceptable adverse impacts to the natural and built environment given the scale of the development proposed, and that the building footprint remains unchanged, and the bulk and scale of the development is consistent with the current built form, and future desired character.
 - The proposed land use is considered suitable for this site also given its commercial location within the Hurstville Town Centre and well serviced by public transport, and local walkable street networks.
 - The siting, design and bulk and scale of the development is considered suitable for the site.
 - The proposal is a permissible use in the zone and satisfies the objectives of the zone.
 - The proposal is considered acceptable with regards to CPTED with a number of conditions relating to the management of the venue, and patrons (internal and external to the venue), as well as based on recommended amended hours of operation consistent with the Hurstville Development Control Plan 2.
 - In consideration of the aforementioned reasons, the proposed development is a suitable and planned use of the site and its approval is in the public interest.

Determination

93. THAT pursuant to Section 4.16 (1)(a) of the Environmental Planning and Assessment Act 1979, as amended, the Georges River Local Planning Panel approve Development Application DA2021/0291 for the first use and fit out of level 1 for use as a pub (food and drink premises), including access from the ground floor foyer, at Lot 100, DP1036230, known as 288 Forest Road, Hurstville, subject to the following conditions:

Development Details**1. Approved Plans**

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

Description	Reference No.	Date	Revision	Prepared by
Existing Base Build Plan - Ground Floor	Drawing 1.01	15/10/2021	A - VT	Melinda Collison Design P/L
Existing Base Build Plan - First Floor	Drawing 1.02	15/10/2021	A - VT	Melinda Collison Design P/L
General Arrangement Plan - Ground Floor	Drawing 1.03	15/10/2021	A - VT	Melinda Collison Design P/L
General Arrangement Plan - First Floor	Drawing A1.04	15/10/2021	A - VT	Melinda Collison Design P/L
GA Plan /External RCP for Awning	Drawing A1.05	15/10/2021	A - VT	Melinda Collison Design P/L
GA Plan - Zoning	Drawing A1.06	15/10/2021	A - VT	Melinda Collison Design P/L
GA Plan - Number of Patrons	Drawing A1.07	15/10/2021	A - VT	Melinda Collison Design P/L
Basement 02 Plan	Drawing A1.08	15/10/2021	A - VT	Melinda Collison Design P/L
Basement 02 Plan - Wayfinding Plan	Drawing A1.09	15/10/2021	A - VT	Melinda Collison Design P/L
Basement 01 Plan - Wayfinding Plan	Drawing A1.10	15/10/2021	A - VT	Melinda Collison Design P/L
Lower Ground Floor Plan - Wayfinding Plan	Drawing A1.11	15/10/2021	A - VT	Melinda Collison Design P/L
Basement 02 - Access Plan	Drawing A1.12	15/10/2021	A - VT	Melinda Collison Design

				P/L
Lower Ground - Access Plan	Drawing A1.13	15/10/2021	A - VT	Melinda Collison Design P/L
General Arrangement Access Plan	Drawing A1.14	15/10/2021	A - VT	Melinda Collison Design P/L
Elevation (South) - Forest Rd Side	Drawing A1.20	Amended by Georges River Council 22/11/2021	A - VT	Melinda Collison Design P/L
Elevation (West) - Plaza Side	Drawing A1.21	Amended by Georges River Council 22/11/2021	A - VT	Melinda Collison Design P/L
Elevation (North) - Humphreys Lane Side	Drawing A1.22	Amended by Georges River Council 22/11/2021	A - VT	Melinda Collison Design P/L
Awning Detail Sections	Drawing A1.23	Amended by Georges River Council 22/11/2021	A - VT	Melinda Collison Design P/L
Awning Detail Sections	Drawing A1.24	15/10/2021	A - VT	Melinda Collison Design P/L
Awning Detail Sections	Drawing A1.25	15/10/2021	A - VT	Melinda Collison Design P/L
Planter Screen To West - Detail Sections	Drawing A1.26	15/10/2021	A - VT	Melinda Collison Design P/L
Visualisation - Forest Road	Drawing A1.27	15/10/2021	A - VT	Melinda Collison Design P/L
Visualisation - Plaza	Drawing A1.28	15/10/2021	A - VT	Melinda Collison Design P/L
Interior Finishes	Drawing A1.29	15/10/2021	A - VT	Melinda Collison Design P/L
Exterior Finishes to Awning/ Screening Planter Boxes	Drawing A1.30	15/10/2021	A - VT	Melinda Collison Design P/L
Exterior Plant Options	Drawing 1.31	15/10/2021	A - VT	Melinda Collison Design P/L
Mechanical Services Level 01 HVAC Layout	M101	8/7/2020	6	-
Mechanical	M114	19/12/2019	4	-

Services Roof Plan HVAC Layout				
Number 1 Hurstville Plan of Management for the Hurstville Hotel Located at One Hurstville Plaza	-	October 2021	Version 2	-

LPP071-21

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.
3. **Projection of Building (level 1) beyond the boundary of Lot 100, DP 1036230 -**
- a) Any part, structure, or proposed use of the level 1 tenancy, that is outside the boundaries of Lot 100, DP 1036230, 288 Forest Road Hurstville, including any airspace below, does not form part of this development consent of DA2021/0291.

A plan showing the removal of all works and proposed uses outside the lot boundaries of Lot 100, DP 1036230, 288 Forest Road Hurstville, is to be provided to the Certifying Authority prior to the issue of a Construction Certificate.

Separate Approvals Required Under Other Legislation

4. **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.

5. **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

6. **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.

7. NSW POLICE

A) General Management Conditions

Plan of Management

- 1) The premises is to be operated at all times in accordance with the Plan of Management dated June 2021 (and as revised in October 2021, Version 2) as may be varied from time to time after consultation with NSW Police. A copy 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, Liquor and Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority.

Neighbourhood Amenity

- 2) The licensee must ensure that:
 - a. Patrons do not crowd or loiter in the vicinity of the premises in such manner that pedestrian movement is obstructed or hindered.
 - b. The manner in which the business of the premises is conducted, and the behaviour of persons entering and leaving the premises, do not cause undue disturbance to the amenity of the neighbourhood. In this regard, the licensee is responsible for the control of noise and litter generated by persons, and by the operation of the premises. If so directed by Council, the licensee must employ private security staff to ensure that this condition is complied with.
 - c. The licensee must record in a register full details of any disturbance complaints made by a person to the licensee, management or staff in respect to the manner in which the business of the premises is conducted, or the behaviour of persons entering or leaving the premises. Such recording must include time, date, nature of the complaint and, if provided, any details of the complainant.
 - d. The licensee must respond to any disturbance complaints in a timely and effective manner. All actions undertaken by the licensee, management and staff

to resolve such complaints must be recorded in the register.

Security

- 3) Whenever the licensed premises operates beyond 12.00am, a minimum of one uniformed security guards is to continually patrol the vicinity of the licensed premises to encourage patrons to move on. Such patrols are to continue until the last patron has left the vicinity of the licensed premises.
- 4) Uniformed licensed security officers are to be employed at a ratio of not less than one per one hundred (1:100) patrons or part thereof.
- 5) Uniformed licensed security officers must have direct contact with the duty manager via portable radio or mobile phone.

Closed Circuit Television

- 6) 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 digital format and at a minimum of ten (10) frames per second,
 - c. any recorded image must specify the time and date of the recorded image,
 - d. the system's cameras must cover the following areas:
 - i. all entry and exit points on the premises,
 - ii. the footpath immediately adjacent to the premises, and
 - iii. all publicly accessible areas (other than toilets) within the premises.

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.

LA10 Noise condition

- 7) The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz - 8kHz inclusive) by more than 5dB between 07:00 am and 12:00 midnight at the boundary of any affected residence.

The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz - 8kHz inclusive) between 12:00 midnight and 07:00 am at the boundary of any affected residence.

Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 07:00 am.

Interior noise levels which, although restricted in accordance with the above condition, still exceed safe hearing levels, are in no way supported or condoned.

Live Entertainment

- 8) The licensee must ensure when amplified entertainment is conducted, all external doors and windows are closed from 10.00pm

Responsible service of alcohol

- 9) The licensee must ensure no open alcohol containers are taken off the premises.

Liquor Accord Membership

- 10) The Licensee or their representative must join and be an active participant in the local liquor accord.

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	
Builders Damage Deposit	\$1,900.00
Inspection Fee for Refund of Damage Deposit	\$160.00
DEVELOPMENT CONTRIBUTIONS	
Georges River Council Local Infrastructure Contributions Plan 2021 (S7.11 and S7.12)	\$32,335.58

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

Indexation

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

A Section 7.12 contribution has been levied on the subject development pursuant to the Georges River Council Local Infrastructure Contributions Plan 2021 (S7.11 and S7.12).

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. Site Management Plan

Major Development

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

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

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

11. Damage Deposit - Minor Works

In order to insure against damage to Council property the following is required:

- a) Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of

the development: \$1,900.00

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

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

12. **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.
13. **Acoustic Requirements - Compliance with submitted Acoustic Report**
The Construction Certificate plans shall demonstrate compliance with the Acoustic Report submitted and approved by Council, titled Noise Impact Assessment for Development Application, prepared by E-Lab Consulting and dated 13 October 2021.
14. **Partial conformity with the Building Code of Australia - \ 94 EP& A Regulation 2000**
Pursuant to Clause 94 of the Environmental Planning and Assessment Regulation 2000, the existing building must be brought into partial conformity with the Building Code of Australia in respect to the provisions of:
 - a) Fire resistance - Section C
 - b) Access and egress from the building - Section D.
 - c) Fire safety services and equipment - Section E.
 - d) Health and amenity - Section F

A. In this regard, detailed construction plans and specifications that demonstrate compliance with the above requirements of the Building Code of Australia must be submitted to the Certifying Authority with the Construction Certificate application for approval. Should there be any non-compliance, an alternative method of fire protection and structural capacity must be submitted, with all supporting documents prepared by a suitably qualified person.
15. **Plan of Management** - The approved development at Level 1, 288 Forest Road, Hurstville is to operate in accordance with the Number 1, Plan of Management for the Hurstville Hotel Locations and One Hurstville Plaza, October 2021, Version 2 June 2021. The Plan of Management shall be updated to include:
 - a) A detailed response to *Section 8.1 Recommendations* of the approved Social Impact Assessment, One Hurstville Plaza -Pub and Restaurant prepared by Urbis, dated 15 July 2021.
 - b) All other conditions relate to management of the approved pub.

- c) Updated hours of operation as per the conditions in this document
- d) Any noise related conditions
- e) Any conditions regard gaming harm minimisation and management.
- f) Complaints management and complaints register procedures.
- g) Additional Security foot patrols external to the premises, at ground level in the Hurstville Central Plaza and along the Humphreys Lane boundary of 288 Forest Road, are to be incorporated into the security practices (from 10pm until close) as outlined in the Plan of Management.
- h) The Plan of Management is to be updated with regards to patrons found to be under the effect of/using illegal drugs. Detail regarding escorting from the building and vacating the locality is to be included, to ensure that they do not loiter.

A copy of the updated Plan of Management is to be provided to the PCA prior to the issue of a Construction Certificate.

16. **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/NZS4586:2004 - Slip Resistance Classifications of New Pedestrian Materials and must be detailed on the plans lodged with the application for the Construction Certificate.
17. **Access for Persons with a Disability** - Access for persons with disabilities. Access for persons with disabilities must be provided direct to the site, including to all common areas, foyers, retail areas, carpark and required sanitary facilities in accordance with the Premises Standards, the Building Code of Australia and AS 1428.1. Details must be submitted with the Construction Certificate Application.
18. **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 <http://www.legislation.nsw.gov.au/>](http://www.legislation.nsw.gov.au/) (as amended)
- ii. [Food Regulation 2015 <http://www.legislation.nsw.gov.au/>](http://www.legislation.nsw.gov.au/) (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 Waste Services Team for approval. Such details must demonstrate compliance with the [Food Act 2003 <http://www.legislation.nsw.gov.au/>](http://www.legislation.nsw.gov.au/) (as amended), [Food Regulation 20105 <http://www.legislation.nsw.gov.au/>](http://www.legislation.nsw.gov.au/) (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 system 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](http://www.legislation.nsw.gov.au/) <<http://www.legislation.nsw.gov.au/>>;
- 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.

19. **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.

20. **Waste Management Plan** - A Waste Management Plan incorporating all requirements in respect of the provision of waste storage facilities, removal of all materials from the site that are the result of site clearing, extraction, and, or demolition works and the designated Waste Management Facility shall be submitted to the Certifying Authority prior to the issue of any Construction Certificate.

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

Prior to the Commencement of Work (Including Demolition & 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. **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.
24. **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 any 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 any 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.

During Construction

25. **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](http://legislation.nsw.gov.au/) [<http://legislation.nsw.gov.au/>](http://legislation.nsw.gov.au/) and/or Section 68 of the [Local Government Act 1993](http://www.legislation.nsw.gov.au/) [<http://www.legislation.nsw.gov.au/>](http://www.legislation.nsw.gov.au/) for any of the following activities carried out in, on or over a public road (including the footpath) listed below.

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

- (a) Placing or storing materials or equipment or otherwise enclosing public road reserve; (refer: work zone application);
- (b) Placing or storing waste containers or skip bins; (refer Application To Place Waste Skip Bin On Roadway)
- (c) Erecting a structure or carrying out work (refer: Temporary Structures Application, Roads Act Application)

- (d) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like; (refer: Road Lane and Footpath Closure Application)
- (e) Pumping concrete from a public road; (refer Road Lane and Footpath Closure Application)
- (f) Pumping water from the site into the public road; (refer: Roads Act application)
- (g) Constructing a vehicular crossing or footpath; (refer: Application for Driveway Crossing & Associated Works)
- (h) Establishing a “works zone”; (refer Works Zone Application)
- (i) Digging up or disturbing the surface of a public road (e.g. Opening the road for the purpose of utility connections to stormwater kerb outlet connection); (refer: Road Opening Permit Application)
- (j) If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council’s roadways/footways. (refer: Temporary Structures Application)

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

- 26. 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.
- 27. 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.
- 28. Structural Certificate During Construction** - Building works must be constructed in accordance with details designed and certified by the practising qualified structural engineer. All structural works associated with the proposals must be inspected and structurally certified for compliance by an independent practising 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 prior issue of the Occupation Certificate.
- 29. Hours of construction for demolition and building work** - Unless authorised by Council:
 - a. Building construction and delivery of material hours are restricted to: 7.00 am to 5.00 pm (inclusive) Monday to Saturday and no work on Sundays and Public Holidays.
 - b. Demolition and excavation works are restricted to: 8.00 am to 5.00 pm (inclusive) Monday to Friday only. Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site.

30. 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.

31. 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.**32. 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.**33. 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**34. 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.

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.

35. Acoustic Compliance - Prior to the issue of any Occupation Certificate, a report prepared by a suitably qualified acoustic consultant must be submitted to the PCA certifying that the construction has incorporated the recommendations in the DA Acoustic Report titled Noise Impact Assessment for Development Application, prepared by E-Lab Consulting and dated 13 October 2021.**36. Noise from roof top mechanical plant and equipment** - CBD Only - Noise from the operation of rooftop mechanical, equipment, ancillary fittings, machinery, mechanical

ventilation system and / or refrigeration systems must not exceed *background noise* when measured at the nearest lot boundary of the site. Where noise sensitive receivers are located within the site, noise from the operation of mechanical plant and equipment must not exceed background noise when measured at the nearest strata, stratum or community title boundary.

A professional acoustic engineer shall be engaged to certify that the design and construction of the all sound producing plants and equipment associated with the building complies with the above requirements. Certification shall be submitted to the PCA prior to the issue of any Occupation Certificate.

37. Food Premises - Inspection & 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 (On-Going)

38. Maintenance of Sound Attenuation - Sound attenuation must be maintained in accordance with the Acoustic Report titled Noise Impact Assessment for Development Application, prepared by E-Lab Consulting and dated 13 October 2021.

39. 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.

40. 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).

41. Smoke Area - Prohibition of live bands, amplified music or speakers - There shall be no live bands, amplified music or speakers permitted to perform in the smoke area at any time.

42. Hours of operation

A) Standard Trading Hours

The approved **standard trading hours** of operation shall be restricted to the following:

- a) Internal Areas of the Hotel (Restaurant, and Gaming)
 - Monday to Sunday: 7:00am to 12:00am (midnight)
- b) External Areas (including balcony, outdoor dining, outdoor smoking and gaming lounge area)
 - i) Fronting Hurstville Plaza
 - Sunday to Thursday: 7:00am to 12:00am (midnight)
 - Friday to Saturday : 7:00am to 12:00am (midnight)
 - ii) Forest Road Side

- Monday to Sunday: 7:00am to 12:00am (midnight)
- iii) External (gaming lounge sitting area only, no gaming machines)
 - Monday to Sunday: 7:00am to 12:00am (midnight)

B) Occupation of the site

The premises must not be occupied by staff or contractors one (1) hour prior to commencement of trading on any day, and beyond (one) 1 hour after the cessation of trading on any day.

C) Extended hours of operation

The extended hours of operation are:

- a) Internal Areas of the Hotel (Restaurant, and Gaming)
 - Monday to Sunday: 12:00am (midnight) to 4.00am
- b) External Areas (including balcony, outdoor dining, outdoor smoking and gaming lounge area)
 - i) Fronting Hurstville Plaza
 - Sunday to Thursday: *No extended hours required*
 - Friday to Saturday : 12:00am (midnight) to 2:00am
 - ii) Forest Road Side
 - Monday to Sunday: 12:00am (midnight) to 2:00am
 - iii) External (gaming lounge sitting area only, no gaming machines)
 - *No extended hours required*

The use may operate over the extended hours of operation for a trial period of **twelve (12)** months from the date of the Occupation Certificate (where one is issued) or the date at which the use commences operation where no Occupation Certificate is required to be issued.

The purpose of the reviewable condition is to allow ongoing assessment of the hours of operation in relation to neighbourhood amenity, public safety and operational performance and allow management to demonstrate successful practices in relation to the above.

Should the applicant intend to continue operating over the extended hours of operation, the consent is to be modified by an application under Section 4.55 of the [Environmental Planning and Assessment Act 1979](http://www.legislation.nsw.gov.au/) <<http://www.legislation.nsw.gov.au/>>. The assessment of this application will be based on the operation of the use over the nominated trial period.

Where a Section 4.55 application is not received before the trial period ends, the hours of operation will revert back to the standard hours of operation nominated in (A) **Standard Trading Hours**.

- 43. 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.

- 44. 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.

- 45. Food Premises - Adequate waste receptacles (Restaurants, takeaway/cafe) -** 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.
- 46. 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).
- 47. 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).
- 48. Food premises - Storage of 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.
- 49. Outdoor Gaming/Smoking Area - Smoke Free Compliance -** The subject development consent issued by Council does not imply or otherwise verify compliance with the [Smoke-Free Environment Act 2000](#) and/or the [Smoke-Free Environment Regulation 2016](#). The applicant and/or owner of the premises should seek their own legal advice as to compliance with Act and/or Regulation if proprietors of the premises intend allowing smoking in any area of the premises, including that area subject of this consent.
- 50. Outdoor Gaming/Smoking Area- Amplified Music -** There is to be no entertainment in the form of amplified music on any part of the outdoor gaming/smoking area at any time.
- 51. Outdoor Gaming/Smoking Area - Amplified Gaming Machines -** There is to be no amplification from any gaming machines on any part of the outdoor gaming/smoking area at any time.
- 52. Outdoor Gaming/Smoking Area - Not Visible to Public -** Machines located within the outdoor gaming/smoking area must not be visible from the public domain.
- 53. Outdoor Gaming/Smoking Area - Air Lock Entry -** There is to be air lock entry from the main club or hotel area into the outdoor gaming/smoking area and doors must be fitted with self closing device.
- 54. Licensed Premises - Noise Levels (12 midnight to 7.00am)**
The L_{A10} noise level emitted from the premises, measured between the hours of midnight and 7am, is not to exceed the background noise level in any octave band frequency (centred on 31.5Hz to 8 kHz inclusive), when measured at the boundary of any adjoining residence.

55. General Operation**a) Patron Behaviour**

The operator must accept full responsibility for the behaviour of their patrons while on the premises and in the adjoining streets. The operator must take all steps necessary to ensure that no noise nuisance occurs from persons entering or leaving the premises.

b) Liquor Supply

- i) The sale and supply of liquor in the licensed premises must be in accordance with the terms and conditions of an approved liquor license issued by the Office of Liquor Gaming and Racing.
- ii) Any liquor supplied or sold must be consumed on the premises.
- iii) Patrons shall be seated whilst consuming liquor.
- iv) For operational purposes, the cessation of bar trade will commence 60 minutes prior to the intended closure of the Hotel Monday to Saturday, 30 minutes Sunday, and will be without any indication or announcement that may alert patrons to the cessation of bar service, this applies to all indoor and outdoor seating areas.
- v) An announcement shall be made 15 minutes prior to cessation of trade, on each day, that the premises will be closing and that patrons are to leave in a quiet orderly manner.
- vi) No patron shall be permitted to take glasses or open containers of liquor off the premises.

c) Live Entertainment - Band Equipment

All loading or unloading of band equipment shall be done via the basement and lift to level one.

d) Complaint Response

In the event of a complaint being received by the licensee from a neighbouring resident with respect to a disturbance to the quiet and good order of the neighbourhood, the licensee must notify Council of the complaint for inclusion on the complaints register within 48 hours. It remains the responsibility of the licensee to respond appropriately to complaints.

56. Noise - Closure of openings to the outdoor areas - All bi-fold or other openings to the outside areas at the premises are to be closed by the times given below, to reduce noise impact to neighbouring premises:

- between 12am (midnight) and 8am on any Friday, Saturday or day immediately before a public holiday,
- and between 10pm - 8am on any other day.

57. COPIES OF CONSENT, REGISTER AND MANAGEMENT PLANS - A full copy of all current development consents (including approved plans) for the operation of the premises, any Registers required and any required Plan of Management must be kept on the premises and made available for inspection immediately upon request by Council Officers, Police Officers and/or Office of Liquor Gaming and Racing Authorised Officers.

- 58. Noise - Compliance with the Plan of Management** - Ongoing compliance is required with the plan of management submitted and approved with the DA2021/0291 titled Number 1 Hurstville plan of management, dated October 2021, Version 2.
- 59. Noise - Compliance with the Gaming Plan of Management** - Ongoing compliance is required with the gaming plan of management submitted and approved with the DA2021/0291 titled One Hurstville, dated July 2021 and prepared by Regan Shepherd.
- 60. Gaming Plan of Management** - The approved development at Level 1, 288 Forest Road, Hurstville is to operate in accordance with the Sections 1.1 to 1.8 (inclusive) of the Gaming Plan of Management, July 2021, Prepared by Regan Shepherd, PHMG Group Operations Manager.
- 61. Gaming Harm Minimisation Code of Conduct** - The approved development at Level 1, 288 Forest Road, Hurstville is to operate in accordance with the Gaming Harm Minimisation Code of Conduct, June 2021, Prepared by Regan Shepherd, PHMG Group Operations Manager.
- 62. Social Impact Assessment** - The approved development at Level 1, 288 Forest Road, Hurstville is to operate in accordance with *Section 8.1 Recommendations* of the Social Impact Assessment, One Hurstville Plaza -Pub and Restaurant prepared by Urbis, dated 15 July 2021.~ **ONG14.62 - Loading & Unloading of vehicles** - All loading and unloading of vehicles in relation to the use of the premises shall take place wholly within a dedicated loading dock/area.

Operational Requirements Under the Environmental Planning & Assessment Act 1979

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

- 65. 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.

- 66. 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.

- 67. 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](#).

- 68. 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.

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

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

An Occupation Certificate Application Form is attached for your convenience.

Prescribed Conditions

- 70. Clause 98D - Erection of sign for maximum number of persons** - This prescribed condition applies to entertainment venues, function centres, pubs, registered clubs and restaurants. This condition requires the erection of a sign which states the maximum number of persons (as specified in the consent) that are permitted in the building.
- 71. 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.

END CONDITIONS

Notes/Advice

- 1. 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.

2. **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.
3. **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.
4. **Access to NSW Legislations (Acts, Regulations and Planning Instruments)** - NSW legislation can be accessed free of charge at www.legislation.nsw.gov.au
5. **Electricity Supply** - This development may need a connection to the Ausgrid network which may require the network to be extended or its capacity augmented. You are advised to contact Ausgrid on 13 13 65 or www.ausgrid.com.au (Business and Commercial Services) for further details and information on lodging your application to connect to the network.
6. **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.

7. **Council as PCA - Deemed to Satisfy Provisions of Building Code of Australia** - Should the Council be appointed as the PCA in determining the Construction Certificate, the building must comply with all the applicable deemed to satisfy provision of the Building Code of Australia. However, if an alternative fire solution is proposed it must comply with the performance requirements of the Building Code of Australia, in which case, the alternative solution, prepared by an appropriately qualified fire consultant, accredited and having specialist qualifications in fire engineering, must justifying the non-compliances with a detailed report, suitable evidence and expert judgement. Council will also require if deemed necessary, for the alternative solution to undergo an independent peer review by either the CSIRO or other accredited organisation. In these circumstances, the applicant must pay all costs for the independent review.
8. **Acoustical Engineer Contacts & Reference Material** - Further information including lists of Acoustic Engineers can be obtained from:

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

9. 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.

10. Council as PCA - Should the Council be appointed as the Principal Certifier in determining the Construction Certificate, the building must comply with all the applicable deemed to satisfy provision of the Building Code of Australia. However, if a performance solution is proposed it must comply with the performance requirements of the Building Code of Australia, in which case, the performance solution, prepared by an appropriately qualified fire consultant, accredited and having specialist qualifications in fire engineering, must justify the non-compliances with a detailed report, suitable evidence and expert judgement.

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

11. 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 Building Code of Australia. 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.

12. Noise - Noise related conditions - Council will generally enforce noise related conditions in accordance with the Noise Guide for Local Government (<http://www.environment.nsw.gov.au/noise/nlg.htm>) and the Industrial Noise Guidelines (<http://www.environment.nsw.gov.au/noise/industrial.htm>) publish by the Department of Environment and Conservation. Other state government authorities also regulate the Protection of the Environment Operations Act 1997.

Useful links relating to Noise:

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

- 13. 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.
- 14. Access for persons with disabilities** - Should the Council be appointed as the PCA, an Access report prepared by an Accredited Access Consultant may be required to be submitted with the Construction Certificate Application, detailing the existing level of compliance in the building with the above requirements, and to provide details of proposed upgrading work necessary to bring the building into conformity with the Premises Standards and the Building Code of Australia. All recommendations of the accredited access consultant must be incorporated in the plans to be submitted with the Construction Certificate application.

ATTACHMENTS

Attachment [1](#)  Architectural Plans



ONE HURSTVILLE PLAZA

288 FOREST ROAD,
HURSTVILLE NSW 2220

ONE HURSTVILLE PLAZA

15 OCTOBER 2021

TABLE OF CONTENTS

1. DETAILED PLANS
2. PROPOSED ELEVATION + AWNING SECTION DETAILS
DOCUMENTATION
3. INTERIOR + EXTERIOR FINISHES + PLANT SELECTIONS

ONE HURSTVILLE PLAZA

15 OCTOBER 2021

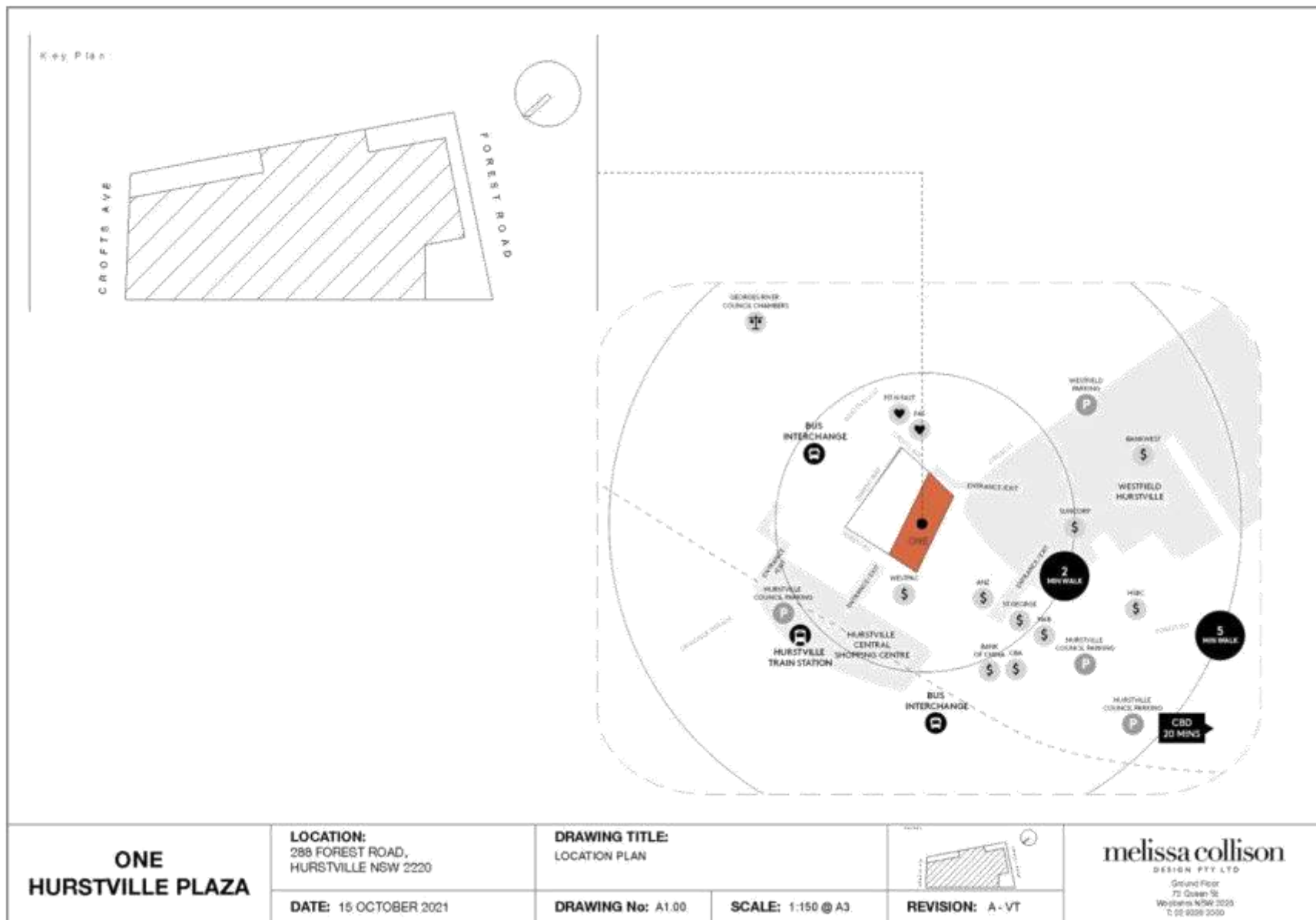
1. DETAILED PLANS

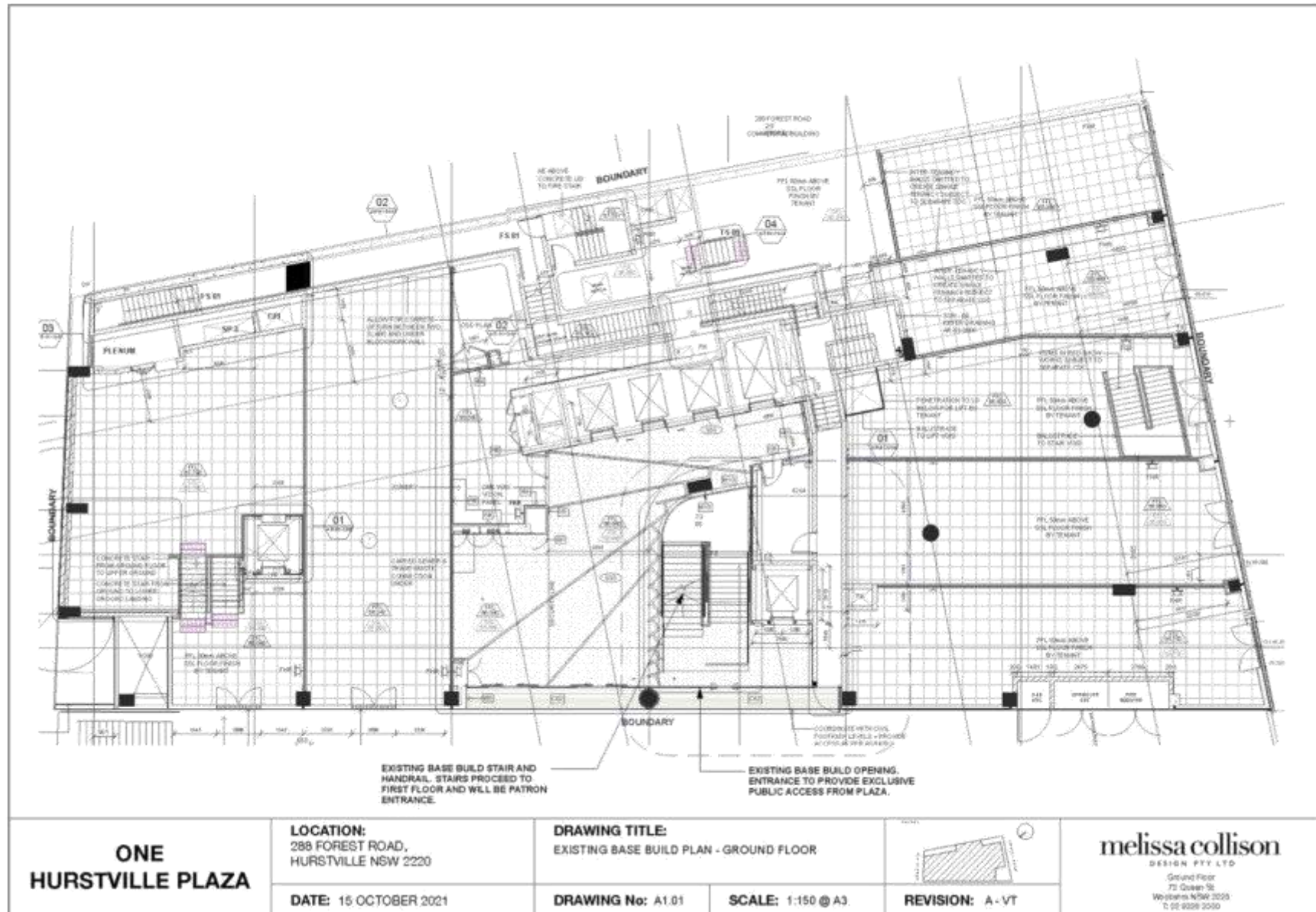
melissa collison
DESIGN PTY LTD

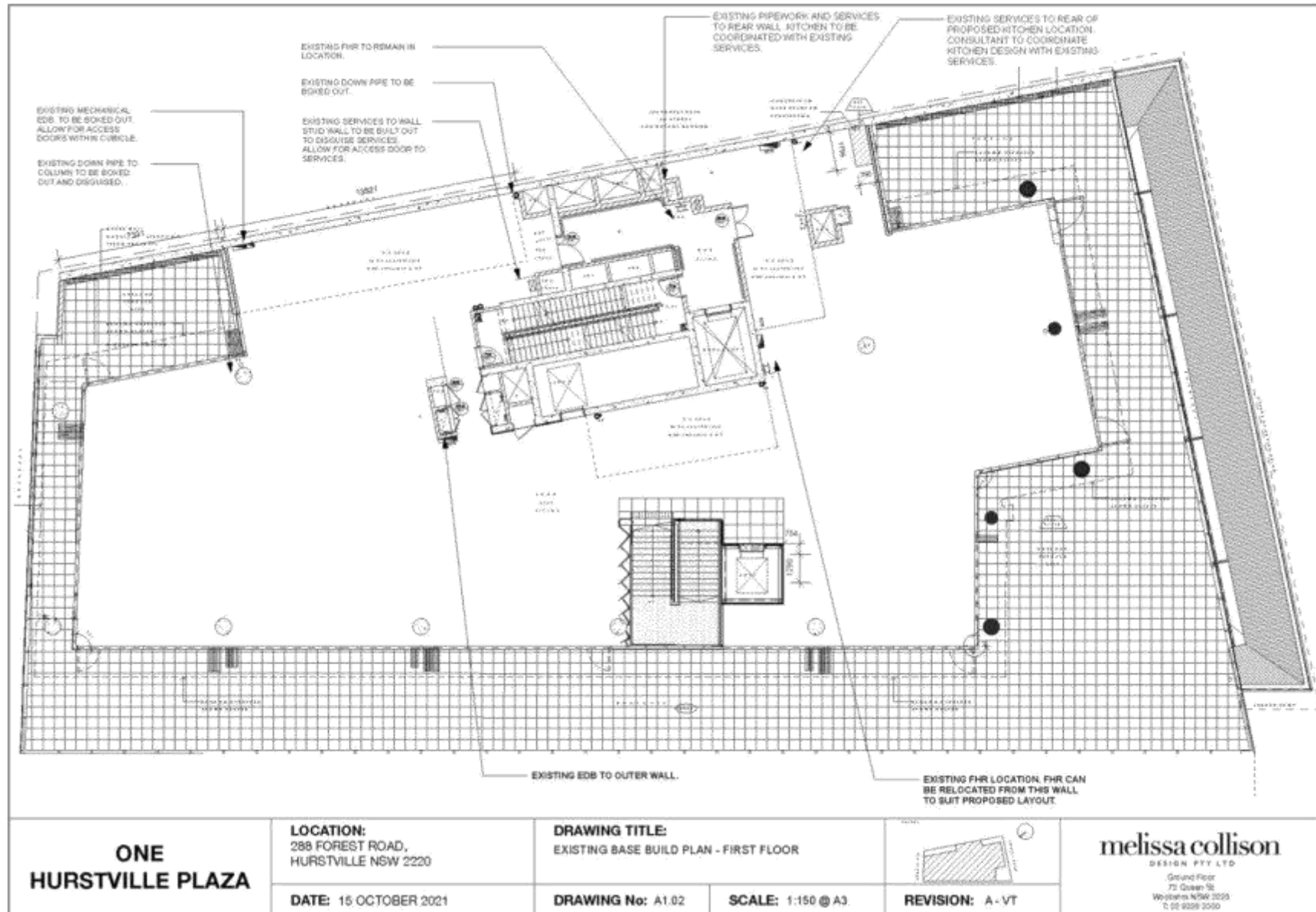
ONE HURSTVILLE DA SUBMISSION- RFI

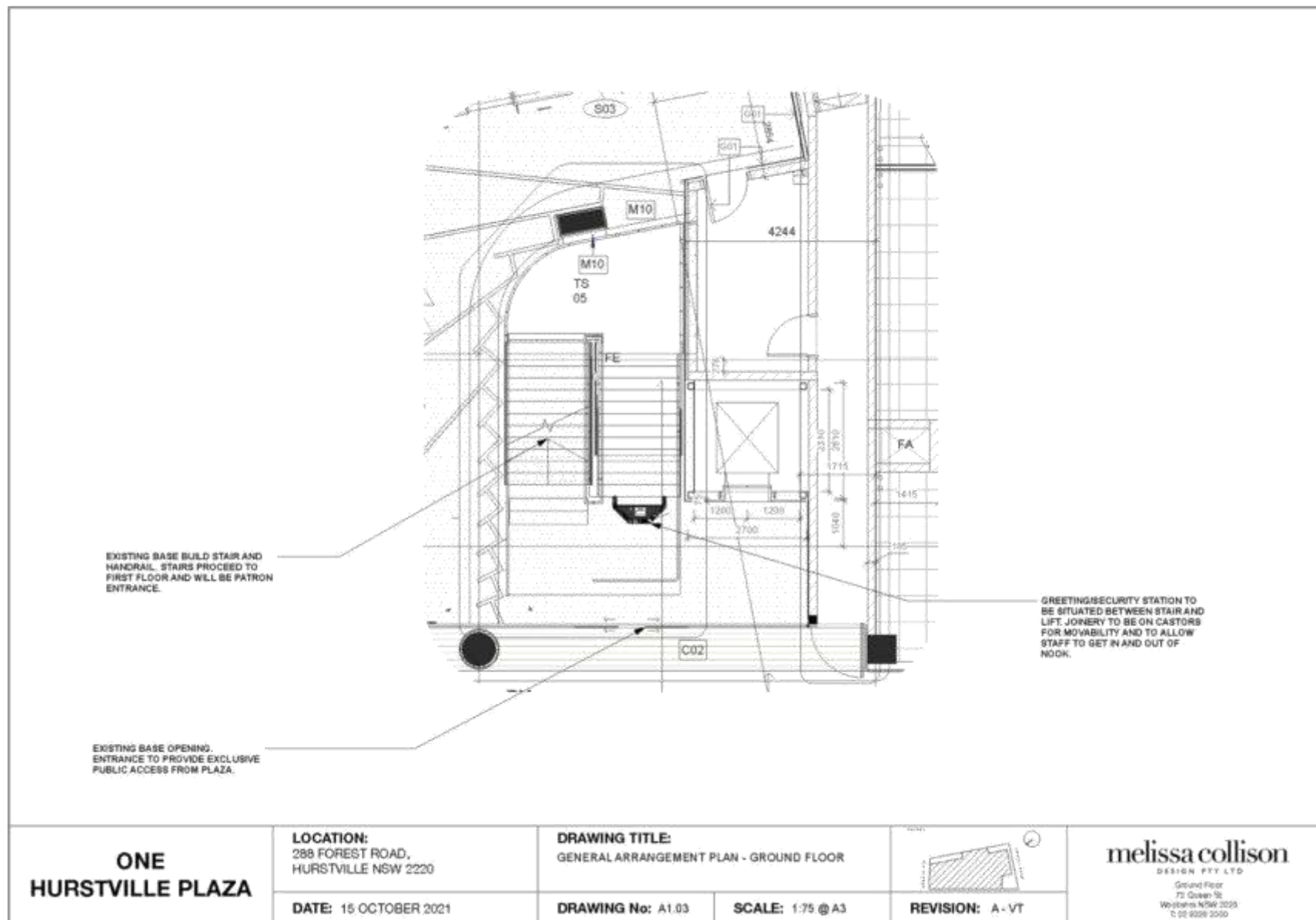
15 OCTOBER | 2021

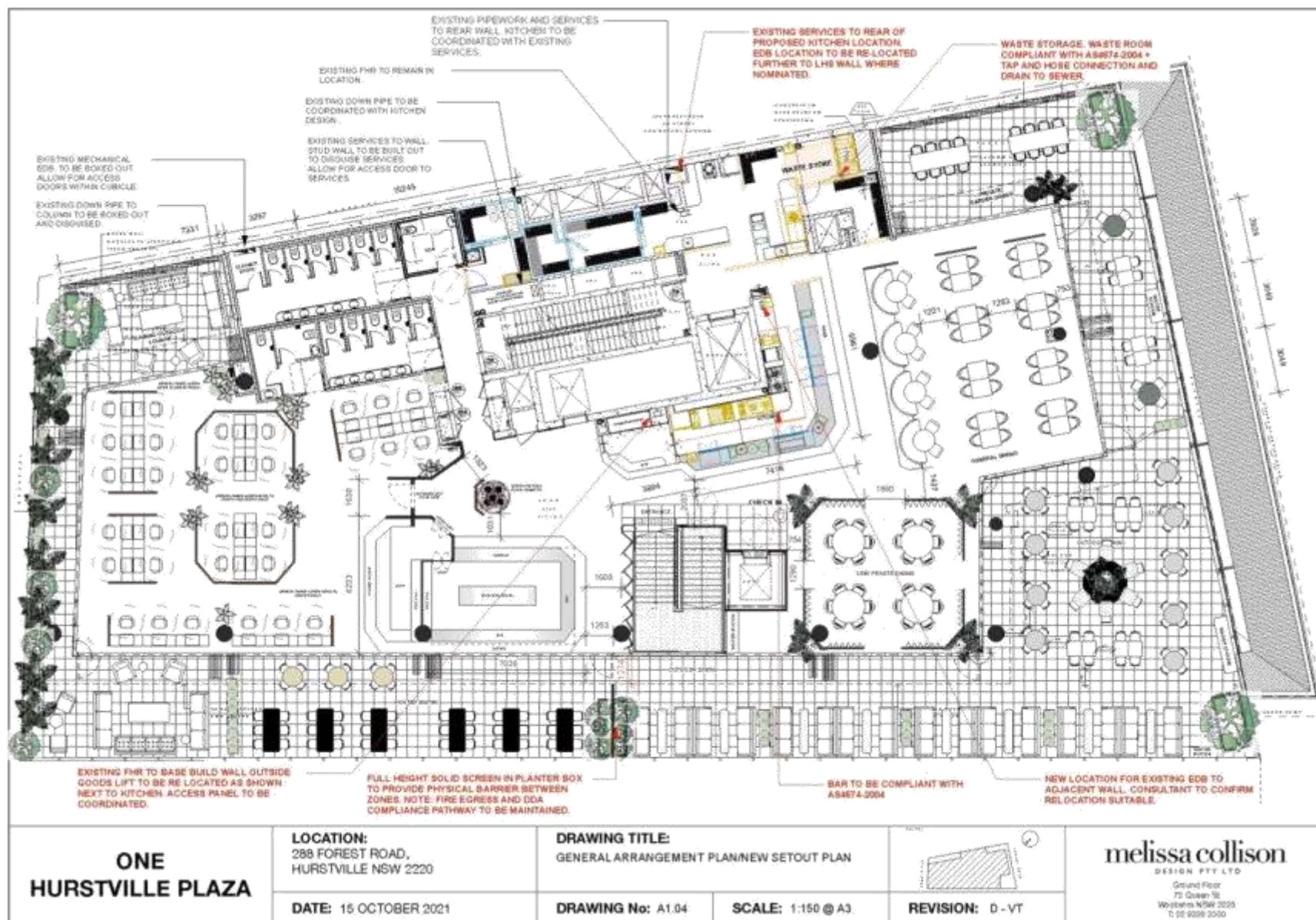
melissa collison
DESIGN PTY LTD

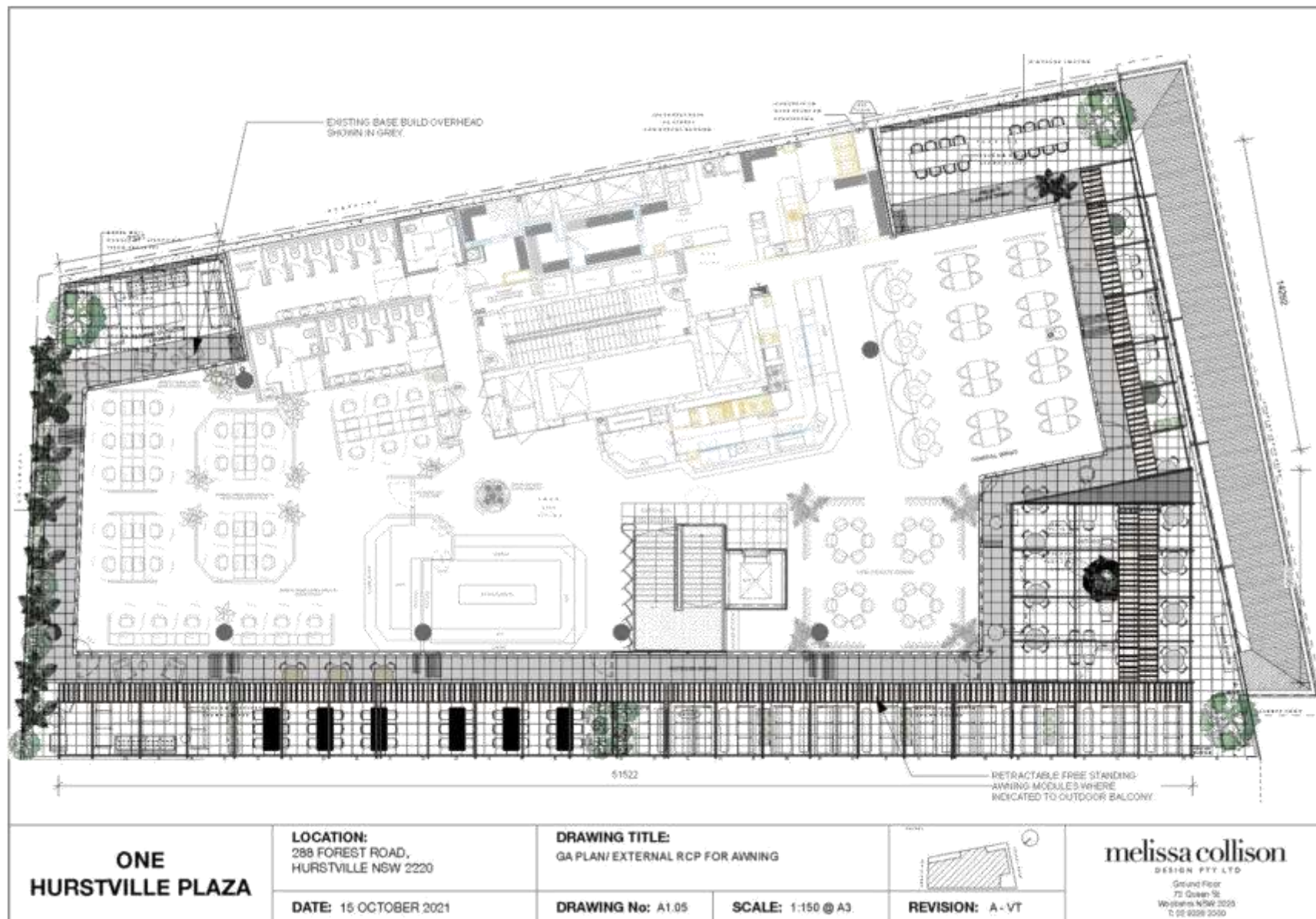


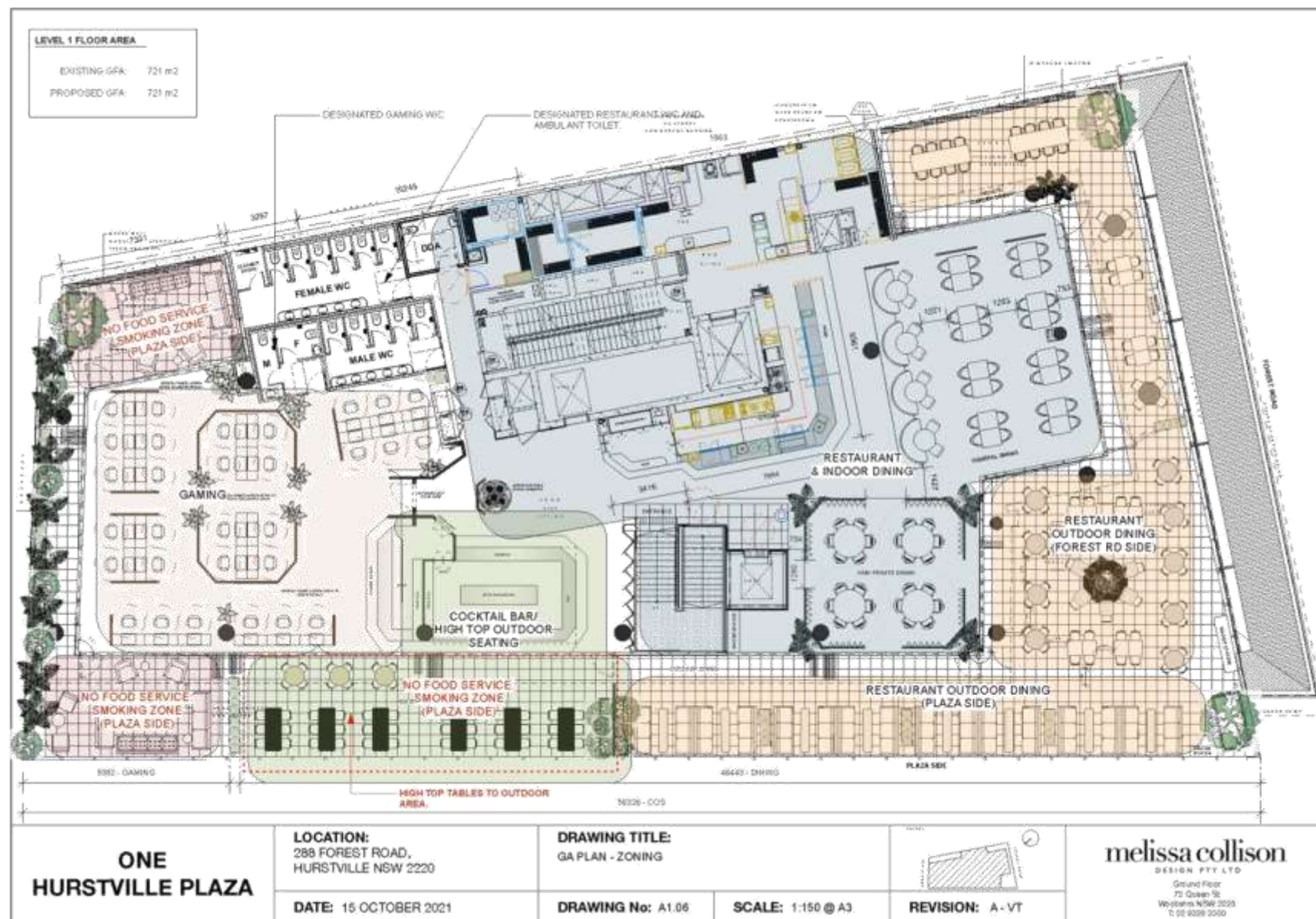


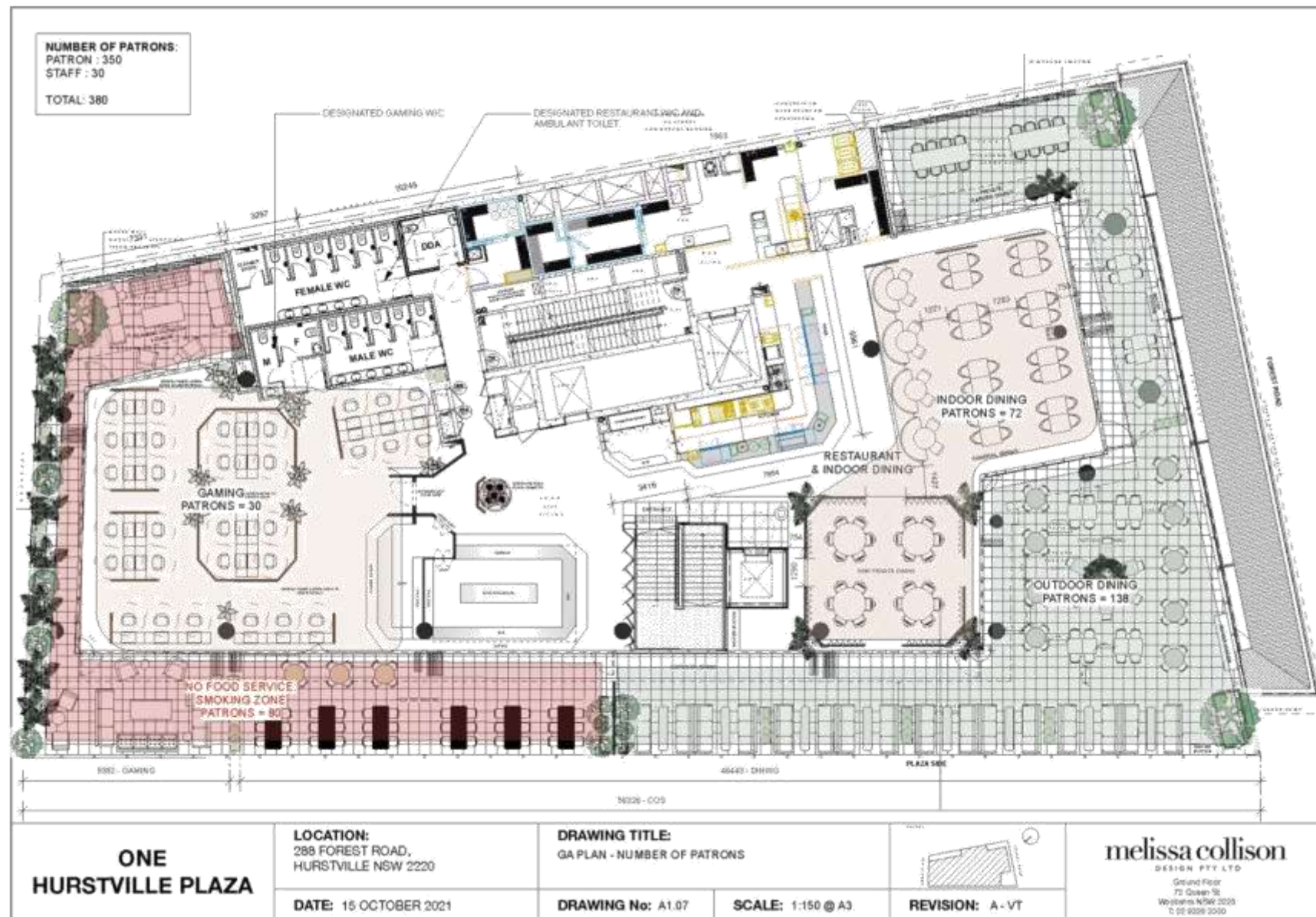








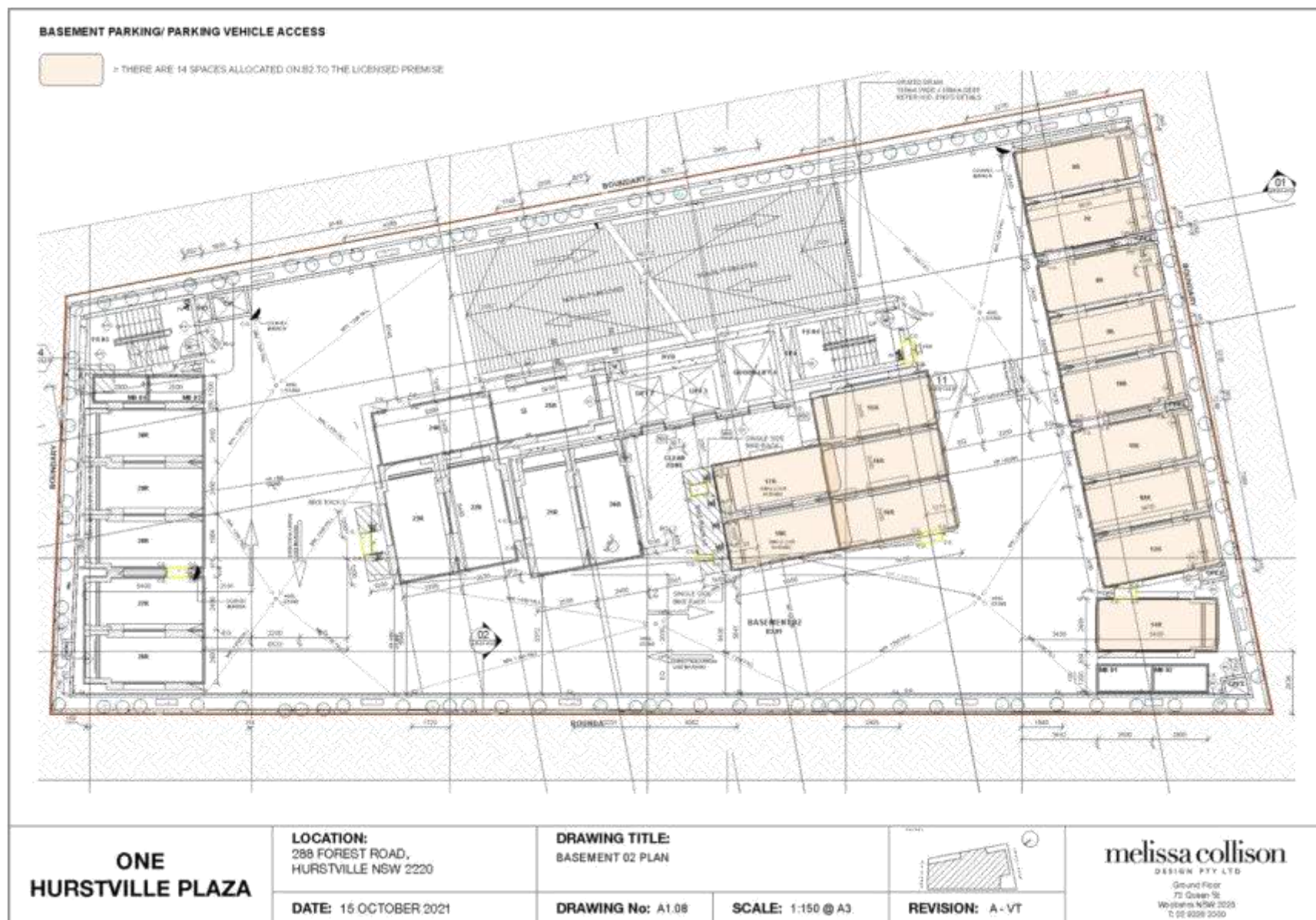




BASEMENT PARKING

BASEMENT 02

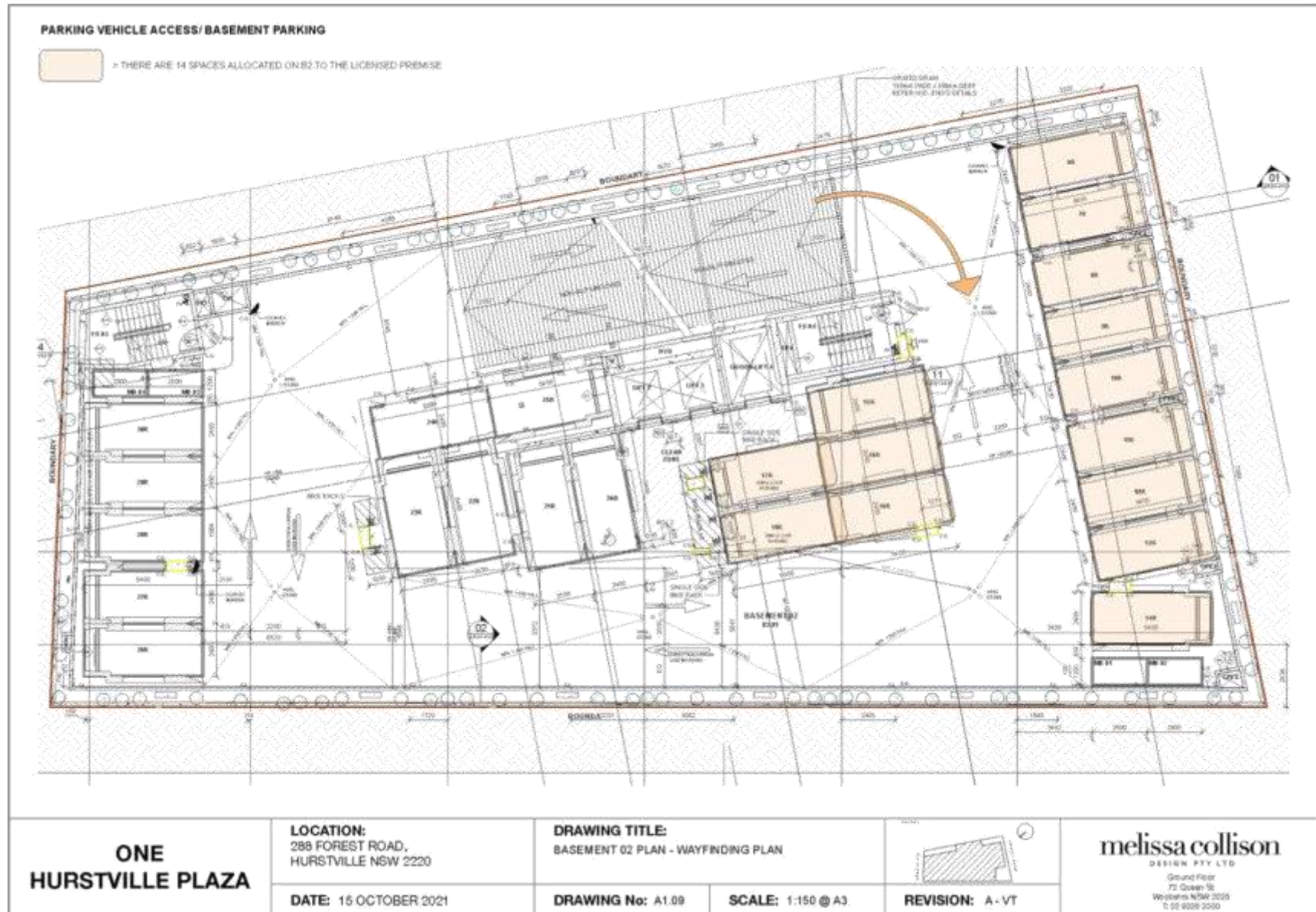
melissa collison
DESIGN PTY LTD

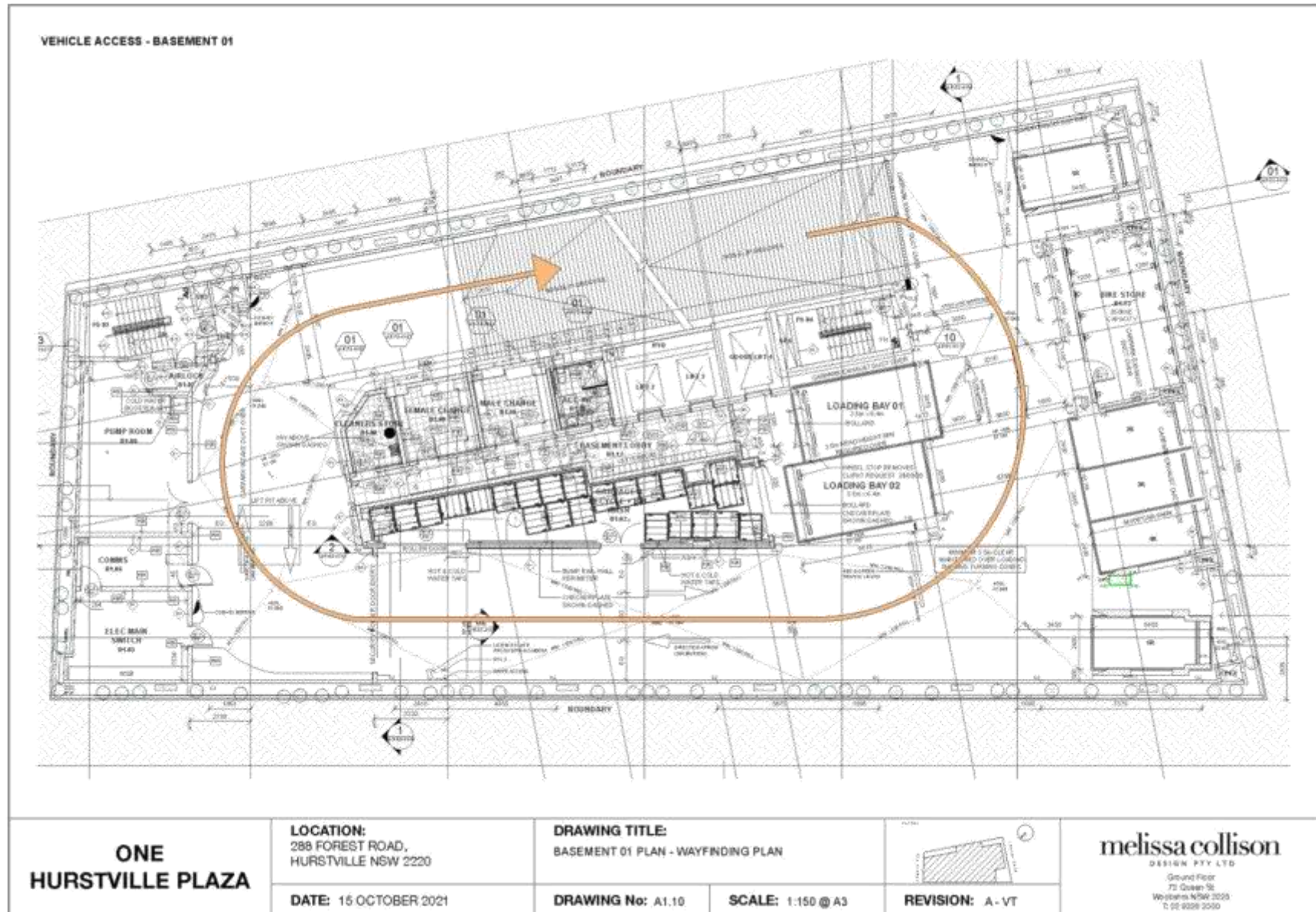


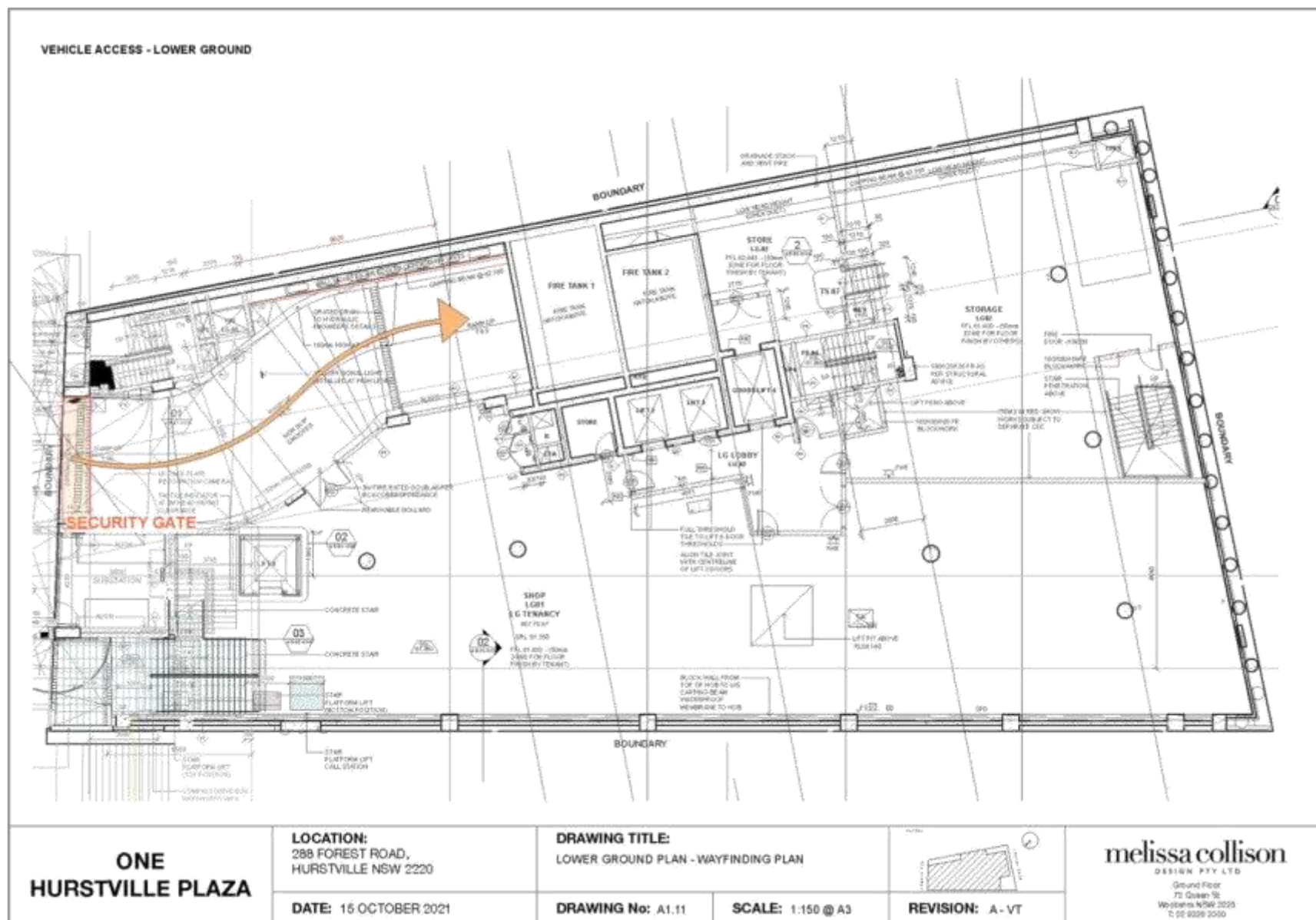
WAYFINDING PLANS

(BASEMENT 02, BASEMENT 01, LOWER GROUND)

melissa collison
DESIGN PTY LTD



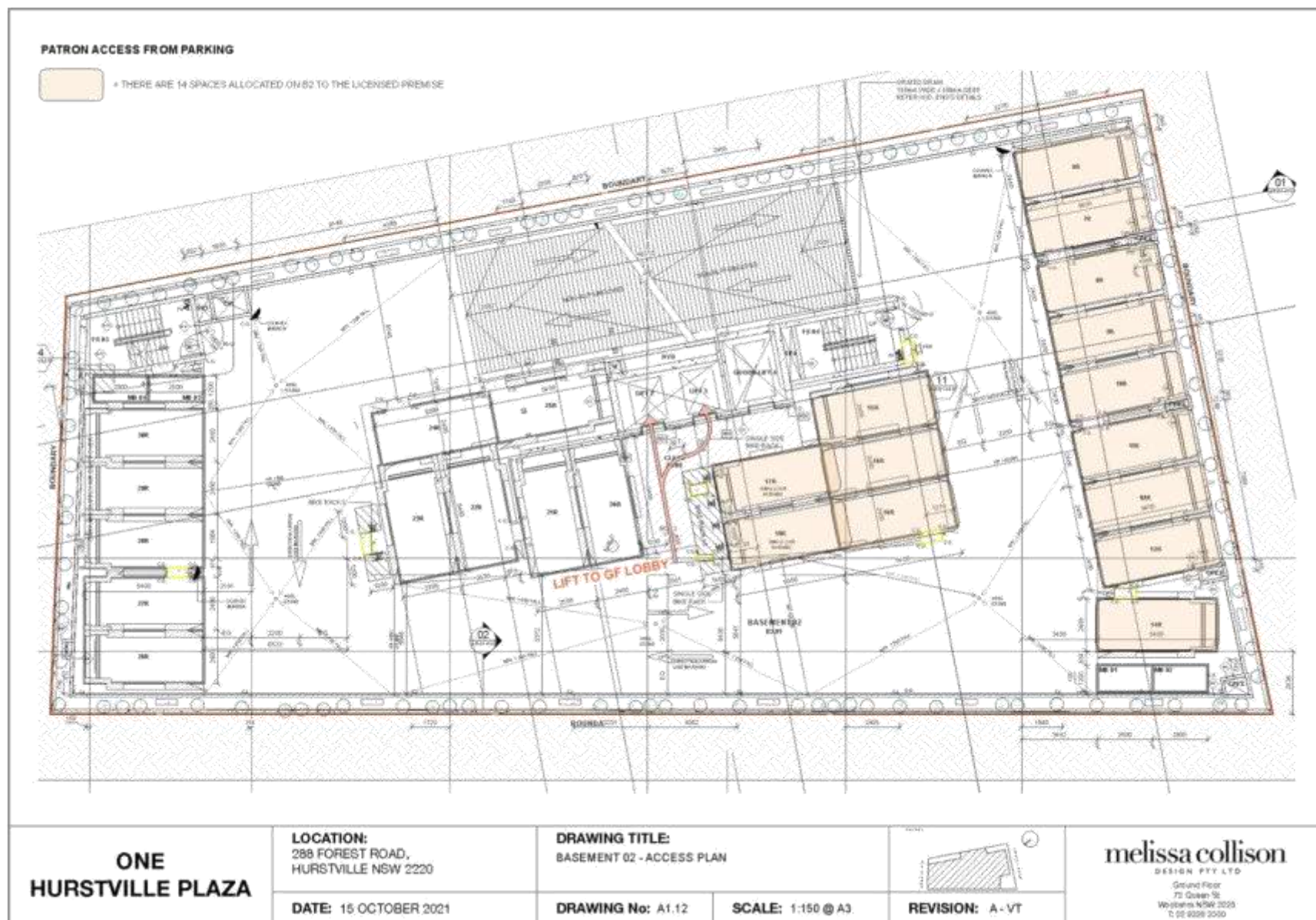


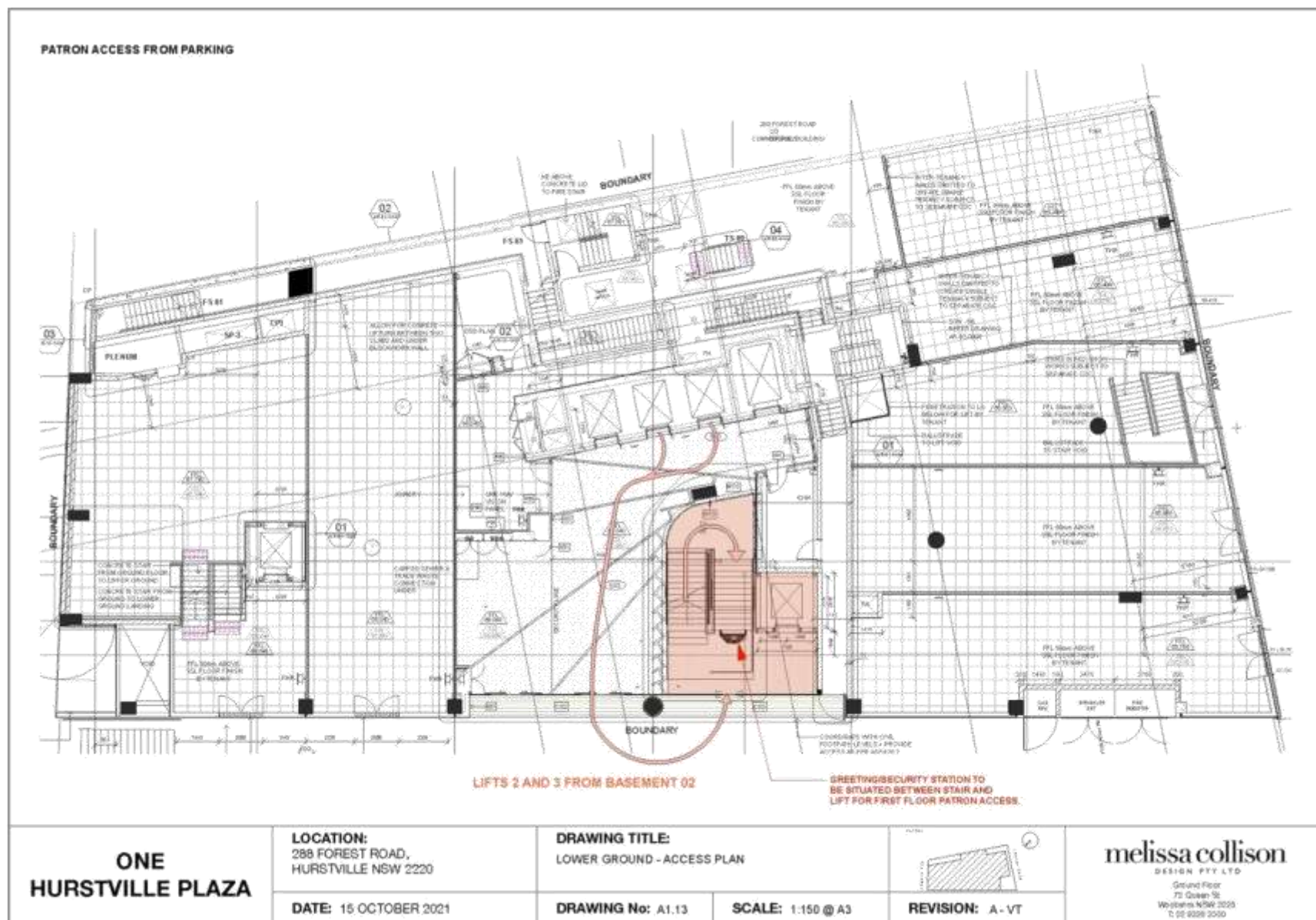


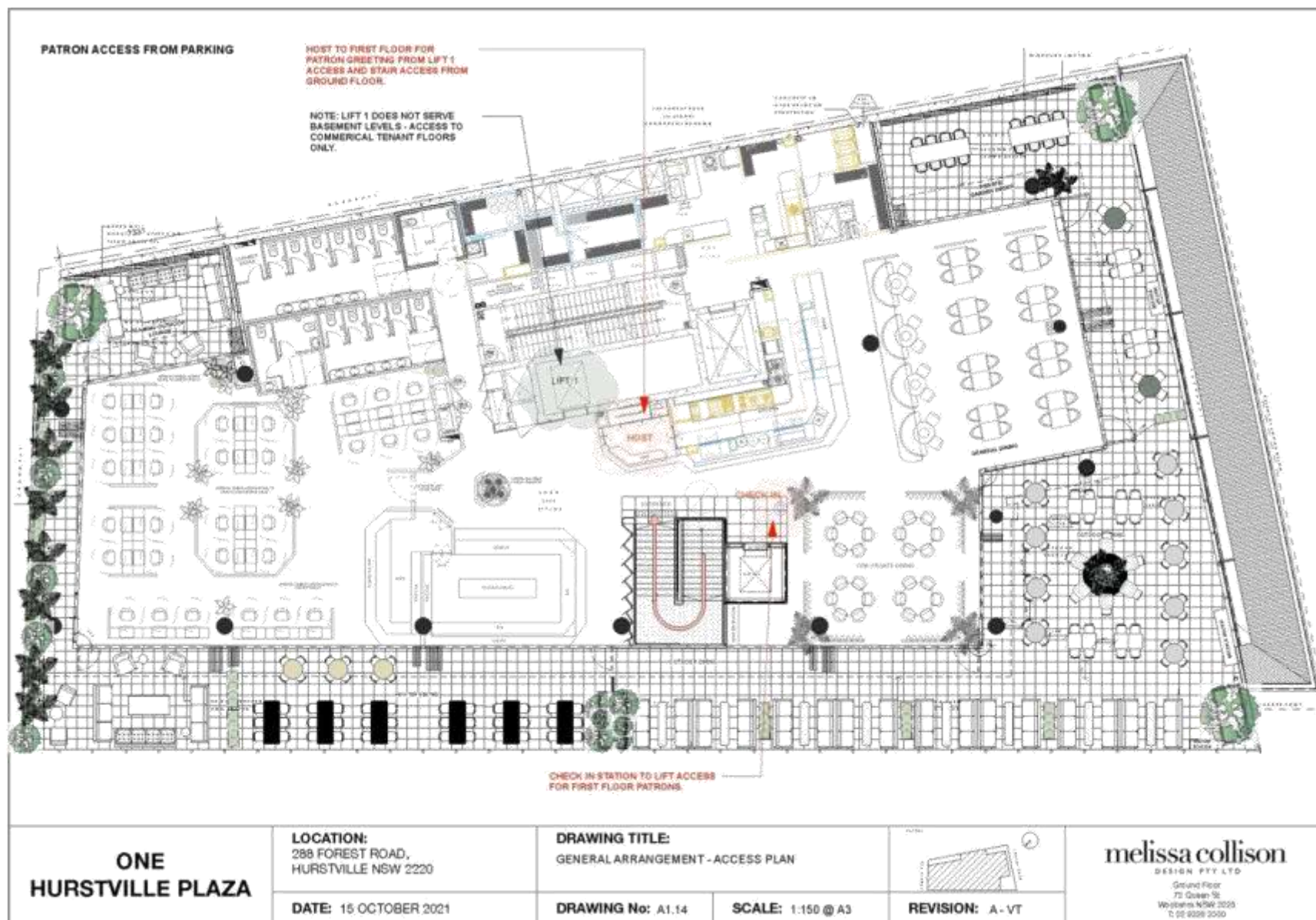
ACCESS PLANS

(BASEMENT 02, GROUND FLOOR, FIRST FLOOR)

melissa collison
DESIGN PTY LTD







2. PROPOSED ELEVATIONS / AWNING DETAILED SECTIONS

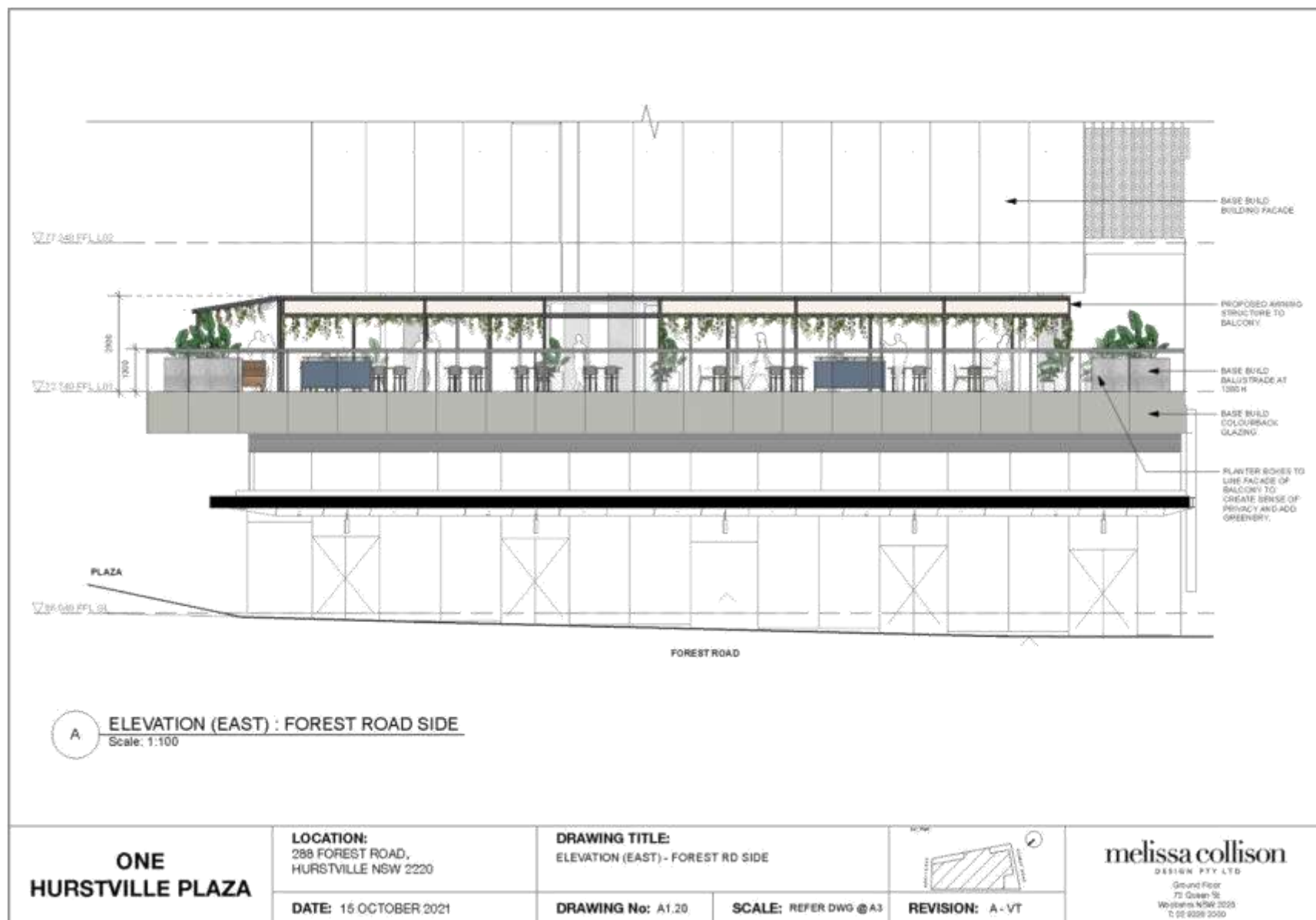
+

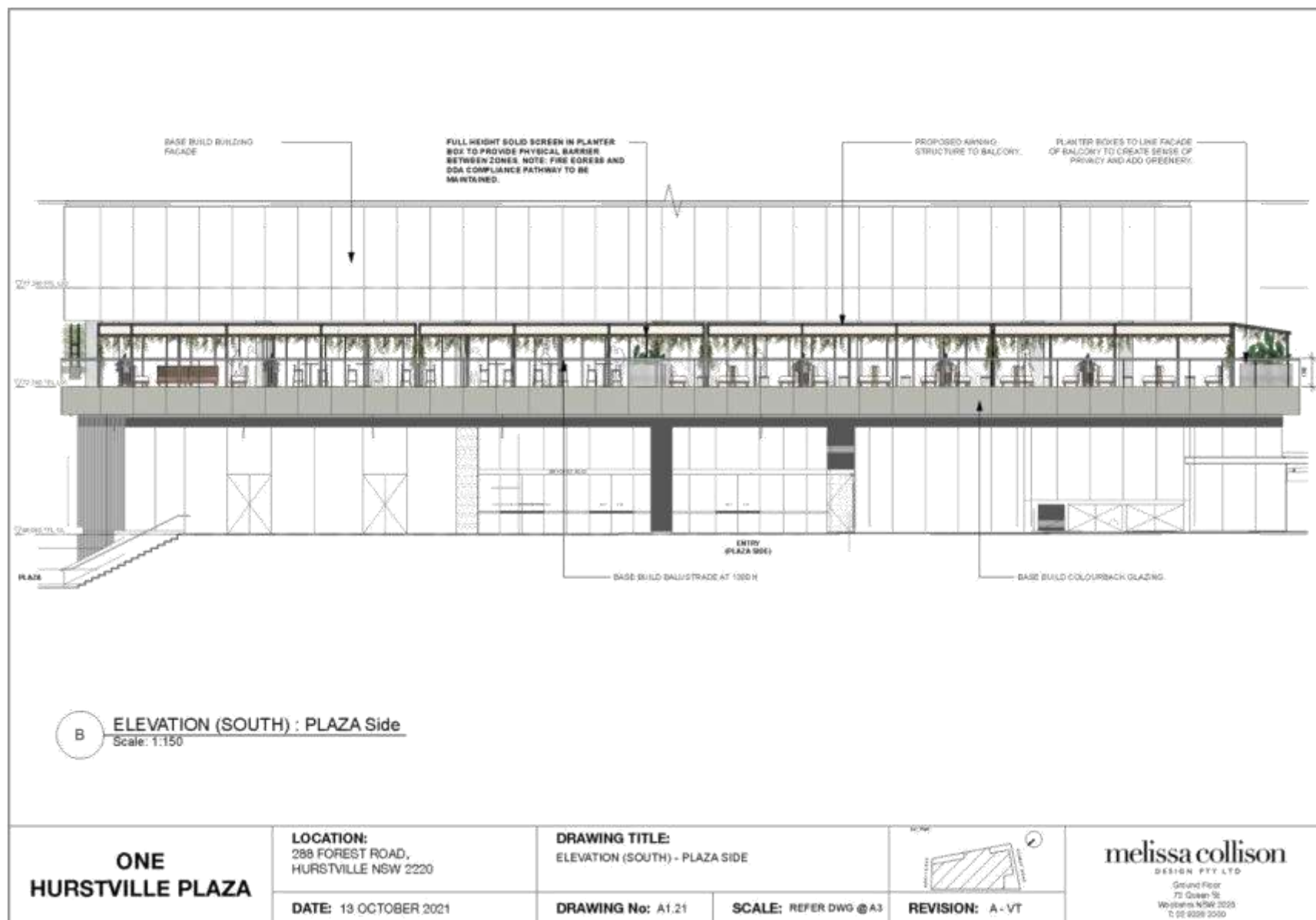
SCREENING PLANTER BOXES

melissa collison
DESIGN PTY LTD

PROPOSED ELEVATIONS
-
BALUSTRADE/AWNING

melissa collison
DESIGN PTY LTD





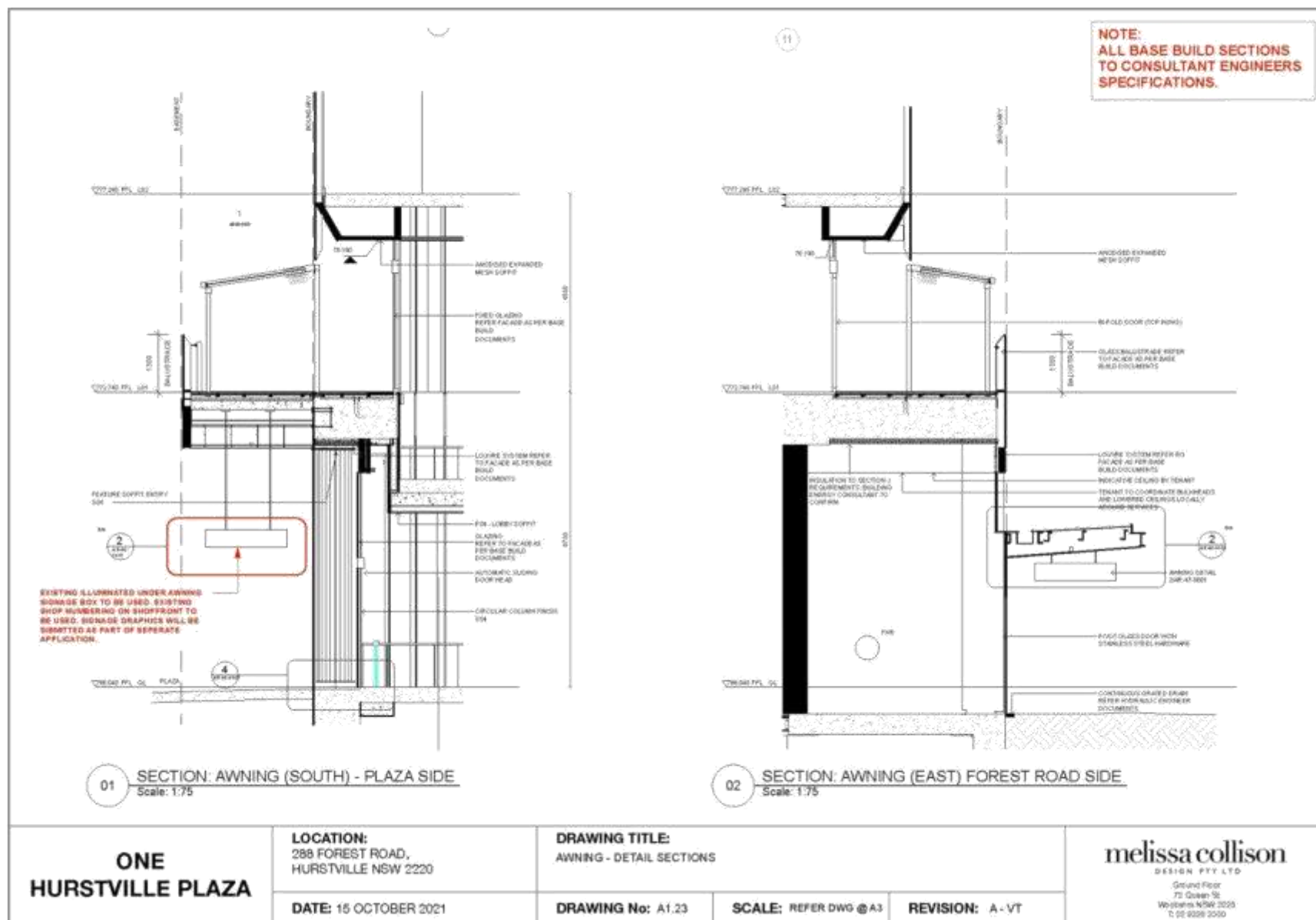


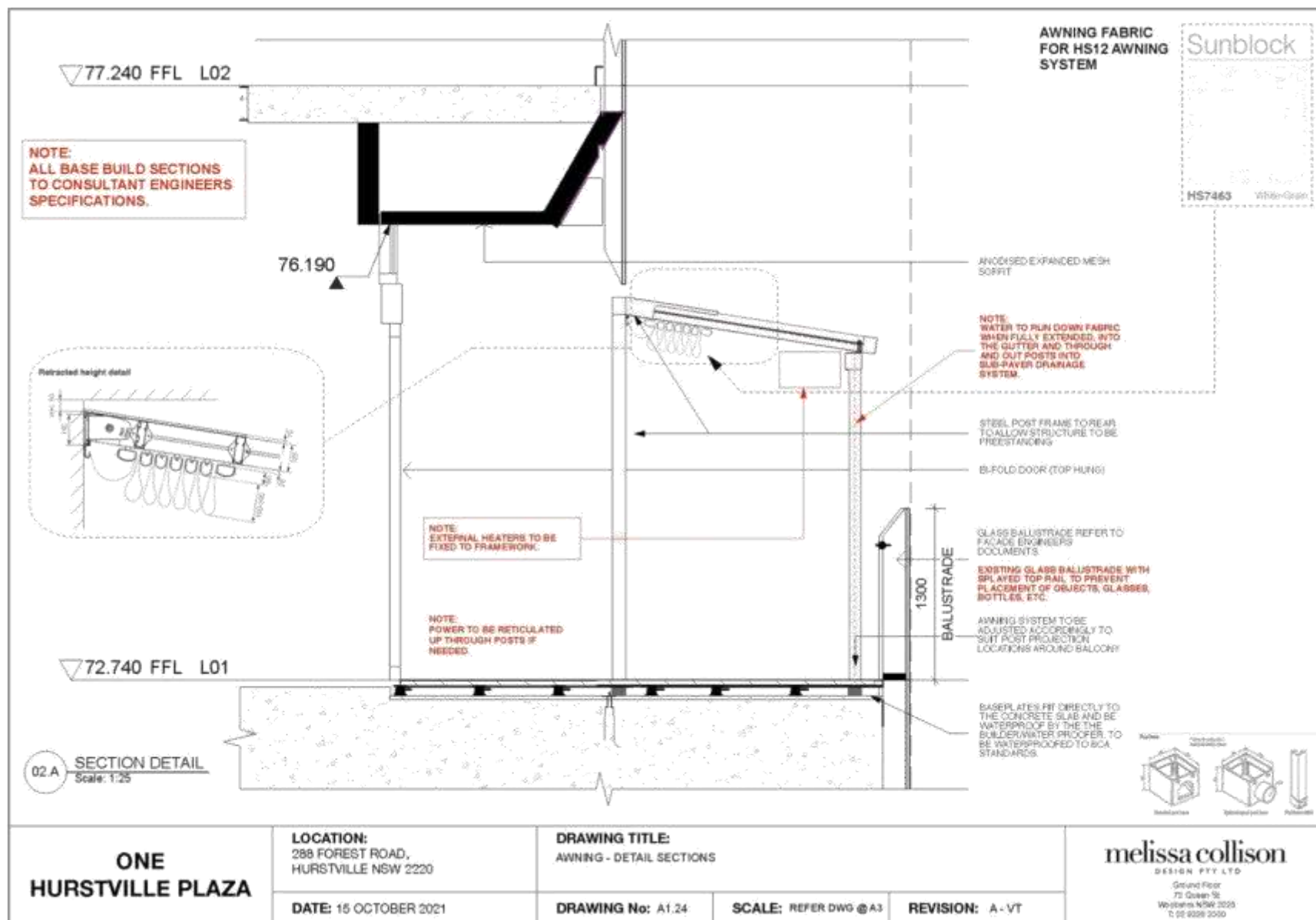
PROPOSED AWNING
DETAILED SECTIONS

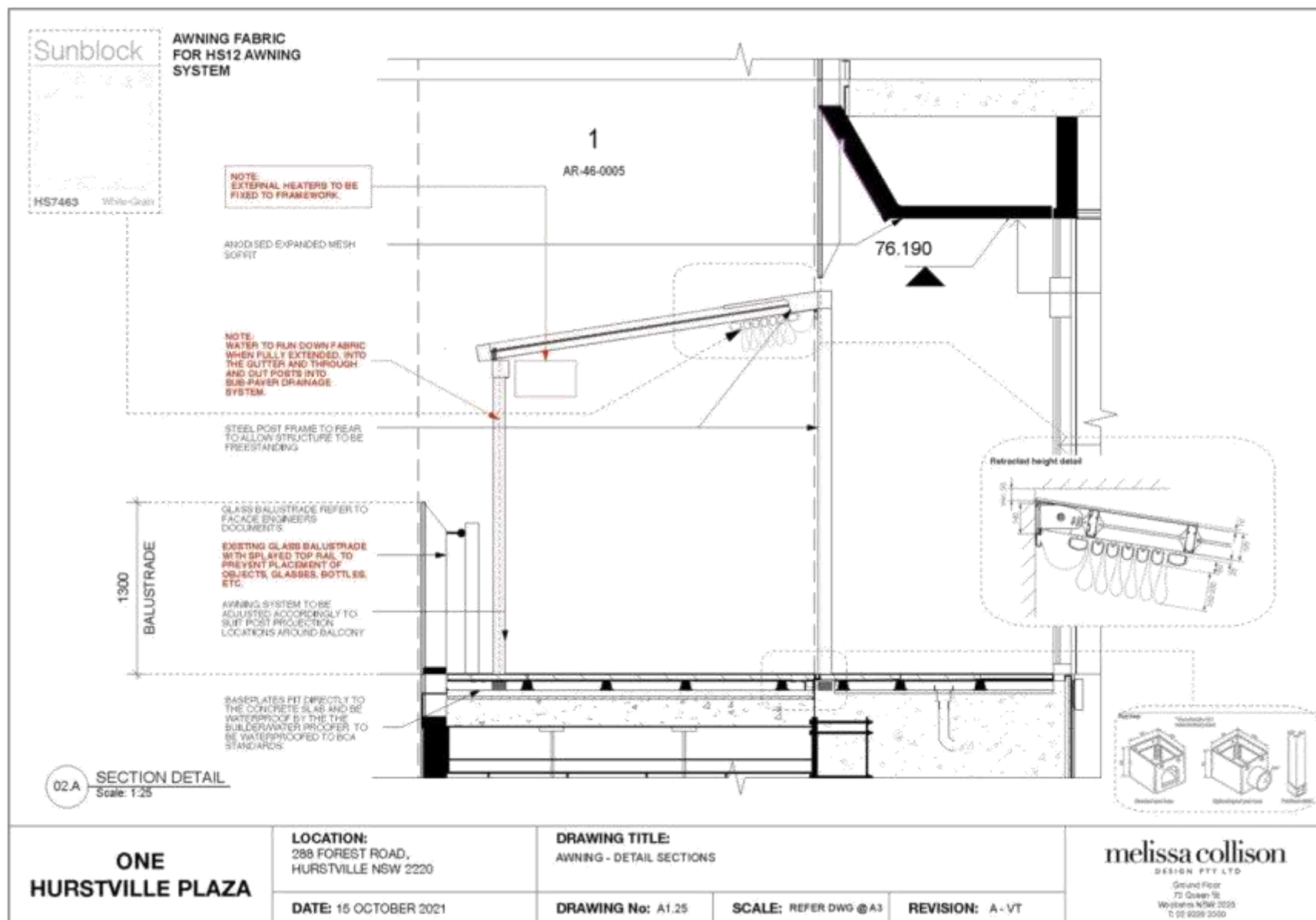
+

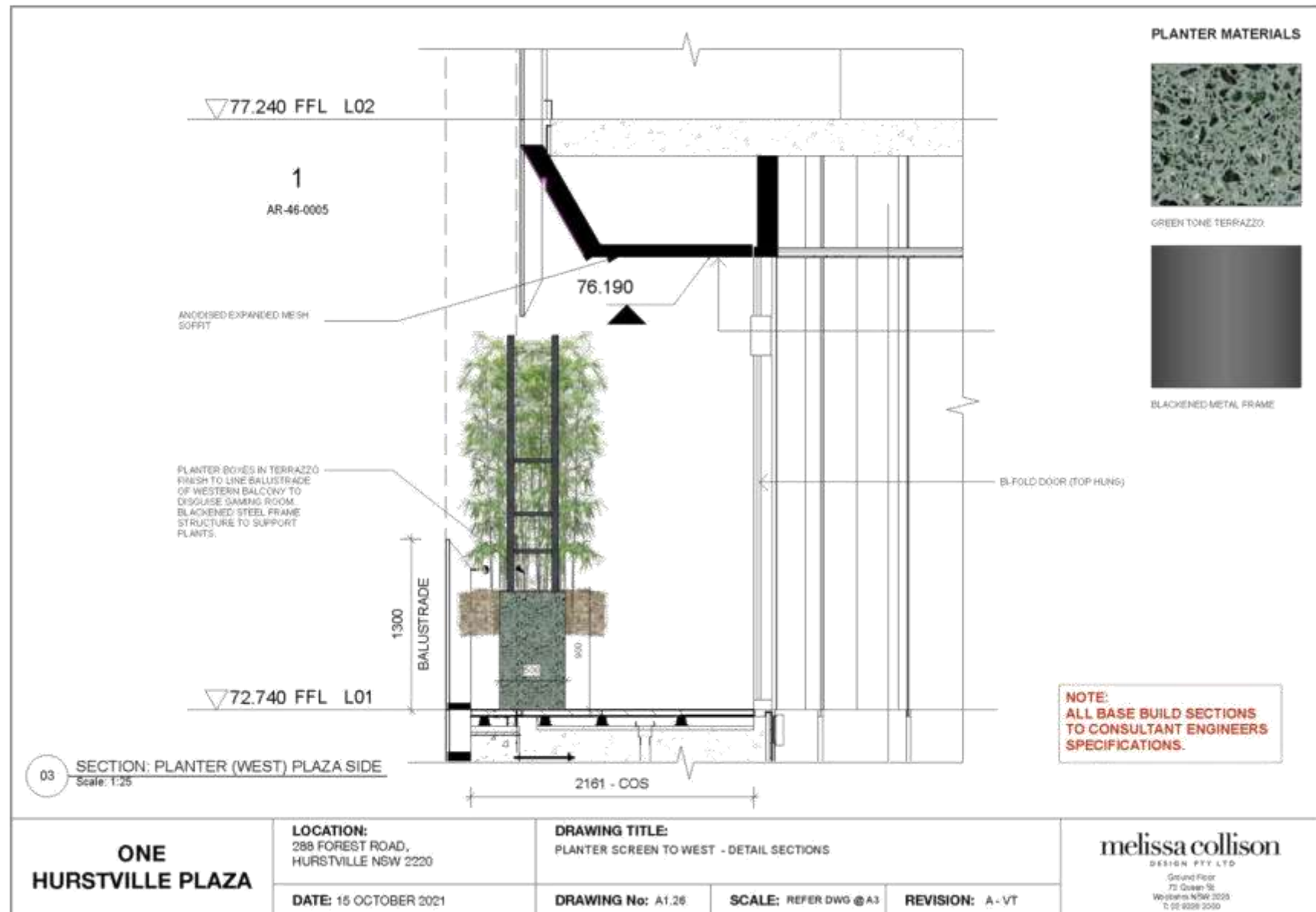
SCREENING PLANTER BOXES

melissa collison
DESIGN PTY LTD









VISUALISATION - FOREST RD



**ONE
HURSTVILLE PLAZA**

LOCATION:
288 FOREST ROAD,
HURSTVILLE NSW 2220

DATE: 15 OCTOBER 2021

DRAWING TITLE:
3D EXTERIOR VISUALISATION

DRAWING No: A1.27

SCALE: NTS

REVISION: A - VT

melissa collison
DESIGN PTY LTD

Ground Floor
75 Queen St
Woolloomooloo NSW 2025
T: 02 9396 3550

VISUALISATION - PLAZA



ONE HURSTVILLE PLAZA

LOCATION:
288 FOREST ROAD,
HURSTVILLE NSW 2220

DATE: 15 OCTOBER 2021

DRAWING TITLE:
3D EXTERIOR VISUALISATION

DRAWING No: A1.29

SCALE: NTS

REVISION: A - VT

melissa collison
DESIGN PTY LTD

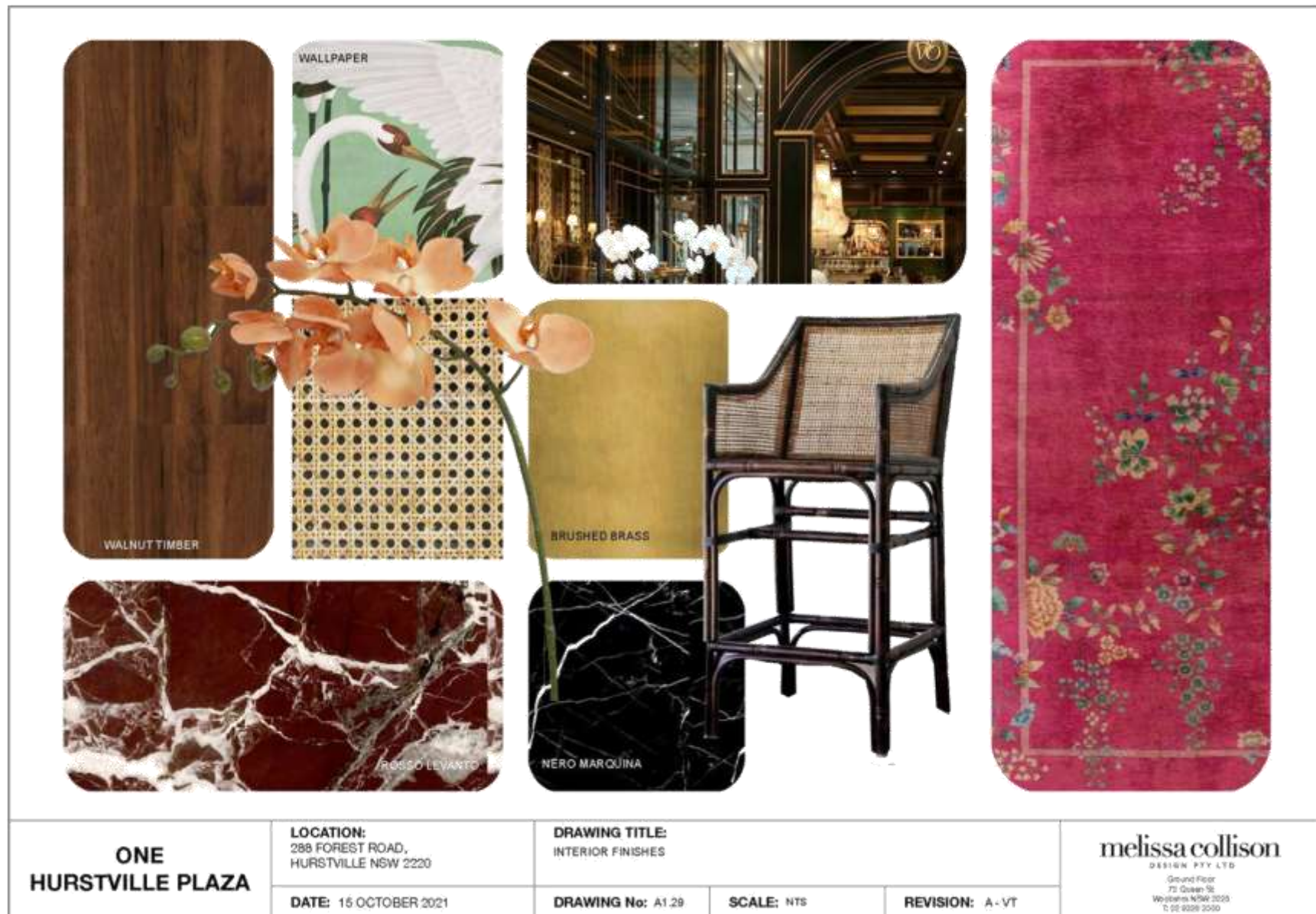
Ground Floor
75 Queen St
Woolloomooloo NSW 2025
T: 02 9339 3550

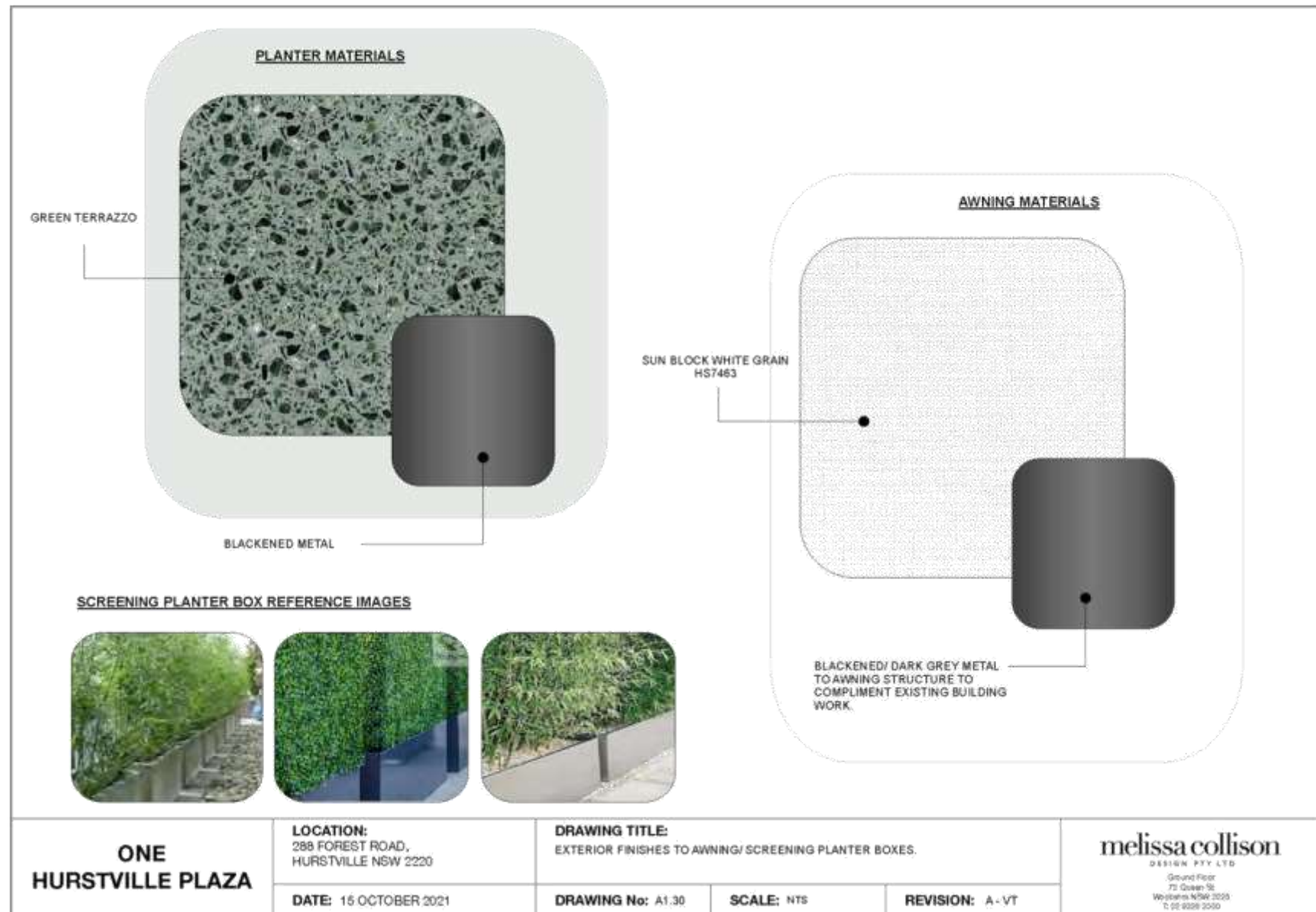
3. INTERIOR & EXTERIOR FINISHES

+

PLANT SELECTIONS

melissa collison
DESIGN PTY LTD





EXTERIOR PLANT SELECTIONS

	LATIN NAME	COMMON NAME
1.	<i>Phyllostachys nigra</i>	Black Bamboo
2.	<i>Bambusa Multiplexa</i>	Yellow Stripe Bamboo
3.		Cumquat
4.		Orange Tree



**ONE
HURSTVILLE PLAZA**

LOCATION:
288 FOREST ROAD,
HURSTVILLE NSW 2220

DATE: 15 OCTOBER 2021

DRAWING TITLE:
EXTERIOR PLANT OPTIONS

DRAWING No: A1.31

SCALE: NTS

REVISION: A - VT

melissa collision
DESIGN PTY LTD

Ground Floor
73 Queen St
Woolloomooloo NSW 2025
T: 02 9399 3550

**REPORT TO GEORGES RIVER COUNCIL
LPP MEETING OF THURSDAY, 09 DECEMBER 2021**

LPP072-21

LPP Report No	LPP072-21	Development Application No	MOD2021/0134
Site Address & Ward Locality	723-729 Princes Highway Blakehurst Blakehurst Ward		
Proposed Development	Section 4.55(2) application to modify the internal layout of apartments and the building to comply with the BCA and NCC and improve the amenity and functionality of the building as well as improve parking and access in the basement.		
Owners	Edge Point Developments P/L		
Applicant	Mr Jason Cain		
Planner/Architect	Drew Dickson Architects and Haskew de Chalain Planning		
Date Of Lodgement	17/08/2021		
Submissions	One (1) submission		
Cost of Works	Same as original cost of works.		
Local Planning Panel Criteria	Original development application was determined by the Georges River Local Planning Panel and is development the subject of SEPP 65..		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy No.55 – Remediation of Land; State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004State Environmental Planning Policy (Infrastructure) 2007State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment DevelopmentState Environmental Planning Policy (Coastal Management) 2018Draft Environment State Environmental Planning PolicyDraft Remediation of Land State Environmental Planning PolicyBiodiversity Conservation Act, 2016Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment Kogarah LEP 2012, Kogarah DCP 2013, Georges River LEP 2021 and Georges River DCP 2021		
List all documents submitted with this report for the Panel's consideration	Statement of Environmental Effects Full set of architectural drawings Updated Acoustic report and BASIX Certificate Carpark and Driveway Compliance Statement		
Report prepared by	Senior Development Assessment Planner		

Recommendation	Approval
-----------------------	----------

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, the conditions can be viewed when the report is published.

Site Plan



Aerial photo of the subject site outlined in blue

Executive Summary

Proposal

1. Council is in receipt of a modification application lodged pursuant to Section 4.55(2) of the Environmental Planning and Assessment Act 1979, which proposes modifications to Development Consent No. DA2018/0381. Development Application No.2018/0381 was approved by the Georges River Local Planning Panel (GRLPP) on 23 January 2020 and was issued for the demolition of all structures onsite and the construction of a part six (6), part seven (7) storey residential flat building containing seventeen (17) apartments and basement car parking for 37 vehicles, site consolidation, landscaping works and associated site works. **Figure 1** below is a 3D montage of the rear elevation of the approved scheme.



Figure 1: 3D Montage of the rear elevation of the approved scheme (courtesy: AGM Studio)

2. The proposed changes are largely aesthetic in nature and have resulted from the detailed design phase and preparation of the construction certificate plans and documents which has required changes to occur i.e. provision of additional fire stairs, ventilation systems on the roof and subsequent internal changes to accommodate these elements in order to satisfy the Building Code of Australia and National Construction Code (NCC) requirements. Without these changes, the building will be non-compliant with a series of statutory controls and requirements.
3. The modifications also seek to improve the planning and layout of all apartments and also consolidate access and improve circulation in and around the building.
4. The changes are considered to improve the overall functionality, buildability, appearance and internal amenity of the development and improve access within the basement. Although there is an increase in the overall height of the building to cater for changes to the floor to floor levels and accommodate a new exhaust in the basement, the approved building footprint and envelope remain largely unchanged. The modification will not adversely affect the character of the development or amenity to adjoining properties. The approved building envelope and footprint remain largely unchanged. The modifications are outlined in greater detail below.



Figure 2: 3D Montage of the rear elevation of the amended scheme (courtesy: Drew Dickson Architects)

Site and Locality

5. This application applies to land known as 723-729 Princes Highway, Blakehurst (Figure 3 below is an extract of the survey plan). The site has a legal description and is known as Lots 22, 23, 24 and 25 DP 6944 comprising of four (4) independent residential and commercial allotments. Combined the sites have an area of 1,009sqm.
6. The site is located on the corner of Blake Avenue and Princes Highway with Dover Park located to the north and a series of dwelling houses located immediately to the south comprising of 731, 733-735 and 737 Princes Highway. Other commercial premises are located further south including the popular Bayblu Seafood Restaurant and Shipwrights on the Marina. These properties adjoin the Blakehurst Marina. Further to the south is Tom Ugly's Bridge.
7. Immediately to the north of the site is public land adjoining the foreshore. This land is vegetated and includes some on-street public parking and public access which is separated by the Princes Highway. To the south-east are some larger private residential properties in the form of detached dwelling houses (446-454 Princes Highway).
8. Immediately to the west is the Georges River foreshore (Shipwrights Bay) and the rear of the existing subject properties includes a series of jetties and boat sheds which are ancillary structures however have been built outside the existing boundaries.



Photo 1: North elevation of the subject site as existing (No.723 Princes Highway)



Photo 2: The rear of the subject sites and their relationship to the waterway



Photo 3: Public reserve immediately to the north of the site

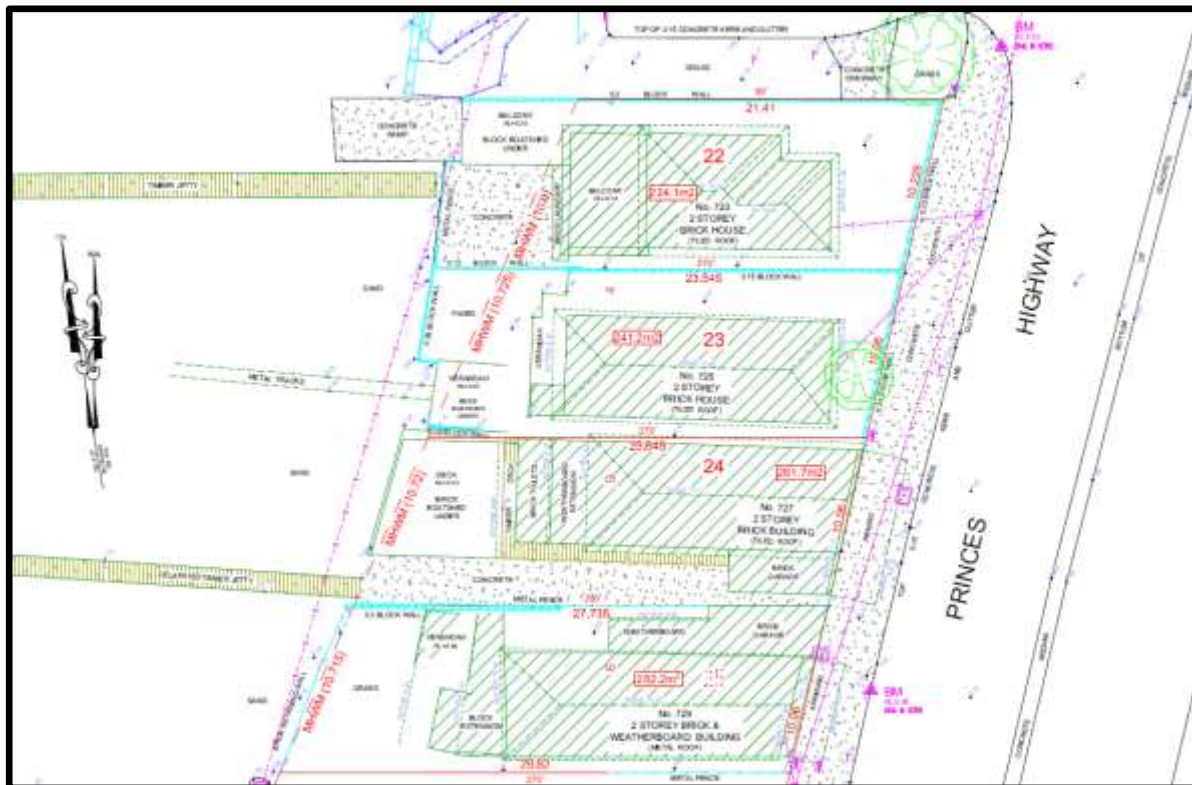


Figure 3: Extract of the survey plan showing the subject site (courtesy: *Daw and Walton Surveyors*)

9. The original development application was “*integrated*” development in accordance with the provisions of the Water Management Act as the development is located within 40m of a waterway and is classified as “waterfront” land. The application was referred to the Natural Resources Access Regulator (NRAR) (former Department of Primary Industries) for concurrence. On 15 May 2019 NRAR issued General Terms of Approval (GTAs) for the controlled activity. The GTAs formed part of the development consent.
10. The S4.55(2) application was re-referred to NRAR for comment and on 30 September 2021 this authority stated that *“The Natural Resources Access Regulator (NRAR) has reviewed documents for the above application to modify a DA Consent and considers that, for the purposes of the Water Management Act 2000 (WM Act), previously issued General Terms of Approval are adequate, remain current, and no further assessment by this agency is necessary.”*

Zoning and Permissibility

11. The subject site is zoned R3 Medium Density Residential under the provisions of the Kogarah Local Environmental Plan 2012 (KLEP2012). The proposed residential flat building (RFB) is a permissible use with consent. The modifications proposed don’t alter the approved land use.

Submissions

12. The modification application was notified to adjoining properties for a period of 14days in accordance with the provisions of the Kogarah Local Environmental Plan 2012.
13. One (1) submission was received by Council that raised the following concerns;
 - The site area of 1,009sqm should be confirmed as the minimum site area for an RFB is 1,000sqm.
 - The breach with the height limit of 21m although minor is unacceptable.

- The GFA should also be confirmed as it is close to the 2:1 maximum allowable.
- The design, height and scale of the building is out of character with the streetscape and context of the area which is generally low scale.
- The carpark abutting the water would not permit access to the water and would be an overbearing structure.
- The development would establish an undesirable precedent.
- Our property value will be affected if a developer built a similar development to the south leaving our property isolated and will lose value.
- The proposal fails to show where mechanical, electrical or plant and services equipment is located.
- There will be a loss of privacy from the balconies that face the water and the street.
- Increase in vehicular and pedestrian traffic.
- Permission from Crown Lands may need to be provided in relation to structures abutting the waterway.

14. These issues are addressed in greater detail later in the report.

Reason for Referral to the Local Planning Panel

15. The proposal is referred to the Local Planning Panel for determination as it is a Section 4.55(2) application and is required to be sent to the LPP for determination (under a prior Ministerial Direction of 23 February 2018).

Issues of concern

16. The application was referred to Council's Urban Design Specialist for comment. Concerns have been raised regarding some design outcomes that are proposed. These issues were forwarded for the Applicant to consider and respond to and these points are addressed in greater detail later in the assessment.
17. Council also raised two general concerns with the modified design:
- i) *The GFA had increased and exceeded the 2:1 maximum. Much of this was to do with the approved basement storage areas being converted to floor space. Basement storage is excluded from the GFA calculation whilst habitable floor space in the basement is included. Whilst the additional area will not be visible and it was a small increase it was requested that the development be amended to fully comply in accordance with the approved scheme which complied with the FSR.*
 - ii) *The floor to floor heights have been increased to 3.25m from the approved 3.05m. Whilst beneficial in providing improved internal amenity and increasing the floor to ceiling heights it was requested that this be reconsidered and reduced to 3.1m which would reduce the overall height by approximately 1m. The Applicant provided adequate justification to confirm that these heights need to be maintained to cater for each slab and to accommodate internal services.*
18. The Applicant provided some additional details on 18 November 2021 and addressed these issues in more detail. They are discussed in detail throughout the report.
19. In general, the changes that have been proposed substantially improve the quality and internal amenity of the apartments, improve car parking access and circulation in and around the building. There is little change to the overall materiality and finishes of the building which are only realigned to reflect internal changes. The building footprint and envelope will largely remain unchanged and as approved apart from a small addition to the overall height of the building which results from the mechanical ventilation and plant and services that has been integrated into the design.

20. The proposed changes are largely internal and the proposed scope of amendments are considered to be “substantially the same” development and satisfy the provisions of Section 4.55(2) of the Act.

Conclusion

21. The proposal is considered to be an improvement to the originally approved scheme and will provide a better planning and urban design outcome.
22. The proposed development maintains compliance with Council’s key planning and design controls and is therefore considered to be a reasonable and acceptable planning and design outcome for this precinct. The changes do not alter the compliance in accordance with the ADG and State Environmental Planning Policy 65 provisions. The further exceedance to the height does not affect any habitable areas and relates to ancillary services provided on the roof.
23. 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 modification application (MOD2021/0134) is recommended for approval subject to the conditions referenced at the end of this report.

Report in Full Proposal

24. In accordance with Section 4.55 (2) of the Environmental Planning and Assessment Act, 1979 (as amended) the Applicant is seeking to modify Development Consent No.DA2018/0381 in the following manner:

Basement (B3) carpark

- Relocate the existing fire stair and provide an additional fire stair.
- Reconfigure car parking spaces to provide for a total of fourteen spaces (14), three (3) being accessible and one (1) car wash bay.
- Inclusion of new plant and services (pump and fan exhaust rooms).
- Relocation of storage spaces and seven (7) bicycle parking spaces.
- Redesign the lift lobby.

Basement (B2) carpark

- Reconfiguration of car parking spaces to provide fifteen (15) car parking spaces.
- One (1) motorbike parking space.
- New fire stair and reconfiguration of the lobby and stair.
- New fan room.

Basement (B1) carpark

- Reconfigured apartment layout to create two (2) units at this level.
- The main bedrooms for Unit G-01 at this level and a one (1) bedroom (plus study) Unit LG-01.
- New lobby entry and design.
- Removal of the storage spaces that were originally approved.

Ground Floor Plan

- Three (3) redesigned apartments at this level (G-01, G-02 and G-03).
- Enlarged entry and front lobby space.
- Changes to balcony design and sizes.

- Inclusion of services (fire hydrants and boosters).

Levels One, Two and Three Plans

- Three new reconfigured apartments at each level.
- Enlargement of the entry lobby at each level.
- Awning above the entry at the first floor.

Level Four and Five Plan

- Two new 3-bedroom reconfigured apartments at each level.
- Enlargement of the entry lobby.

Roof Plan

- Retention of common open space.
- New plant room BBQ and accessible WC.

25. Other changes to the development are summarized as:
 - Removal of the sliding privacy screens along the balconies.
 - Slight changes to the materiality and finishes of the building.
 - Updated landscaping treatment across the site.
26. The changes will all be discussed and assessed in greater detail later in the report.

Background

27. The original development application DA2018/0381 was amended a series of times before it was originally reported to and determined by the Georges River Local Planning Panel (GRLPP) on 4 November 2019. At this meeting the GRLPP resolved to defer consideration of the application for amended plans to be submitted which address design issues largely covered by Condition 13 in the draft conditions appended to the report. The Panel considered that it was more appropriate to integrate and satisfy the design changes prior to determination.
28. The minutes of the GRLPP meeting of 4 November 2019 stated the following;

“Deferral

Pursuant to Section 2.20 (8) of the Environmental Planning and Assessment Act 1979 (EPAA), Development Application No. DA2018/0381 for the demolition of existing structures, site consolidation and construction of a six (6) storey residential flat building containing seventeen (17) apartments and basement car parking for a total of thirty seven (37) car parking spaces, landscaping and site works at 723-729 Princes Highway, Blakehurst, is deferred for the application to be amended with the following design amendments detailed below. These amendments shall be submitted to the Council within 28 days of this decision and shall be subject to a final determination pursuant to Section 4.16(a) of the EPAA by the Manager Development and Building.

1. **Design** – *The following design changes are to be incorporated into the plans prior to the issuing of the Construction Certificate and shall be to the satisfaction of the Manager of Building and Development:*
 - (a) *The ground floor courtyards to Unit 2 and 3 shall be reduced in width by 1m and the balustrade to the courtyard setback 1m from the foreshore. The area in front of the balustrade shall be non-trafficable and include pebbles. The intention of*

the condition is to reduce the height and scale of structures adjoining the foreshore and to create clearer steps in the built form.

- (b) The proposed sliding privacy screens located on the edge of the balconies shall be increased to include two privacy screens for each balcony with each privacy screen having a minimum width of 1.5m.*
- (c) A full height privacy screen with a minimum width of 1.5m shall be installed along the southern side of all rear balconies to reduce the potential for any overlooking to the adjoining property to the south.*
- (d) The two existing jetties shall be retained and a detailed plan shall be provided to the satisfaction of the Manager Development and Building showing how these structures are to be retained and direct, level access to them from the development site shall be provided. Details of compliance with this condition shall be provided prior to the issuing of the Construction Certificate.*
- (e) A detailed Landscape Plan shall be submitted which shows how the foreshore area will be rehabilitated and treated. This plan should include all landscaping works proposed along Blake Avenue and Princes Highway. The plan should include all pathways, types of plants and access to and from existing structures such as the Jetties.*
- (f) The existing boatsheds and any ancillary structures (except the two Jetties and slipway) at the rear of the subject sites which encroach on the boundary and foreshore shall be removed. Details of how the foreshore will be treated after the removal of these structures is to be lodged with Council. Access to the jetties shall be maintained from the development site.*
- (g) The windows to the living spaces along the southern elevation to Units 5, 8 and 11 shall be constructed of obscure glazing and/or be highlight windows with sills at a minimum height of 1.6m from floor level to reduce the potential for overlooking.*
- (h) The WC proposed on the ground floor adjoining the entry to Unit 2 shall be removed and shall become a storage room.*
- (i) Storage spaces no's 14 and 15 shall be deleted and the space shall be backfilled in line with the space at the front of the site. One new storage room shall be provided adjoining the storage space for Unit 2 and shall be in line with the other storage spaces in the B1 car park level.*
- (j) Two (2) new Banksia integrifolia street trees shall be planted along Blake Avenue with a minimum pot size of 100L.*
- (k) The WC in the Bin store area will be removed and shall become additional space for bins and larger bulky goods to be stored.*
- (l) The non-trafficable roof on Level 4 on the southern side of the building shall include pebbles.*

- (m) *A rainwater tank shall be installed along the southern side of the site at the ground floor level and shall be used to water all deep soil areas and associated landscaping (planters or planter boxes)*
 - (n) *The plans shall include hydrant pump and associated services and these shall be located so that they can be accessed but will be appropriately screened from view where possible.*
 - (o) *A separate plan and application will need to be submitted to Council in accordance with the Roads Act in respect to the proposed relocation of the public car parking spaces. The proposed arrangement and relocation of these spaces shall be approved prior to the commencement of works.*
 - (p) *If an electrical substation is required it shall be well designed, integrated and screened from view where possible.*
 - (q) *Any proposed hydrant boosters shall be located along Blake Avenue and shall be screened from view and softly landscaped.*
 - (r) *Where possible all electrical services should be relocated underground.*
 - (s) *Letterboxes shall be designed to be located within the development adjacent to the main entry along the northern or western side and shall be recessed so they are not located on the front fence.*
 - (t) *The balustrades to courtyards Units 2 and 3 shall be setback a minimum of 900mm from the western edge of the structure and this area is to become non-trafficable and include pebbles. This is to further reduce the dominance of structures from the waterway and create defined steps in the built form at the lower levels. The balustrade to the courtyards shall be of a palisade style. Upper-level balconies shall have balustrades constructed of glass.*
 - (u) *Kitchen facilities and an accessible toilet compliant with the BCA is to be included adjacent to the lift on the rooftop open space area. The design of the kitchen facilities and toilet is not to result in an exceedance of the maximum floor space ratio on the site.*
 - (v) *Design amendments to the balconies, external envelope and internal floor plan in accordance with the amendments made to the architectural plans as shown below.*
29. Amended plans were formally lodged on 29 November 2019 and after an initial review further adjustments had to be made in order to comply with the requested design changes and additional information provided to Council on 18 December 2019. The amended plans were lodged within the 28 day period as stipulated by the Panel.
30. The Panel provided delegation to the Manager of Building and Assessments to determine the application if the amended plans fulfil the design requirements. The updated plans satisfied the GRLPP provisions and were in accordance with the recommendation for deferral by the Panel. On the 23 January 2020 Council's Manager for Building and Assessments determined the application and issued development consent.

31. Since the determination was made the site has been sold with the consent and the new owners have engaged a new Architect to prepare detailed Construction Certificate documentation and during this detailed design stage the proposed changes have been made largely to satisfy the Building Code of Australia and NCC provisions as well as improving the functionality and amenity of the development.

ASSESSMENT

Section 4.55 Considerations

32. The modification application has been submitted in accordance with Section 4.55(2) of the Environmental Planning and Assessment Act which relates to amendments of a more substantial nature. The following provisions of Section 4.55(2) of the Act need to be considered in the assessment of the application.

(2)Other modifications

33. *A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—*
- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
 - (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
 - (c) it has notified the application in accordance with—*
 - (i) the regulations, if the regulations so require, or*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
 - (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*
34. Comment: The proposed changes to the development consent are considered to be “substantially the same” as they sit within the approved building envelope and footprint. The change to the overall height of the building is minor and a result of the mechanical exhaust from the basement parking area. Most of the changes which alter the size and design of levels has little impact on openings and the visual and physical impact of these is considered to be minimal. The quality of apartments, landscaped area and access and circulation arrangements have been improved. The proposed changes are within the spirit and intent of the original approval that was granted.
35. The application was re-referred to Sydney Water (NRAR) for their concurrence in respect to issuing GTA’s. NRAR have formally responded and confirmed the changes do not affect the originally issued GTA’s. The application was also notified to neighbouring residences in accordance with the provisions of the Kogarah DCP. One (1) submission has been received and the issues raised are addressed in detail later in the report.
36. The proposal therefore satisfies the provisions of Section 4.55(2), (a), (b), (c) and (d).

37. Section 4.55 subclause (3) states;
In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.
38. Comment: A detailed Assessment against the provisions of S4.15(1) of the EP & A Act is provided below.
39. Section 4.55 subclause (4) states:
The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.
40. Comment: The proposed development satisfies this provision as the modifications are not granting consent to a DA but rather modifying DA2018/0381.

Section 4.15 Evaluation

41. In determining a Section 4.55 (2) modifications the provisions of Section 4.15 (1) of the Environmental Planning and Assessment Act, 1979 (EP and A Act) need to be considered (where relevant) as part of the assessment process. The following considers the proposal in respect to these requirements.
42. Compliance with relevant State Environmental Planning Policies is summarised in the table as follows and discussed in more detail thereafter.

State Environmental Planning Policy	Complies
State Environmental Planning Policy No.55 – Remediation of Land	Yes
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Yes
State Environmental Planning Policy (Infrastructure) 2007	Yes
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017	Yes
State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development	Yes
State Environmental Planning Policy (Coastal Management) 2018	Yes
Draft Environment State Environmental Planning Policy	Yes
Draft Remediation of Land State Environmental Planning Policy	Yes
Biodiversity Conservation Act, 2016	Yes
Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment	Yes

Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment

43. The main aims and objectives of this plan are (not limited to):
- to maintain and improve the water quality and river flows of the Georges River and its tributaries and ensure that development is managed in a manner that is in keeping with the national, State, regional and local significance of the Catchment,
 - to protect and enhance the environmental quality of the Catchment for the benefit of all users through the management and use of the resources in the Catchment in an ecologically sustainable manner,

- to ensure consistency with local environmental plans and also in the delivery of the principles of ecologically sustainable development in the assessment of development within the Catchment where there is potential to impact adversely on groundwater and on the water quality and river flows within the Georges River or its tributaries,
 - to establish a consistent and coordinated approach to environmental planning and assessment for land along the Georges River and its tributaries and to promote integrated catchment management policies and programs in the planning and management of the Catchment,
44. The current properties drain to Shipwrights Bay and the system and method of stormwater disposal proposed will be consistent with the existing situation albeit updated and controlled. The original application was accompanied by concept stormwater plans prepared by Alpha Consulting Engineers. Stormwater is proposed to be drained by gravity to Shipwrights Bay. The basement will include a pump out tank adjoining the entry to the basement. As the property falls from the south to north and front (east) to rear (west) the proposed system relies on a series of pits that will dispose of stormwater to the basin on the north-western corner of the site adjoining the driveway and connecting to the existing stormwater drain.
45. This method of stormwater detention was referred to Council's Engineering Section and no objection was raised in respect of the management and disposal of stormwater subject to the imposition of conditions. 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. The modified plans do not alter the proposed design and method of stormwater or drainage disposal.
46. One element in the original scheme that required more detail and improvement is the stormwater drain outlet which is proposed to be located outside the boundary towards the north-western corner of the site. A condition will require this element to be redesigned and to be sympathetically treated so that it will harmonise with the landscaped area in which it will be located and will be appropriately vegetated and screened. No change to this arrangement is proposed.
47. The proposal is not considered to have an adverse impact on the waterway and the Georges River catchment. The proposal aims to protect the existing water quality and use and functionality of the catchment and is not considered to be inconsistent with the aims, objectives and purpose of the Regional Plan.

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

48. An updated BASIX Certificate accompanies the modification application being BASIX No.959108M_02, dated 16 August 2021. The updated certificate confirms the development meets the provisions and minimum requirements of BASIX in terms of water, thermal comfort and Energy efficiency.
49. Condition No.79 has been updated to reflect the updated certificate.

State Environmental Planning Policy No 55 - Remediation of Land

50. State Environmental Planning Policy 55 aims to promote the remediation of contaminated land in order to reduce the risk of harm to human health or any other aspect of the environment.

51. 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.
52. A review of the site history indicates that the site has been vacant or used for residential and commercial purposes for extended periods of time, and such uses and/or development are not typically associated with activities that would result in the contamination of the site. The original application was accompanied by a Stage 1 Environmental Investigation prepared by Dirt Doctors (DD) and dated 25 August 2018. The preliminary site investigation concluded that the site is suitable for the proposed development and included some standard conditions if asbestos or unexpected finds are encountered. The conditions included in respect to the findings in relation to potential contamination remain unaltered.

State Environmental Planning Policy (Infrastructure) 2007

53. The aim of the Policy is to facilitate the effective delivery of infrastructure across the State.
54. Subdivision 2 of the Infrastructure State Environmental Planning Policy relates to Development that is in or adjacent to road corridors and road reservations. Princes Highway is a Classified Road and in accordance with Clause 101 (development with frontage to a Classified Road) concurrence from the Roads and Maritime Services Authority (RMS) is required. Direct access to the site is not proposed off Princes Highway but via the secondary roadway, Blake Avenue. A formal response from RMS was provided on 18 October 2018. RMS did not object to the proposed access arrangement subject to the imposition of fourteen (14) standard conditions if consent for the development is granted. The modifications do not alter the access arrangements as approved and a further RMS referral is not required.
55. In terms of the acoustic impacts, Clause 102 of the Infrastructure State Environmental Planning Policy establishes minimum acoustic requirements for new residential uses which are affected by busy arterial roads. Clause 102 of the State Environmental Planning Policy states that;
 - (3) *If the development is for the purposes of a building for residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:*
 - (a) *in any bedroom in the building – 35 dB (A) at any time between 10.00pm and 7.00am*
 - (b) *anywhere else in the building (other than a garage, kitchen, bathroom or hallway) – 40 dB(A) at any time.*
56. Section B3 of the Kogarah Development Control Plan 2013 (KDCP) also establishes objectives and minimum provisions to satisfy in terms of regulating acoustic impacts however reverts back to the provisions of the Infrastructure State Environmental Planning Policy (Clause 102 provisions). In addition, the Department of Planning has also established guidelines for “*Development Near Rail Corridors and Busy Roads – Interim Guidelines*” (2008). These guidelines require noise levels not to exceed 35dB internally to bedrooms between 10pm to 7am daily and for other habitable areas (excluding garages,

kitchens, bathrooms and hallways) to achieve maximum noise levels of 40dB at any time. These guidelines also allow for a 10dBA allowance for windows and doors to be open to allow for natural ventilation and to satisfy cross ventilation requirements. If the noise impacts will be greater than the 10db then mechanical ventilation to these spaces will need to be considered.

57. The Acoustic report prepared by Day Design and dated 7 September 2018 considered all the provisions within all the relevant policies and controls and recommended that the acceptable noise criteria for this development to be as follows;

With windows closed

- 35dBA inside bedrooms at night (10pm to 7am)
- 40dBA inside other habitable rooms during the day (7am to 10pm)

With windows open

- 45dBA inside bedrooms at night (10pm to 7am)
- 50dBA inside other habitable rooms during the day (7am to 10pm)

58. A noise monitor was placed at the shopfront at 729 Princes Highway and the noise levels recorded were 79dBA (daytime) and 76dBA (night-time). The noise levels therefore will exceed the minimum requirements and a number of measures will need to be adopted to ensure internal areas will be acoustically treated through the implementation of a series of construction methods i.e. double glazed windows, minimum thickness of walls, doors and flooring finishes. In addition, spaces facing Princes Highway will need to be mechanically ventilated. A condition is included that requires the original Acoustic report to be updated to reflect the design changes in the original scheme (balconies along Princes Highway were replaced with windows and spaces along this side became bedrooms as opposed to living spaces). It is common that along busy roads internal spaces rely on mechanical ventilation and double glazing to openings to minimise the transmission of background noise. The amended plans do not alter the acoustic findings nor do they change the design to require additional testing, the outcome will be similar to the approval and the original conditions imposed are reasonable and satisfy the changes.
59. The modification application was accompanied by an updated Acoustic Report prepared by Resonate and dated 17 November 2021. The original acoustic report only considered noise intrusion i.e. background and external noise sources such as traffic and associated activities. However, the updated report by Resonate also considers the impact of noise emissions from mechanical plant and services which has been integrated into the detailed design and also internal acoustic requirements in accordance with the Building Code of Australia and NCC requirements. One logger was placed at the front of the property and the report and its findings is considered more accurate in its assessment of the proposal. The report is also more detailed in its reporting as it extends recommendations to ensure compliance with the Building Code of Australia and makes detailed recommendations in respect to window glazing, type and width outlining required flooring and wall specifications, doors and other construction requirements.
60. There are a number of generic acoustic conditions that were imposed however the conditions that reference the original acoustic report (Conditions 93 and 96) will need to be amended to reflect the current report prepared by Resonate.

Biodiversity Conservation Act 2016

61. 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.
62. Council's mapping system does not identify any part of the subject sites having any significant vegetation or species classified as EEC or part of the biodiversity offset scheme.
63. The original approval to remove of the two (2) trees on site and four (4) street trees (considered non-significant species) is not altered by the proposed modifications.

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

64. The Vegetation State Environmental Planning Policy regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent and repeals clause 5.9 and 5.9AA of the Standard Instrument - Principal Local Environmental Plan with regulation of the clearing of vegetation (including native vegetation) below the BOS threshold through any applicable DCP.
65. The Vegetation State Environmental Planning Policy applies to clearing of:
 - (a) *Native vegetation above the Biodiversity Offset Scheme (BOS) threshold where a proponent will require an approval from the Native Vegetation Panel established under the Local Land Services Amendment Act 2016; and*
 - (b) *Vegetation below the BOS threshold where a proponent will require a permit from Council if that vegetation is identified in the council's development control plan (DCP).*
66. The original development consent permitted the removal of several trees at the front of 725 Princes Highway and along the Blake Avenue frontage, located on the public footway. These trees are not significant or important species and in general the sites combined do not include any valuable or substantial vegetation. Figure 4 below shows the location of trees to be removed.

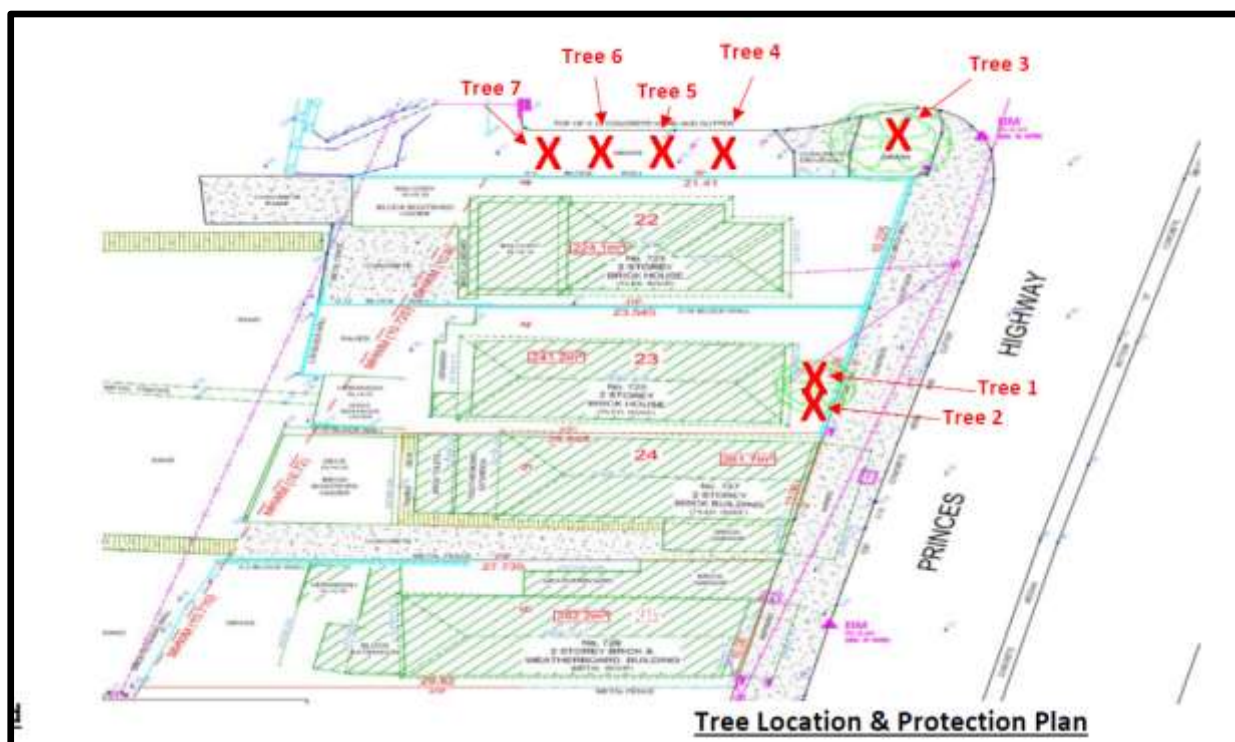


Figure 4: Location of the existing trees to be removed as part of the proposed site works (courtesy: Arboricultural Impact Assessment, 2018)

67. The trees to be removed (largely bottle brushes) are not considered important or significant species however Tree 3 on Council's nature strip located on the north-eastern side of the site is requested to be retained. Council's Landscape Officer believes this tree is in a good condition and should be maintained. Most other trees are suppressed or have been lopped including some located along Blake Street.
68. The original Landscape Plan prepared by Aspect Landscape Designers and dated July 2019 provides for a number of large trees to be integrated as part of the design including three (3) large Sydney Red Gum trees to be planted along the southern side where there is a 2.7m wide deep soil area which will be able to accommodate these species. In addition, three (3) Tuckeroos were proposed along the front. These trees grow to 8m high and have a 5m wide canopy spread. The proposed landscape design will improve the number of trees and planting that is accommodated within the site. It also provides for an integrated and more formal landscaping arrangement.
69. The proposed modification application is accompanied by an updated Landscape Plan prepared by Aspect Design and dated 16 July 2021. The landscape design retains a similar amount of deep soil area especially along the southern side to provide a buffer and screening to the adjoining residential neighbour. The plan also addresses the original condition of consent which required the roof top area of common open space to be set-in and centralised. There are a minimum of three (3) larger canopy trees proposed at the ground floor level to compensate for the loss of two trees onsite. The amended landscaping design and arrangement is considered satisfactory and consistent with the original approval and will maintain a high level of landscaped treatment around the building. Conditions relating to landscaping will be updated to reflect the modified details.

State Environmental Planning Policy (Coastal Management) 2018

70. State Environmental Planning Policy (Coastal Management) 2018 updates and consolidates three previous State Environmental Planning Policies (SEPP 14 Coastal Wetlands, State Environmental Planning Policy 26 Littoral Rainforests, State

Environmental Planning Policy 71 Coastal Protection) into one integrated Policy and is a matter for consideration for the current DA.

1. Under State Environmental Planning Policy (Coastal Management) 2018, the subject site is mapped as a Coastal Environment area and a Coastal Use area. These have the following management objectives under the State Environmental Planning Policy:
 - (a) *to protect and enhance the coastal environmental values and natural processes of coastal waters, estuaries, coastal lakes and coastal lagoons, and enhance natural character, scenic value, biological diversity and ecosystem integrity,*
 - (b) *to reduce threats to and improve the resilience of coastal waters, estuaries, coastal lakes and coastal lagoons, including in response to climate change,*
 - (c) *to maintain and improve water quality and estuary health,*
 - (d) *to support the social and cultural values of coastal waters, estuaries, coastal lakes and coastal lagoons,*
 - (e) *to maintain the presence of beaches, dunes and the natural features of foreshores, taking into account the beach system operating at the relevant place,*
 - (f) *to maintain and, where practicable, improve public access, amenity and use of beaches, foreshores, headlands and rock platforms.*
2. The following is an updated assessment of the matters for consideration listed under the State Environmental Planning Policy as applicable to the Coastal Environment Area and Coastal Use Area provided in italix.

Table 1: Compliance with the Coastal Management State Environmental Planning Policy

State Environmental Planning Policy 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,	Surface water runoff is to be managed in accordance with the approved stormwater management plan and relevant conditions imposed. The proposal is generally satisfactory subject to conditions.	Yes. <i>No change proposed.</i>
(b) coastal environmental values and natural coastal processes,	The existing sites are used for residential and commercial purposes. The proposed development is a purely residential use and will not unreasonably impact the coastal environmental	Yes. <i>No change proposed.</i>

	values and there is no direct impact on 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,	The water quality of Shipwrights Bay will not be affected by the proposal. The site is not located on any of the sensitive coastal lakes locations identified in Schedule 1.	Yes. <i>No change proposed.</i>
(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,	<p>There will be no unreasonable impact upon the foreshore features. The site will be landscaped in accordance with the submitted landscape plan and it is intended to embellish existing vegetation along the foreshore.</p> <p>There are no works proposed that are likely to threaten fish or marine habitats.</p>	Yes. <i>No change proposed.</i>
(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,	<p>The subject site is privately owned, however public access to the foreshore can currently be directly gained from the public reserve. The sites do not allow or permit any form of public access as the rear boundary to the foreshore is the Mean High Water Mark (MHWM). The public can walk along the foreshore if the tide is low.</p> <p>There is however no direct access to this area; the application does designate a “potential future link” by way of a series of stairs. A condition will require a more detailed arrangement in terms of landscaping, drainage design (for the proposed outlet pit) and the provision of access and retention of the two piers. These details when submitted (prior to the issuing of the CC) will allow Council’s Asset and Infrastructure Services to review and provide any necessary input.</p> <p>Given the siting of the existing lots along this side of the Highway most of which are private dwelling houses there is no real potential to provide for a consistent public accessway</p>	Yes. <i>The updated Landscape Plan aims to provide direct public access along the rear of the site which is a huge public benefit. The proposed accessway is a concrete path and it is requested that this become a timber walkway that is more permeable and a softer physical outcome. A condition will require this to be implemented.</i>

	along the foreshore. The fact that the public reserve has direct access to the water this is considered to provide the public with direct access and satisfies this purpose. If there was a foreshore link or connection then continuing this would be important and required but connection is unlikely to be obtained or created unlike the recently approved development at 468 Princes Highway which dedicated a public accessway along the foreshore which connects two reserves and connects to existing public space and a small walking track along the foreshore.	
(f) Aboriginal cultural heritage, practices and places,	The allotment is not known as a place of Aboriginal significance. There is no impact in terms of Aboriginal heritage.	Yes. <i>No change proposed.</i>
(g) the use of the surf zone.	The development is not located near the surf zone.	NA
(2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:		
(a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or	The proposal is generally satisfactory in terms of impact as discussed throughout this report.	Yes. <i>No changes proposed.</i>
(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or	The proposal is generally satisfactory and has been designed to reduce impacts. Conditions will be included to ensure that impacts on the waterway and its natural processes are mitigated i.e. especially through the construction process in that stockpiling of construction materials and waste materials are located towards the front of the site, not at the rear.	Yes. <i>No change proposed.</i>
(c) if that impact cannot be minimised—the development will be managed to mitigate that impact	The proposal is generally satisfactory and has been designed to minimise impacts.	Yes. <i>No changes proposed.</i>
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:		N/A as site is not located within a coastal location it is within a Bay.
(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,	The development will not limit or restrict access to the foreshore and is consistent with the existing situation.	Yes. <i>No change public access is integrated into the design.</i>
(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,	The public park to the north will not be overshadowed by the development given its orientation.	Yes. <i>No change proposed - the additional height will not affect any area of public open space.</i>
(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,	<p>The building has been designed to improve the permeability of the Site and adjoining area and aims to improve the visual quality of the foreshore.</p> <p>Currently the existing buildings are built right to the MHWL with boat sheds and retaining walls directly onto the foreshore. The development has been designed to step up the site to create a softer transition between the built form and the rear waterway by the provision of landscaping at the rear which is stepped and tapered, the use of sandstone and more appropriate materials should soften its overall appearance and transition to the rear.</p>	Yes. <i>No change proposed to the original approval.</i>
(iv) Aboriginal cultural heritage, practices and places,	The property is not a known site of Aboriginal heritage.	Yes. <i>No change affecting this provision.</i>
(v) cultural and built environment heritage, and	The site does not contain or adjoin any heritage item; Tom Ugly's Bridge however is located to the south of this site. This heritage item is not within the visual catchment of the site.	Yes. <i>No change or affectation to any heritage item or area in the vicinity of the site.</i>
(b) is satisfied that:		

(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or	Proposal is generally satisfactory in terms of impact as discussed throughout this report.	Yes. <i>No change.</i>
(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or	The development does not result in any unreasonable visual impact.	Yes. <i>No change proposed.</i>
(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and	The development does not result in any unreasonable impacts.	Yes. <i>No change proposed.</i>
(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.	<p>Development is generally satisfactory in terms of the built form controls in Kogarah LEP 2012 and DCP 2013.</p> <p>The development form and scale is not inconsistent with the anticipated built form and scale in this immediate precinct. The proposed development has been modified on two occasions and is considered to be a better urban design response for the site with the final design that is proposed.</p>	Yes. <i>The modification does not alter the approved built form design, building envelope and footprint. Apart from a slight increase in the overall height of the building by the inclusion of a mechanical exhaust shaft there is minimal physical changes.</i>

71. The proposed modifications are consistent with the management objectives of the State Environmental Planning Policy.

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

72. State Environmental Planning Policy No.65 (Design Quality of Residential Flat Buildings) (SEPP 65) applies to the subject development and any subsequent modifications.
73. Clause 28(2) of State Environmental Planning Policy 65 requires that the consent authority take into consideration the following as part of the determination of DAs to which State Environmental Planning Policy 65 applies:
- a) *the advice (if any) obtained from the design review panel, and*

- b) *the design quality of the development when evaluated in accordance with the design quality principles, and*
- c) *the Apartment Design Guide.*

74. The original proposal was considered and assessed in relation to the nine (9) design principles and was considered satisfactory. The changes do not alter this assessment. The modification generally satisfies the Apartment Design Guidelines (ADG) in respect to the design quality of the building and its apartments apart from a few areas of non-compliance which are detailed in Table 2 (below) to this report.
75. The modified proposal was referred to Council's Urban Design Specialist who was critical of the scheme however largely focused her comments on the approved built form outcome and not so much about the changes. The urban design comments were forwarded to the Applicant to address. On 15 October 2021, Drew Dickson Architects provided a formal written response. The urban design comments highlighted a series of recommendations which are outlined below and responded to accordingly:
- i. *Clarification is required on the accuracy of the natural ground RLs and proposed RLs for other areas of development; since irrespective of the proposed RLs, the natural ground will be the same.*

Response: The site is a complex one due to the steep slope of the land from the Princes Highway down to the foreshore with a fall of some 5-6m. Currently there are a series of private structures abutting the foreshore as can be seen by the photo below. There is also no public access to the rear of these properties.

In order to ensure heights are accurate "existing" ground levels need to be considered not "natural" ground levels. In this case the existing levels are taken east of the Mean High Water Mark as the MHW is the rear boundary. The existing homes have their ground lines established at slightly varying RL's of between RL5.61 and RL6.55 when taken off the survey plan. The building is then setback over 7.7m from the MHW with the balconies encroaching on this level. The Applicant provided updated information to show "existing ground lines" and this is consistent with the height plane diagrams and elevations. Based on the siting of the building and "existing" RL's the ancillary roof structures do exceed the height and this issue is discussed in greater detail later in the report.



Figure 5: Existing photo of the rear of the existing buildings photo taken from Shipwrights Bay

- ii. *It is recommended the proposal be amended to address the existing site topography.*

Response: The proposed development including the original application addresses the existing site topography. It is clear from Figure 5 above that the natural characteristics of the foreshore have been significantly altered by the construction of the existing dwelling houses, associated retaining walls and boat sheds with balconies above. There are no natural foreshore characteristics that remain and in addition no public access is available.

The original and amended proposal will require the basement to protrude above the ground level which is an unavoidable element however the existing boatsheds that are forward of the MHWL are accessible by the existing houses and have balconies above with RL's of 4.33, 4.01 and RL5.28 for the boatshed structure adjoining No.723 Princes Highway at the rear. These structures already protrude substantially above the MHWL. The proposed roof of the basement car park will sit at RL7.7m which is some 2.5m higher but will be setback 2.15m from the MHWL and the public access path will have an RL of 3.3 to RL2.15 southward. The associated ground floor courtyards will be situated at RL3.5m which are setback further from the MHWL and sit lower than some of the existing structures. The design is stepped and tapers from the rear up to the front. This is an appropriate design response for a complex and constrained site. There is currently no landscaping features at the rear of the properties and the approved and amended form seeks to include landscaping and permeable elements where possible to improve the transition and buffer to the bay.

- iii. *The design should be amended for the basement to be entirely contained within the confines of the building footprint. Basement carpark should also predominantly be located below natural ground with the floor level of the storey above less than 1m above ground as per KLEP 2012.*

Response: Whilst this would be an ideal design solution to submerge the basement below the ground level, it is not feasible and would affect gradients within the basement. In addition, the Applicant has stated that *"The idea to have the basement entirely contained within the tower footprint would require additional levels of basement to accommodate the required car parking number. This will hugely increase the amount of excavation and soil removal which we deem unnecessary, especially given the approved DA also encroached beyond the building footprint"*.

- iv. *Given the street interface and the waterfront, it should be considered for Basement 1 to be not more than 500mm above natural ground.*

Response: This issue is addressed by the responses provided above.

- v. *It is recommended for the design to be amended to comply with the maximum approved building height. Reducing the total number of storeys should be considered for the building to comply with not only the approved maximum height but also to minimise the impact of the perceived bulk and scale when viewed from the water.*

Response: The issue regarding the height non-compliance was detailed as part of the original assessment of the application. It was accepted that no habitable spaces exceeded the control, the number of storeys were therefore compliant. The only areas of non-compliance related to the ancillary structures on the roof comprising of the lift overrun, pergola structure, BBQ and the balustrade around the rooftop. The only alteration to the existing approval is the requirement to include a car park exhaust element which results in an increase in the height. The parapet height is also slightly

higher as floor to floor levels have increased to cater for internal services. The number of storeys complies with the overall height and if the roof top structures were removed it would be a compliant development. The communal area on the roof adds value and amenity to the building and its occupants.

- vi. *The proposal should be amended to compliance with the maximum building height, ground floor to floor height and the proposed ceiling heights for floor above ground. This can easily be achieved by reducing the total number of storeys of the proposal.*

Response: The floor to floor heights of the amended development are at 3.25m which exceed the recommended minimum 3.1m internal heights recommended in the ADG. Although still compliant and will provide more generous floor to ceiling heights, they will increase the overall height of the building. By reducing these down to 3.1m will reduce the overall height of the building by over 1m. The Applicant has provided additional information to state that they cannot reduce the 3.25m floor to floor heights because *“The 3.25m floor to floor height is the outcome of coordination with the structural engineer regarding the slab and beam requirement and also the requirement for a minimum 2.7m ceiling height per ADG. The acoustic report further outlines the acoustic requirements within the ceiling space to comply with the BCA 2019. The slab varies from 250mm to 370mm as determined with the structural engineer...with the above restrictions as well as sprinkler services and lighting zones there is no room to reduce the floor to floor 3.1m and still maintain the 2.7m clear ceilings required by the ADG”*.

The response provided by the Applicant relates to technical and structural requirements to be met which require a minimum floor to floor height of 3.25m. In this case the response provided seems a reasonable and further details are provided later in the report.

- vii. *Instead of concrete a more natural material should be used for the pathway along the foreshore. The approved pathway setback from the waters edge should be retained to provide a soft edge and more desirable pedestrian environment to the waterfront.*

Response: There is currently no pathway along the foreshore. The proposed materials and finishes have a strong preference for a sandstone finish which is considered appropriate for this foreshore location however the pathway adjoining the foreshore is not permeable and it is requested that it be changed to become a timber pathway (as per the implementation of a new design condition) allowing for improved permeability and softening the appearance of the development. The roof of the car park entry is also shown as non-trafficable. A condition on the original consent requires this area to be landscaped with coastal and native species endemic to the area.

- viii. *It is recommended that the architectural expression of the elevations especially the Blake Avenue and Western Elevations and overall built form be amended to enhance public/ private domain interface and minimise perceived building bulk and scale.*

Response: The issue of the architectural expression was dealt with as part of the original application. This is a modern and contemporary development that was designed by a registered architect. The modified proposal substantially improves the amenity and presentation of the building by increasing the curvature of the form along the foreshore.

76. The proposed design response as part of the modification is considered to be acceptable and does not depart from the originally approved built form however improves it to a large degree.
77. Table 2 below provides a comprehensive assessment of the modified proposal against the principles, objectives and controls of the ADG. The modifications to the design are addressed in italix in the “proposal” column of the table.

Table 2: Part 3 and Part 4 (SEPP 65) – Consideration of the Apartment Design Guide Controls

Clause	Standard	Proposal	Complies
3D - Communal open space	<p>1. Communal open space has a minimum area equal to 25% (252sqm) of the site.</p> <p>-Where it cannot be provided on ground level it should be provided on a podium or roof</p> <p>-Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should:</p> <ul style="list-style-type: none"> • provide communal spaces elsewhere such as a landscaped roof top terrace or a common room • provide larger balconies or increased private open space for apartments • demonstrate good proximity to public open space and facilities and/or provide contributions to public open space 	<p>The proposal has been amended to provide an area of communal open space at the roof level.</p> <p>Originally the roof top area of communal open space comprised of 287sqm. This amounts to 28% of the site and complies with the numerical requirement. <i>A condition of the original approval was to setback the balustrade of the rooftop communal area to reduce its visual dominance by 2m from the edge of the building. This has been accommodated in the modified proposal however still provides for a very functional area of communal open space 263sqm which amounts to 26% which remains compliant. There is also a small communal area at the rear adjoining the foreshore and next to the rear pathway. It provides for some communal seating which is a good use of this space. What should also be noted is that each balcony is well in excess of the minimum balcony size as per the design guidelines in the ADG so these private spaces are extremely generous.</i></p> <p>The site is located across</p>	Yes

	<p>2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)</p>	<p>the road to a small pocket park and public reserve that can be utilised for passive and active recreational purposes. It is convenient and provides for direct public access to the water and foreshore. As such the provision of communal areas at the ground floor is not able to be accommodated given the site constraints.</p> <p>The whole area of the rooftop communal open space will receive excellent solar access throughout the day due to its northern, eastern and western orientation. <i>No change proposed.</i></p>	
3E – Deep Soil zones	<p>1. Deep soil zones are to meet the following minimum requirements:</p> <p>Where the site area is 650sqm - 1,500sqm = 3m min dimension</p> <p>Min deep soil area of 7% (70.63sqm).</p>	<p>Originally approximately 87.5sqm of deep soil area was provided which amounted to over 8%. The only areas of deep soil that are counted where they achieve a minimum width of 3m and are not located on podiums. This has been confirmed to be correct and does not include backfilled areas which “technically” could also be included as “deep soil” areas.</p> <p><i>The modified scheme retains 3 key areas of deep soil which are at the front north-eastern corner amounting to 9sqm although this space is larger although not calculated in totality as it doesn’t for all of it have a minimum width of 3m. Along the south-eastern side is a 36.6sqm area and the south-western side has an area of 26sqm (again this space is larger but the</i></p>	Yes

		<i>area is only captured where it is 3m wide). In total the deep soil area is 71.6sqm (7%). This maintains compliance with the minimum requirement.</i>	
3F- Visual Privacy	<p>Separation between windows and balconies is provided to ensure visual privacy is achieved.</p> <p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <p>Up to 12m (4 storeys) Habitable - 6m Non-habitable – 3m</p> <p>Up to 25m (5-8 storeys) Habitable – 9m Non-habitable – 4.5m</p> <p>Up to 25m (9+ storeys) Habitable – 12m Non-habitable – 6m</p>	<p><u>Southern side</u> Ground to Level 3 – building setback 6m. Level 4, 5 and 6 – building setback 9m.</p> <p><u>Northern side</u> Ground to Level 6 – 4m.</p> <p><i>There is no change proposed to the approved side setbacks of the building.</i></p>	Yes
3G – Pedestrian Access and entries	<p>Building entries and pedestrian access connects to and addresses the public domain</p> <p>Multiple entries (including communal building entries and individual ground floor entries) should be provided to activate the street edge.</p>	<p>The development provides one entry lobby. Given the density of the development being seventeen (17) units one (1) common lobby/entry is considered to be acceptable.</p> <p><i>The modified proposal has substantially improved circulation and accessibility to and around the building. It has integrated a new point of secondary access from the rear pathway along the foreshore that also provides access to the lobby at the B1 level and there is access to and from the basement which is ideal for waste disposal. The amended</i></p>	Yes

		<i>scheme has had to provide for a secondary fire access stair which also provides another point of access from the basement to the rear of the building.</i>	
3H-Vehicle Access	Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes	<p>The proposed new driveway entry is located towards the northern most part of the site. The benefit of this location is that it is located further away from the intersection with the Princes Highway and this is the lowest point of the site.</p> <p>The provision of access along this side effects the location of some existing public parking spaces. The Applicant has requested that these spaces be relocated further to the east along Blake Avenue. Council's Traffic Engineers did not in principle object to the relocation of these spaces, however formal approval will be required in accordance with the Roads Act with any redesign to be assessed and approved by the Local Traffic Committee. Council's Engineers suggested that this can occur after a determination has been made. This issue was conditioned as part of the original approval and the resolution of this issue will still be required prior to the issuing of the CC.</p> <p><i>The modified scheme does not alter the approved vehicular access arrangement however increases the width of the driveway into the basement from 3.917m (as approved) to 7.6m internal width at B1 and the width narrows along</i></p>	Yes

		<i>some points but is a much better design that the approved development scheme. Waiting bays are included and traffic signals however the layout and parking arrangement has improved.</i>	
3J-Bicycle and car parking	<p>For development in the following locations:</p> <ul style="list-style-type: none"> - On sites that are within 800m of a railway station or light rail stop in the Sydney Metropolitan Area; or - On land zoned and sites within 400m of land zoned B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre 	<p>These provisions are not applicable as the proposal is not within 800m of a railway station or light rail stop.</p> <p>There is a bus stop located within 400m of the site near Blake Avenue.</p> <p>The provisions of the ADG (which rely on the RMS requirements for Traffic Generating Developments) are not relevant in this case and the development will need to satisfy the provisions of the KDCP.</p>	<i>Unchanged refer to KDCP section in this report for discussion in regards to the numerical compliance of the amended proposal.</i>
4A- Solar and daylight access	<p>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter in the Sydney Metropolitan Area</p> <p>A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm in midwinter</p>	<p>The original assessment found that some Units (1, 2, 3, 5, 6, 8, 9, 11, 12 and 14) would technically receive 1.5 hours of sunlight as at 1pm sunlight is not quite filtering through to the living spaces but rather on the balconies as the living area faced direct west. This would mean that only 7 units (mainly north facing units) achieve 100% which is 41% of the development with the remaining 10 units (58%) receiving a minimum of 1.5 hours just short of the 2 hour minimum.</p> <p>Although the control limits the calculation to 3pm the 10 units will receive sunlight well beyond 5pm (even in daylight savings) as their orientation is due west and they will be unobstructed as</p>	The modification improves the solar access situation and achieves compliance.

		<p>they are located immediately on the foreshore. The development satisfies the design principle.</p> <p><i>The modified scheme has altered the internal design of many apartments within the approved building footprint and envelope. In the amended design most apartments receive 2-3hrs of solar access with only 2 apartments on the basement level 1 not achieving the minimum of 2 hours due to the apartment location. This amounts to 11% of the development not conforming. This is a better outcome than the original approved scheme.</i></p>	
4B- Natural Ventilation	<p>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.</p> <p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line</p> <p>The building should include dual aspect apartments, cross through units and corner units and limit unit depths</p>	<p>As this development faces Princes Highway, the acoustic report requires more stringent construction measures to be implemented to reduce acoustic impacts. All units have been designed to be cross ventilated apart from the centrally located apartments (Units 2, 6, 9 and 12) which only have single aspect. This amounts to 24% of the development.</p> <p>The remaining 13 units have a triple aspect meaning they have a north, south, east, west orientation. So even if the window openings to bedrooms and spaces facing the highway are to be closed and mechanically ventilated to mitigate noise, they still have two aspects and would therefore satisfy the cross ventilation requirements. So, 13 out of</p>	<p>Yes, the modification improves the situation and creates a compliant development.</p>

		<p>the 17 units will be cross ventilated which amounts to 76%.</p> <p><i>The amended proposal achieves and maintains compliance with the controls. A total of 12 apartments will achieve cross ventilation as the central apartments can not achieve this or the 2 apartments on the B1 level. The proposal still complies and 70% of the development satisfies the cross-ventilation requirements.</i></p>	
4C-Ceiling Heights	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <p>Habitable rooms = 2.7m Non-habitable rooms = 2.4m</p>	<p>The minimum floor to ceiling height at all levels is 2.7m (3.050m from floor to floor including slabs was provided in accordance with the approved application)</p> <p>Floor to floor heights of 3.1m are preferred to achieve a floor to ceiling height of 2.7m however Council has provided for some exemptions and allowed for slightly lower floor to floor heights and in this case, it was proven that a slab of 350mm could be constructed and would still allow for floor to ceiling heights of 2.7m.</p> <p><i>The modified scheme has increased the floor to floor levels to 3.25m at all levels. This exceeds the preferred 3.1m and will allow for higher internal floor to ceiling heights. Whilst this is a good internal amenity and design outcome in terms of the internal spaces, given the height of the building exceeds the statutory height limit a floor to floor height a</i></p>	<p>Yes – <i>the modification improves floor to ceiling heights.</i></p>

		<p><i>max of 3.1m would reduce the height of the building.</i></p> <p><i>The reason for the higher floor to floor levels is a result of the structural requirements for this building and to integrate services such as sprinklers, ventilation. The Applicant states that if the proposal was conditioned to have 3.1m floor to floor heights the 2.7m internal floor to ceiling height could not be achieved. This technical reasoning seems logical given the complexity of the site, sub-basement levels and more stringent structural provisions and requirements. Given also that the exceedance in the height does not include any habitable areas this also seems reasonable and that the increase in the height above the 21m height limit only affects ancillary structures on the roof level.</i></p>	
4D- Apartment size and layout	<p>Apartments are required to have the following minimum internal areas:</p> <p>1 bedroom = 50sqm 2 bedroom = 70sqm 3 bedroom = 90sqm</p> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each.</p> <p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and</p>	<p>Every unit complied with the minimum internal area requirements.</p> <p>Two (2) bedroom units have minimum internal areas of 86.5sqm</p> <p>Three (3) bedroom units have minimum internal areas of 127.7sqm.</p> <p>The units are much larger and spacious than the minimum ADG area requirements. The design seeks to cater for people in the area keen to downsize from their homes and buy in an exclusive waterfront location.</p>	Yes

	air may not be borrowed from other rooms	<i>The internal design and layout of the apartments has been substantially improved and there is no apartment with an internal area of less than 87sqm. The apartments are generous in size and very spacious.</i>	
4D-2 Apartment size and layout	<p>Habitable room depths are limited to a maximum of 2.5 x the ceiling height</p> <p>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window</p>	<p>Generally compliant and addressed as part of the design. Furniture layouts are provided.</p> <p>There are some kitchens that are located further than 8m from a window this is considered acceptable in this case as the open plan arrangement allows for very large and spacious living and dining areas. Having larger living spaces is advantageous in this location.</p> <p><i>Minimal changes however the internal layout of apartments on the lower levels have improved.</i></p>	Yes
	<p>Master bedrooms have a minimum area of 10sqm and other bedrooms 9sqm (excluding wardrobe space)</p> <p>Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</p> <p>Living rooms or combined living/dining rooms have a minimum width of:</p> <p>-3.6m for studio and 1 bedroom - 4m for 2 and 3 bedroom units</p>	<p>Complies with minimum room sizes. Master bedrooms have a minimum area of 10sqm whilst all other rooms have areas of 9.6sqm.</p> <p>Bedrooms have a minimum dimension of 3m – complies.</p> <p><i>No change proposed.</i></p> <p><i>Living rooms are generous and spacious in size and compliant.</i></p>	Yes

	The width of cross-over or cross-through units are at least 4m internally to avoid deep narrow unit layouts	No cross-over or cross-through units are proposed.	
4E- Private Open space and balconies	<p>All units are required to have primary balconies as follows:</p> <p>Two (2) bedroom = 10sqm/2m depth</p> <p>Three (3)+ bedroom = 12sqm/2.4m</p> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p> <p>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15sqm and a minimum depth of 3m</p>	<p>All balcony sizes in the approved development complied with the minimum requirements of the ADG. Many exceeded the minimum requirements.</p> <p>2 bedroom units had balconies with a minimum area of 20.1sqm with a minimum depth of 3m</p> <p>3 bedroom units had balconies with a minimum area of 21.3sqm with a minimum depth of 3m</p> <p>The ground floor areas of private open space at the rear of over 36sqm, 47sqm and 78sqm respectively of courtyard area have been provided (Units 1, 2 and 3). The ground floor courtyard spaces are quite large and it is recommended that planter boxes be introduced to the edges of these to provide more greenery and an additional point of transition.</p> <p>The balconies on the upper levels are substantial in size and quite dominating. It is recommended that they be reduced in width to a maximum of 2.2m so that their visual prominence is reduced and the balconies on Levels 5 and 6 are to be reduced in depth to 2m. This will recess the upper levels so that the balconies are setback further, providing further recessing. By reducing the balcony</p>	<p><i>Yes, the amended proposal maintains generous areas of private open space and balcony sizes.</i></p>

		<p>depth this will also allow for more solar access into living spaces as the balcony protrusions restrict solar access and also set the building encroachments back further from the foreshore.</p> <p><i>There are small changes to the balconies and areas of private open space however still comply with the provisions of the ADG. Ground floor terraces are 36sqm, 61sqm, 35sqm, 150sqm and 80sqm. Upper level balconies all exceed 13sqm. The original condition requiring the width of the balcony not to exceed 2.2m remains applicable to the scheme.</i></p>	
4F- Common circulation areas	The maximum number of apartments off a circulation core on a single level is eight	<p>Four (4) units access the corridor on the ground floor and three (3) units access the lobby on Levels 1 - 4 and two (2) units access the Lobby on Levels 5 and 6.</p> <p><i>The amended scheme has reduced the amount of apartments accessing the lobby. On level B1 only one apartment accesses the lobby on Level 4 and 5 only 2 apartments access the lobby whilst on ground floor level and levels 1, 2 and 3, 3 apartments access the main lobby. This is small scale and provides for a more luxurious and exclusive development.</i></p>	Yes – a better outcome than the approved development.
4G- Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <p>1 bedroom = 6m³ 2 bedroom – 8m³ 3 bedroom – 10m³</p>	Due to the generous size of the units there is ample internal space provided for storage but also in the basement (B1 car park) there are specific designated storage cages/spaces for each unit.	Yes

	At least 50% of storage is to be located within the apartment.	<p>Storerooms for Unit 14 and 15 are located further eastward.</p> <p><i>The approved scheme wasted a lot of functional space and dedicated this to storage on B1. The storage spaces have been relocated to B2 and B3 in the form of small storage rooms adjoining the basement ramp. There are additional 5 storage spaces adjoining car spaces 9 and 10 on B2 and B3. This provides for a total of 17 storage spaces which is compliant, every apartment will have an independent space in the basement as well as within the apartment. There is also a bulky goods storage room provided.</i></p>	
4H- Acoustic Privacy	<p>Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses.</p> <p>Window and door openings are generally orientated away from noise sources</p> <p>Noisy areas within buildings including building entries and corridors should be located next to or above each other and quieter areas next to or above quieter areas</p> <p>Storage, circulation areas and non-habitable rooms should be located to buffer noise from external sources</p>	<p>The building separation distances from the southern boundary are compliant with the preferred distances required by the ADG. The provision of dense buffer planting along this boundary should combat some of the background noise impacts and soften the appearance of the building when travelling north along the Highway.</p> <p>The living areas have been orientated away from the main noise sources and located towards the west, fronting the foreshore.</p> <p>The original acoustic report which accompanies the application recommends the implementation of a series of construction measures i.e., double glazing and the like to reduce the transfer of noise internally.</p>	Yes

		<i>An updated acoustic report accompanies the Modification application prepared by Resonate and dated 17 November 2021 and the conditions relating to acoustics and noise transmission will be updated to reflect the acoustic report.</i>	
4J – Noise and Pollution	<p>To minimise impacts the following design solutions may be used:</p> <ul style="list-style-type: none"> • physical separation between buildings and the noise or pollution source • residential uses are located perpendicular to the noise source and where possible buffered by other uses • buildings should respond to both solar access and noise. Where solar access is away from the noise source, non-habitable rooms can provide a buffer • landscape design reduces the perception of noise and acts as a filter for air pollution generated by traffic and industry 	<p>The approved building has been designed to orientate towards the water rather than the highway. Openings to the road (main noise source) have been amended (from the original scheme), minimised and limited.</p> <p>The approved design was considered to create a more respectful and simplified façade to the highway which is interesting and juxtaposed with the more residential façade at the rear which is dominated by balconies. The eastern elevation has been designed to reduce the reliance on the need to face this roadway although spaces at the higher levels will obtain water views from the east and west. Windows to bedrooms and secondary non-habitable spaces are orientated along this side.</p> <p>The findings and recommendations of the original acoustic report have been addressed earlier in this report and will be conditioned to ensure they are implemented during the construction stage. <i>The acoustic recommendations have been updated by the current report prepared by</i></p>	Yes

		<i>Resonate acoustic consultants.</i>	
4K – Apartment Mix	<p>A range of unit types and sizes is provided to cater for different household types now and into the future</p> <p>The unit mix is distributed to suitable locations within the building</p>	<p>The approved development comprises of the following mix of units:</p> <p>8 x 2 bedroom = 47% 9 x 3 bedroom = 53%</p> <p><i>The mix of apartments has changed slightly as there is now a smaller 1 bedroom plus study apartment. The mix is proposed as:</i></p> <p>8 x 2 bedroom = 47% 8 x 3 bedroom = 47% 1 x 1 bedroom (plus study) = 6%</p> <p><i>The amended design provides a better mix of apartments. The ground floor apartments are two levels in their design and layout.</i></p>	<i>The amended proposal provides for a better mix of apartments</i>
4L – Ground Floor Apartments	<p>Street frontage activity is maximised where ground floor apartments are located.</p> <p>Design of ground floor apartments delivers amenity and safety for residents.</p>	<p>Ground floor apartments are focused towards the rear of the site. Unit 4 will include a private courtyard at the front whilst the south-eastern area of open space at the front of the building will be landscaped but is not designated to any unit so will just form part of the development.</p> <p><i>Originally there were 3 ground floor apartments, all three were two storey's in height. The amended proposal consolidates and provides for only 2 ground floor apartments with one having two storey's. The layout and design at the ground floor is a better outcome.</i></p>	Yes
4M - Facades	<p>Facades should be well resolved with an appropriate scale and</p>	<p>Originally the development included large balconies along the front and rear of</p>	Yes

	<p>proportion to the streetscape and human scale.</p>	<p>the building. Council raised concerns regarding the building resolution as there were too many balconies especially at the front which will not be well utilised given the location of the busy highway. The design was amended so that the front façade is more conducive to the noise impacts. Bedrooms and non-habitable spaces and parts of the corridor are situated along this elevation and the balconies have been replaced with standard windows which is a better design outcome. The differing materials will break up the form and the proposed bands of rendered, painted finishes will break up and articulate the façade. The proposed windows are of differing sizes and offset from the windows on every level. The introduction of wooden panelling and the wooden detailing to the staircase also articulates and breaks up the length of the building.</p> <p>The rear elevation is more residential in the aesthetic as it includes large curved balconies. The sizes of the balconies are requested to be reduced by way of a condition and this should reduce their extent and visual dominance. The treatment of this façade is considered appropriate as this building faces the foreshore.</p> <p><i>There is minimal change to the facades. The front façade is improved as openings are varied in size</i></p>	
--	---	---	--

		<i>and shape to break up the mass and the central staircase element now includes openings which will reduce its visual bulk. The side elevations remain largely unchanged, the rear elevation has been streamlined to include more circular and curved balconies to create a more sculptural appearance.</i>	
4N – roof design	Roof treatments are integrated into the building design and positively respond to the street. Opportunities to use roof space for residential accommodation and open space are maximised. Incorporates sustainability features.	<p>The proposed flat roof is reflective of most contemporary RFB's that integrate a communal rooftop area of open space.</p> <p>The integration of a communal area of open space at the roof is in accordance with the objectives of 4N of the ADG and will be a beneficial addition for future occupants.</p> <p><i>No change is proposed to the roof top area of communal open space apart from complying with the development consent which ensures a mixture and variety of surfaces are included and general amenities in this space are incorporated.</i></p>	Yes
4O – Landscape Design	Landscape design is viable and sustainable, contributes to the streetscape and amenity	<i>An amended Landscape Design has been prepared by Aspect Designs and includes the provision of larger canopy trees within the deep soil areas which is appropriate and provides for appropriate landscaping features around the periphery of the site and adjacent to the foreshore. A condition will require the roof top of the basement carpark entry be landscaped appropriately</i>	Yes

		<i>with succulents, natives or hanging plants to provide improved greenery over podiums and soften the appearance of the built form.</i>	
4P- Planting on Structures	Planting on structures – appropriate soil profiles are provided, plant growth is optimised with appropriate selection and maintenance, contributes to the quality and amenity of communal and public open spaces	<p>The design has catered for planter boxes around the perimeter of the roof terrace.</p> <p>The treatment of planting on structures is considered to be satisfactory from a design perspective.</p> <p><i>As discussed above a condition will require some improved planting features and treatments over podiums in particular above the car park entry.</i></p>	Yes
4Q – Universal Design	Universal design – design of apartments allow for flexible housing, adaptable designs, accommodate a range of lifestyle needs	<p>Design of units allows for use by different lifestyles. Internal layouts vary and provide flexible layouts. Units 1, 2 and 3 as part of the original approval were two storey. <i>These have been amended and there is only one, two storey apartment (G01).</i></p> <p>Three (3) adaptable units were catered for within the approved development and comply with AS4299-1995 Adaptable Housing. Two (2) “Liveable” units are also included.</p> <p><i>The modified proposal includes 3 adaptable apartments (1-03, 2-03 and 3-03) and there are 4 liveable apartments proposed (G-03, 1-03,2-03, 3-03). This is consistent with the approval.</i></p>	Yes
4R – Adaptive reuse	Adaptive reuse as apartment of existing buildings- new additions	N/A	N/A

	are contemporary and complementary, provide residential amenity while not precluding future adaptive reuse.		
4U – Energy Efficiency.	Development incorporates passive environmental design, passive solar design to optimise heat storage in winter and reduce heat transfer in summer, natural ventilation minimises need for mechanical ventilation	<p>A compliant BASIX Certificate accompanies the application.</p> <p><i>An updated BASIX certificate has been submitted with the application which confirms compliance and will require the BASIX condition to be updated to reflect these details.</i></p>	Yes
4V – Water management and conservation	Water management and conservation – potable water use is minimised, stormwater is treated on site before being discharged, flood management systems are integrated into the site design	<p>The existing buildings drain to the rear (waterway). This arrangement will be incorporated into the new design, albeit in a modified form to control and discharge the water. Council's Stormwater Engineers have considered the proposed stormwater design to be acceptable apart from the discharge point which will need to be redesigned; this can be undertaken via conditions.</p> <p>A condition will require the inclusion of a rainwater tank which can be included on the ground floor or within the basement.</p> <p><i>The amended scheme includes a rainwater tank and there is no change proposed to the approved stormwater arrangement, so the existing conditions are retained and Council's Stormwater Engineer has not raised any concerns given there are no changes.</i></p>	Yes
4W – Waste Management	Waste management – storage facilities are appropriately designed,	The waste storage area is located along the northern side of the site with direct	Yes

	domestic waste is minimised by convenient source separation and recycling	<p>access to Blake Avenue for waste to be collected. The bin store includes a WC and it is requested that this WC be removed so that there is maximum space for bins and waste materials.</p> <p><i>The amended proposal improves the location, size and functionality of the waste storage room. This space is still located within B1 level however provides for easier access from within the lobby area. The approved space required occupants to walk through visitor spaces to access the room which would have been difficult if they were occupied. The bin store also includes a small bulky good store next to it. The proposed waste room is larger and has a more functional configuration.</i></p>	
4X – Building Maintenance	<p>Building design provides protection from weathering</p> <p>Enables ease of maintenance, material selection reduces ongoing maintenance cost</p>	<p>The design incorporates a mix of external finishes that aim to address the sensitive coastal location in which the site is located. Finishes intend to be marine grade so that they will not rust and reduce the weathering effects of this coastal environment.</p> <p>Colours selected are recessive, earthy tones and elements such as the timber privacy louvres and sandstone fencing and associated elements have been integrated in the design.</p> <p>These elements may weather a little more quickly but they are lighter and more natural features that will break up the bulk and</p>	Yes

		<p>scale of the building and create a more articulated and varied rear elevation.</p> <p><i>The amended proposal varies some of the materials and finishes however still intends on being a high quality, attractive building in a prime foreshore location. The materials and finishes are still reflective of the approved scheme with a few variations that are still considered to be acceptable from a visual perspective.</i></p>	
--	--	---	--

78. The proposed changes improve the amenity, visual appearance and functionality of the development and retain general compliance with the provisions of Part 3 and Part 4 of the ADG.

Kogarah Local Environmental Plan 2012

Zoning

79. On 26 May 2017, the Kogarah Local Environmental Plan was amended (known as Amendment 2 – New City Plan) to rezone the subject properties along this side and the opposite side of the Princes Highway at Blakehurst to R3 – Medium Density Residential. Refer to zoning map below at Figure 6. The proposed development is defined as a Residential Flat Building which is a permissible use in the zone.
80. The objectives of the R3 zone are as follows:
- *To provide for the housing needs of the community within a medium density residential environment.*
 - *To provide a variety of housing types within a medium density residential environment.*
 - *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

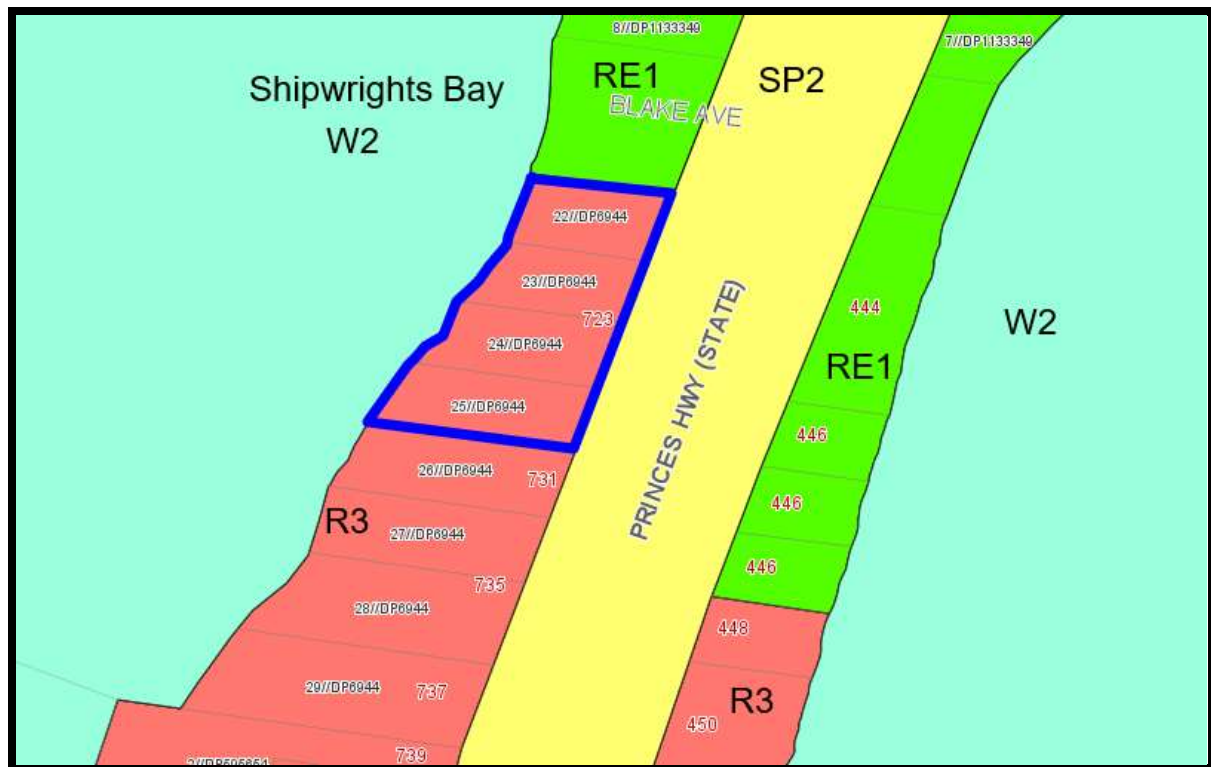


Figure 6: Zoning map

81. The proposal as amended, has been designed to satisfy the objectives of the zone and is consistent with the approved land use.
82. The extent to which the proposal complies with the relevant standards of Kogarah Local Environmental Plan 2012 (KLEP2012) is outlined in Table 3 below.

Table 3: Kogarah Local Environmental Plan P2012 Compliance Table

Clause	Standard	Proposed	Complies
2.2 Zone	R3 Medium Density Residential Zone	The amended proposal is still a Residential Flat Building (RFB) which is a permissible use within the zone.	Yes – no change to the land use as approved
2.3 Objectives	Objectives of the Zone	Consistent with zone objectives	Yes – no change that will alter compliance
4.1A Minimum lot sizes for Residential Flat Buildings	Clause 4.1A requires a minimum site area of 1,000sqm for the purpose of RFB's in the R3 zone.	The total site area is 1,009sqm and confirmed by survey	Yes – no change to the site area.
4.3 – Height of Buildings	21m as identified on Height of Buildings Map	The original development was approved subject to a Clause 4.6 Statement which was considered to be well founded and was supported as the lift overrun exceeded the height. In summary,	No – discussion on additional height as proposed outlined in more detail below

		<p>the approved height of the lift overrun was the highest point reaching 22.07m. The 1.07m non-compliance amounted to a 5% variation. The encroachments were considered to be small scale and were supported.</p> <p><i>The amended proposal seeks permission for additional height due to the car park exhaust and reconfiguration of floor to floor heights. Although a Clause 4.6 Statement in this case is not formally required the issue is discussed in more detail below.</i></p>	
4.4 – Floor Space Ratio	2:1 as identified on Floor Space Ratio Map Max GFA permissible 2,018sqm	<p>The approved development achieved an FSR of 2:1 (Total GFA = 2,018.9sqm) which was compliant.</p> <p><i>The amended proposal originally exceeded the GFA proposing a GFA of 2,067sqm (2.048:1) however Council notified the Applicant to state that it will not support any exceedance in the GFA and the proposal as amended has been altered and now complies with the FSR with a total GFA of 2,018.4sqm amounting to a FSR of 2:1.</i></p>	Yes – discussed in more detail below
4.5 – Calculation of floor space ratio and site area	FSR and site area calculated in accordance with Cl.4.5	The GFA calculations provided by the Applicant have been verified and are considered satisfactory.	Yes
5.7 Development	The objective of this	The proposed	Yes

<p>below mean high water mark</p>	<p>clause is to ensure appropriate environmental assessment for development carried out on land covered by tidal waters.</p>	<p>development will not be located below the mean high water mark and will therefore satisfy the objectives of this control. There are also no works proposed beyond the rear boundary affecting the waterway.</p> <p>The proposal is located over 1.5m above the MHW and when considering sea level changes the proposed RL at the top of the sandstone sea wall is estimated to cater for potential sea level rises until 2100. The finished floor level of the B1 car parking level which includes apartments 1, 2 and 3 which face the water. The floor levels of these apartments and their courtyards are located at RL3.4 which is over 2m above the MHW.</p> <p><i>The amended proposal does not alter the rear setback and the buildings association with the waterfront. No structures encroach on the MHW. The modified design slightly increases approved finished floor levels i.e.</i></p> <p><i>Approved B3 = RL-2.0 Amended B3 = RL-2.750</i></p> <p><i>Approved B2 = RL0.70 Amended B2 = RL0.250</i></p> <p><i>Approved B1 = RL3.70</i></p>	
--	--	--	--

		<p><i>Amended B1 = RL3.450</i></p> <p><i>Approved Ground Floor = RL6.45</i> <i>Amended Ground Floor = RL6.7</i></p> <p><i>Approved First Floor = RL9.5</i> <i>Amended First Floor = RL9.95</i></p>	
5.10 – Heritage Conservation	<p>The objectives of this clause are;</p> <p>(i) to conserve the environmental heritage of Kogarah,</p> <p>(ii) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views.</p>	<p>The site is not located within a Heritage Conservation Area and no buildings onsite are classified as Heritage Items.</p> <p>The closest Heritage Item is the Tom Ugly's Bridge. This is an item of both State and Local significance noted as Item No.7 within the Kogarah Local Environmental Plan.</p> <p>The proposed development is setback some distance from the bridge and will not adversely affect the appearance or interface of the item and is not considered to be within the immediate visual catchment of this item.</p>	<p>Yes – the modifications will not adversely affect the significance of the item and its integrity.</p>
6.1 Acid Sulphate Soils (ASS)	<p>The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage</p>	<p>The site is located in a Class 5 ASS area.</p> <p>Clause 6.1 states that Class 5 works are “works within 100m of adjacent Class 2, 3 or 4 land that is below 5 metres AHD and by which the watertable is likely to be lowered below 1 metre AHD on adjacent Class 2, 3 or 4</p>	<p>Yes – the modified proposal does not alter the ASS report that was prepared and its findings and conclusions.</p>

		<p>land.</p> <p>An Acid Sulphate Soils assessment was prepared by Dirt Doctors and accompanied the original development proposal. The assessment included soil sampling to a depth of 0.8m occurred with four (4) soil samples collected. The report concluded that given the results of the testing <i>“the preparation of an Acid Sulphate Soils Management Plan is not required”</i>.</p>	
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	<p>The proposed earthworks are considered acceptable having regard to the provisions of this clause as the works are not likely to have a detrimental impact on environmental functions and processes, or neighbouring properties.</p> <p>A condition will require that a detailed structural assessment be conducted on the new sea wall (boundary fence to the water) to ensure that any construction works ensure its integrity and stability for the future as any rear structures will act as a boundary/sea wall.</p>	Yes
6.4 Limited development on the foreshore area	The objective of this clause is to ensure that development in the foreshore area will not impact on	The subject site is located within a designated foreshore area and the siting of the building is dictated	The modifications do not alter the setback from the foreshore. The approved western

	natural foreshore processes or affect the significance and amenity of the area.	<p>by the established Foreshore Building Line (FBL) of 7.6m.</p> <p>The approved building wall has been designed to satisfy the 7.6m FBL however the rear balconies/courtyards and the basement car parking levels encroached on the FBL. The Applicant submitted a Clause 4.6 Statement originally to justify the non-compliance which was considered acceptable given the site constraints.</p>	building wall was approved with a 7.6m setback from the foreshore. The modified built form will be setback 7.78m slightly more which is a better outcome.
6.5 Airspace Operations	The consent authority must not grant development consent to development that is a controlled activity within the meaning of Division 4 of Part 12 of the Airports Act 1996 of the Commonwealth unless the applicant has obtained approval for the controlled activity under regulations made for the purposes of that Division.	<p>Sydney Airports provided concurrence for the approved development.</p> <p><i>The modified scheme was re-referred to the authority and on 13 September 2021 they provided a formal response and raised no objection to the proposed changes.</i></p>	Yes

Height - Detailed assessment of variation to Clause 4.3 (Height of Buildings) Kogarah Local Environmental Plan

83. The proposed development seeks a further variation to the development standard relating to height (Clause 4.3). In the case of a Section 4.55 modification application a Clause 4.6 variation is not applicable as the provisions of Section 4.55 are stand alone and Clause 4.6 relates to “development applications” and not to modifications although the provisions of Section 4.15 including consideration of environmental planning instruments need to be considered in the assessment of the modification application.
84. The Kogarah Local Environmental Plan identifies a maximum height of 21m for the site. The approved development exceeded the 21m height control and a Clause 4.6 Statement was submitted to justify the variation and this was considered a reasonable

planning and design response and the variation was well founded and supported in this case.

85. In summary, the originally approved development exceeded the height limit by 1.07m which is a 5% variation at the extremity of the roof which was generally centrally located. The area of non-compliance relates to the lift overrun and associated staircase to the communal open space area.
86. A brief summary of the originally approved building design and its evolution with the resultant variation to the height is provided below:
- The first set of the original plans measured the building height against the “natural ground line” (NGL) which is not in accordance with the definition of height under the Kogarah Local Environmental Plan. The planning instrument defines Height as *“the vertical distance from ground level (existing) to the highest point of the building, or in relation to the RL of a building – the vertical distance from the Australian Height Datum to the highest point of the building”*. The final amended plans were altered to show the relative heights of the building against the existing ground levels and the existing ground floor lines as per the detailed survey.
 - The original design comprised of a seven (7), part eight (8) storey building with the parapet height at RL27.4 and the original lift overrun sitting at RL28.84. Using the existing ground line point that is in a central location of approximately RL6.49 when taken off the detailed survey. Due to concerns with the bulk and scale of the development, the building was reduced to comprise of a part six (6), part seven (7) storey building with a new communal roof top area. This design change reduced the overall height of the building by having the new parapet height at RL24.750 (a reduction of 2.65m) and new lift overrun height of RL28.565 (a reduction of 275mm) however all the communal open space structures (seating, balustrades and planting features) were located below the 21m height limit.
 - The several design changes to the building created a non-compliance with the control of some 1.07m (5%) and relates to the lift overrun. The non-compliance was considered to be acceptable in this case as the area where the variation is located is in a position that will not cause any adverse amenity impacts to adjoining properties. The site is unique and quite constrained due to the topography of the land and its significant fall to the rear, as such compliance with the control is difficult to achieve. The height plane shown in Figure 7 below indicates the degree of variation to the control of the originally approved scheme.

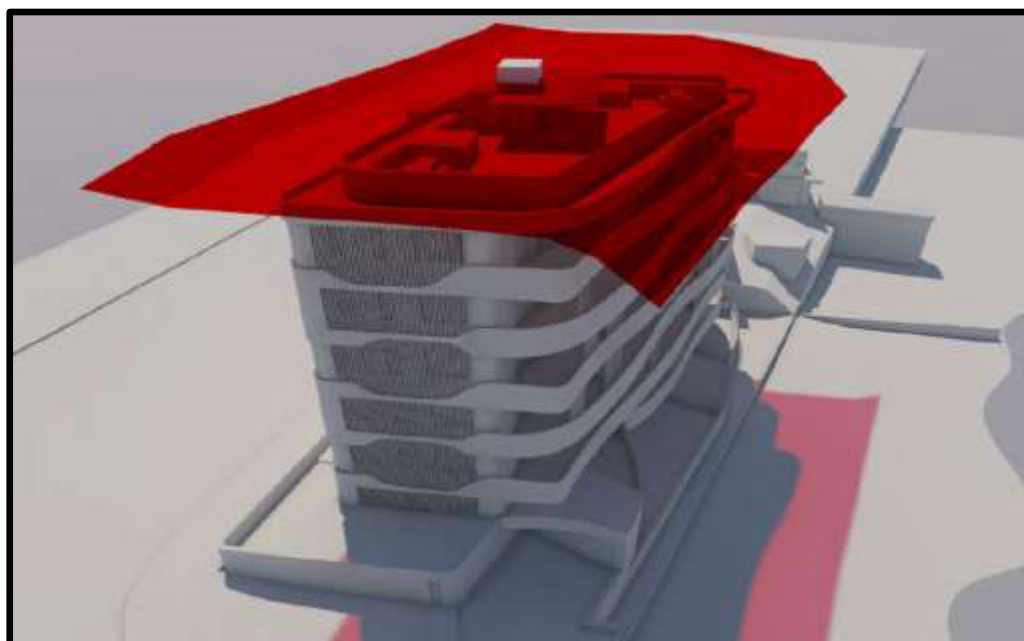


Figure 7: Height plane 3D montage showing the area of non-compliance when viewed from the north eastern side of the site

87. Although the provisions of Clause 4.6 do not strictly apply in the assessment of the modification the general principles should be considered i.e. the impact of the variation and its compliance with the objectives of the zone, objectives of the development standard and whether the changes are in the public interest, provide a better design outcome and consider the environmental impact of the variation.
88. The overall height of the building has changed and increased due to a number of factors which have resulted from developing a detailed design to accompany the Construction Certificate. The building and construction factors that have had an impact on the overall height of the building are to:
 - Ensure compliance with the Building Code of Australia and Australian Standards.
 - Provision of a carpark exhaust shaft which has been integrated and is required to ventilate the spaces in the basement levels.
 - An increase of the internal floor to floor heights between all levels to comply with the minimum requirements of the ADG, Acoustic report and structural engineer's requirements.
 - Relocation of the lift and staircase to improve the lobby layout and design.
89. Given the design changes that have been mentioned above, this has resulted in a higher building. The height plane diagram at Figure 8 shows the areas of the roof that exceed the height control. The overall height of the building as approved was at RL28.565 which was to the top of the lift overrun. The modified proposal has the pergola feature on the roof located at RL29.05. The top of the parapet is at RL26.4 and the top of the balustrade is RL27.45. Given that in general the indicative existing ground floor line is at RL6.49, any structures above RL27.49 will exceed the height. The lowest point on the survey is at the north-western corner which has an existing ground level of RL5.28 and therefore maximum height of the building at this point should be RL26.28. This lower maximum level is reflective of the height plane showing a small section of the parapet and the balustrade on the roof level exceeding the height. There are no habitable areas exceeding the overall height.

90. General structures on the roof and communal areas of open space often exceed the height controls but when sensitively designed add to the amenity of the development and do not create any adverse amenity impacts. In this case the new car parking exhaust element is the dominant feature and exceeds the height by 3.06m which amounts to a variation of 15%. The other ancillary structures exceed the control by smaller amounts (pergola 1.56m, amount to a 7% non-compliance).



Figure 8: Height plane 3D montage showing the area of non-compliance when viewed from the north-eastern side of the site (courtesy: Drew Dickson Architects)

What are the underlying objectives of the development standard?

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



Figure 9: Front elevation of the amended scheme and the area of non-compliance (courtesy: Drew Dickson Architects)

92. The applicant has provided the following justification regarding the development's consistency with the above objectives.
93. Applicant's Comments: *"It should be noted that this exceedance only occurs over a portion of the proposed building and can be attributed to lift overrun, part of the uppermost level and fall across the site. In brief terms, it is argued that:*
- *The extent of proposed non-compliance is not so significant as to have any demonstrable impacts on the in relation to building bulk, form and scale.*
 - *The portion over height standard does not create additional unacceptable overshadowing above an otherwise complying scheme.*

The proposed building height remains acceptable and in the public interest because it is consistent and compatible with the objectives of the HOB development standard and the objectives for development within the land use zone in which the development is proposed to be carried out."

94. Council's Assessment: The proposed variation although greater than what was originally approved can be justified as it is seeking to deliver an improved design outcome for the building which is in the public interest. The proposal includes an increase in the floor to floor levels as originally these were approved at 3.05m which was below the minimum established by the ADG. The modified proposal increases the floor to floor levels to 3.25m which exceeds the min 3.1m as stipulated by the ADG. Higher floor to floor levels will ultimately improve the amenity of internal spaces and create more generous floor to ceiling levels, however, this also increases the overall height of the building.
95. If the floor to floor heights were reduced to 3.1m this would reduce the overall height of the building by 1.05m which is considerable and would in turn reduce the amount and degree of non-compliance with the height. The Applicant was requested to reduce the floor to floor heights to 3.1m however provided updated and detailed information on 18 November 2021 which stated that this can not be achieved because..*"The 3.25m floor to floor height is the outcome of coordination with the structural engineer regarding the slab and beam requirement and also the requirement for a minimum 2.7m ceiling height per ADG. The acoustic report further outlines the acoustic requirements within the ceiling*

space to comply with the BCA 2019. The slab varies from 250mm to 370mm as determined with the structural engineer...with the above restrictions as well as sprinkler services and lighting zones there is no room to reduce the floor to floor 3.1m and still maintain the 2.7m clear ceilings required by the ADG”.

96. The updated acoustic report prepared by Resonate stipulates in Section 5.3 in the report that a series of acoustic measures are to be implemented in the design in terms of flooring and ceiling materials which will require a greater floor to floor height to cater for these which include:
- 4mm rubber or cork acoustic underlay, between the tiles and concrete slab, 200mm concrete slab a minimum 90mm ceiling void, 75mm thick Pink Batts ‘silencer’ insulation and suspended plasterboard ceiling.
97. In addition to the acoustic requirements the development needs to cater for a sprinkler system and also the structural engineer has also required the beams to be 500mm thick at some points. A detailed section showing the structural requirements and typical floor to floor and ceiling height is shown in Figure 10 below which justifies the need for a minimum 3.25m floor to floor height in this case.

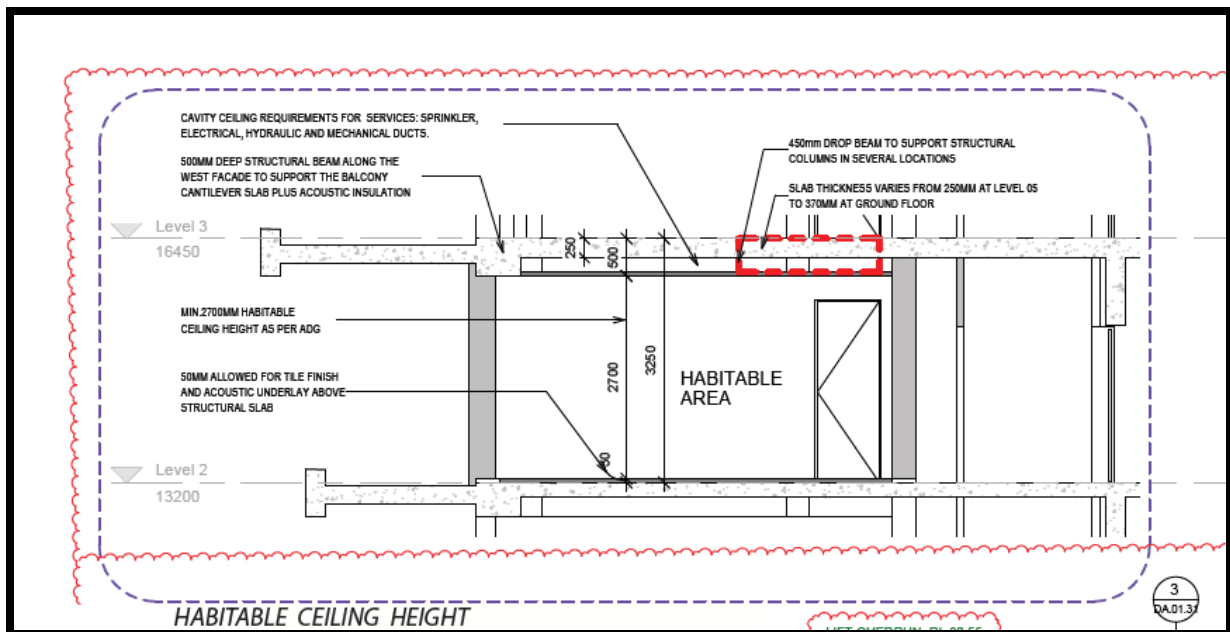


Figure 10: Section showing the proposed floor to floor and floor to ceiling heights within the building (courtesy: Drew Dickson Architects)

98. The lift has been relocated towards the eastern side of the site which improves the design of the main lobby area at each level making these key circulation and main entry spaces more convenient, well presented and spacious. This has resulted in the lift and associated overrun being sited adjacent to the Princes Highway frontage. Integrated with this structure is the car park exhaust shaft which is the key element that exceeds the height. Height and design specifications for this element require the additional height. The shaft includes the stairwell and lift to create a central feature upon entry. It will be a tall dominating feature when viewed from all aspects of Princes Highway and larger than the approved staircase element, however, its design is considered to be more attractive as it includes openings along the eastern side which reduces its visual bulk and is intended to be painted and finished in a more recessive colour so it is less dominating. The intention of the element is to be a more architectural feature rather than a feature that services the building. Refer to Figure 11 which shows the staircase element.



Figure 11: Photomontage of the front of the building as modified showing the lift/staircase element
(courtesy: Drew Dickson Architects)

99. In terms of amenity impacts, there will be no overlooking created by the structures and the shadow diagrams provided with the modification indicate that the shaft (element or proportion that sits above the height control) will not result in overshadowing to any adjoining residential properties as it will cast a shadow within the building envelope's shadow from 10am until about 12pm. After 12pm the shadow cast by the shaft will be over the roadway and by 3pm will affect a small proportion of the area of public open space on the eastern side of Princes Highway. The degree of additional shadow cast is minimal and is not considered an unreasonable response as the original staircase structure would have affected this space in a similar way.
100. It is therefore considered that the exceedance in this case and subject to the reduction in the overall height by an additional 1.05m is considered to be a reasonable and acceptable outcome that will not adversely affect the amenity of the street and adjoining properties.
101. The objectives of the R3 Medium Density zone pursuant to the LEP 2012 are;
 - *To provide for the housing needs of the community within a medium density residential environment.*
 - *To provide a variety of housing types within a medium density residential environment.*
 - *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
102. Despite the variation the objectives of the R3 zone are maintained and there is no change to the approved density, car parking access and numerical requirements and overall built form and building envelope.
103. Clause 4.6 traditionally requires an assessment of the environmental impact of the variation and whether the exceedance is in the public interest. In this case and given that the variation satisfies the objectives of the development standard (Clause 4.3 – Height)

and the zone objectives, the proposal is considered to be in the public interest. In terms of assessing and considering the environmental impacts and outcome of the non-compliance, whether the contravention raises any matter of significance for state or regional planning and the public benefit of maintaining the standard.

104. In respect to the environmental planning grounds, removing the roof top area of communal open space would largely achieve total compliance with the height control however this space provides positive amenity and environmental outcomes for the future occupants of the development. It is logical and feasible to utilise this space for this purpose. Secondly, the provision of the exhaust shaft is to satisfy Building Code of Australia requirements but also naturally ventilate the basement spaces which is a better design and environmental outcome than relying on mechanical ventilation.
105. The variation will not raise any matter of significance for state and regional planning.
106. It is for these reasons that the proposed variation in the height control is supported and considered to be acceptable in this case.

Gross Floor Area - Detailed assessment of Clause 4.4 (Floor Space Ratio) Kogarah Local Environmental Plan

107. The modified proposal redesigned internal spaces within the building to make apartments, circulation spaces and ancillary areas more accessible and functional. In redesigning the spaces, the storage areas that were approved and within the Basement have been replaced with habitable floor space and the storage spaces moved to lower basement levels. The storage spaces were below ground which meant they were not considered to be GFA in accordance with the definition in the Kogarah Local Environmental Plan however the replacement of this area with habitable floor space means that it now becomes GFA and hence the proposed changes become floor space. Refer to Figure 12 below which shows the area in question.

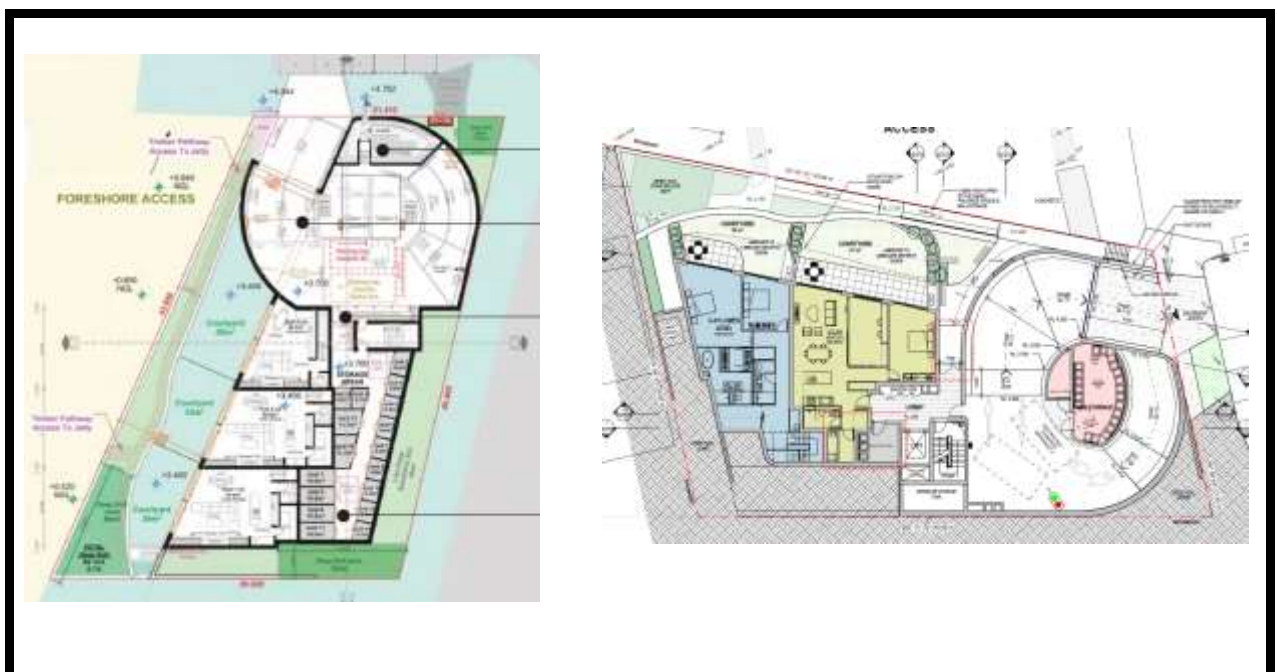


Figure 12: Approved layout of Basement 1 (left) and proposed layout of Basement 1 (right)

108. The modification creates an additional GFA of some 50sqm from the GFA approved (2,018.9sqm) and some 48.6sqm greater than the maximum GFA permitted at the site

(2,018.4sqm). Although this is considered a small additional amount of floor space and given it is located in the basement will not be visible and will replace an area originally dedicated for storage, Council has strictly applied its floor space control for new RFB's and larger mixed-use developments. It was therefore requested that the Applicant amend the design to ensure compliance with the GFA and remove 48.6sqm of floor space within the building. On the 18 November 2021 the Applicant provided some amended GFA diagrams and floor plans to show compliance and the following changes have been incorporated to ensure the GFA is compliant:

- The B1 corridor from the lobby to the rear has been cut back and reduced and recessed further within the building.
- The cleaner's room in B1 has been converted to a waste room. This is also an improvement in the overall functionality and layout as occupants now can access a waste space internally within the building and don't need to access the waste space adjacent to the driveway.
- Removal of the WC on the roof which is classed as GFA and replaced with plant room which is not classified as GFA.

109. The GFA now complies and amounts to 2,018.4 which is an FSR of 2:1.

Georges River Local Environmental Plan 2021 (GRLEP)

110. Consideration needs to be given to the provisions of the recently gazetted Georges River Local Environmental Plan 2020 in the assessment this application.
111. Clause 1.8A (Savings provisions relating to development applications) of the GRLEP 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."*
112. Although Clause 1.8 is silent on modification applications it is assumed that these are associated with the DA as they are affecting and modifying a DA.
113. There are no other significant changes proposed to the zoning and main planning controls relating to the subject site. In relation to this site the GRLEP rezones the site to R4 from R3 to provide a better distinction between the two zones as the R4 zone allow for a higher intensity of development and the controls for this site (21m and 2:1 FSR) reflect more closely the intentions and purpose of an R4 zoning. The other remaining planning controls are applicable i.e. 7.6m foreshore building line control still applies and the site is within the foreshore and within a riparian lands and waterways area.
114. The proposed modifications are in line and consistent with the new Georges River LEP provisions.

Development Control Plans

KOGARAH DEVELOPMENT CONTROL PLAN NO 2013 (KDCP)

115. The provisions of the KDCP are applicable and the proposed changes are considered against these controls. Given that the building envelope, bulk, scale, siting, landscaping, setbacks and building footprint (as approved) there may be minimal if no changes in relation to compliance with some controls and this is highlighted below with updated comments in italix.

Table 4: Compliance with the KDCP

Part B General Controls			
Control	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 or located within a Heritage Conservation Area.	Yes – <i>no change proposed.</i>
B2 – Tree Preservation and Greenweb	<p>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.</p> <p>This locality is within the habitat reinforcement corridor area of the Green Web. In this regard, the provisions of Part B2 Section 2 apply.</p>	<p>The site is not located within a Greenweb habitat.</p> <p>There are a few trees to be removed but these are small scale and are currently suppressed by retaining walls and other structures.</p> <p>There is no significant or important vegetation existing onsite.</p>	Yes – <i>no change to the approved plans.</i>
B3 – Developments near busy roads and rail corridors	Acoustic assessments for noise sensitive developments as defined in clauses 87 and 102 of the Infrastructure SEPP may be required if located in the vicinity of a rail corridor or busy roads.	<p><i>An updated Acoustic Assessment was prepared and accompanies the modification application. It considers the design and siting of the development against the provisions in Clauses 101 and 102 of the Infrastructure SEPP.</i></p> <p><i>It recommends implementation of a series of acoustic construction measures that will improve noise attenuation within the apartments and includes (but not limited to) double glazing, improved insulation and other construction methods that will buffer the development from the surrounds. The acoustic impacts of the development have been improved through</i></p>	Yes – <i>conditions amended to reflect the updated acoustic report prepared by Resonate Consultants, dated 18 November 2021.</i>

		<i>the design. Conditions will be updated to reflect the findings and recommendations of the updated report.</i>	
B4 – Parking and Traffic	1 bedroom unit = 1 space/unit 2 bedroom unit = 1.5 spaces/unit 3 bedroom unit = 2 spaces/unit 1 visitor space/5 units or part thereof, and 1 designated car wash bay which may also be a visitor space.	Required (as modified) Residential 1 x 1 bedroom unit = 1 space 8 x 2 bedroom units = 12 spaces 8 x 3 bedroom units = 16 spaces 17/5 visitor spaces = 4 spaces Total required = 33 spaces required (29 resident and 4 visitor) Modification applications Provides for 30 car parking spaces	No – the modification application substantially improves accessibility in and around the basement however is non-compliant with the number of car parking spaces. This issue is discussed in greater detail below.
	Car wash bay	1 x car wash = 1 separate car wash bay required.	No car wash bay was catered for in the approved plans. The modification includes a designated car wash bay.
	A minimum of 1% of the total number of car parking spaces within the development are to be designated “accessible” spaces for people with mobility impairments.	Three (3) accessible spaces provided.	Yes – no change.
	Bicycle parking 1 space per 3 dwellings plus 1 space per 10 for visitors	17/3 bicycle spaces = 7 spaces including visitor 1 motorcycle space is required.	The modification application provides for 7

	<p>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.</p> <p>No minimum requirements for loading/unloading for residential developments</p>	<p>The parking layout and arrangement satisfies Council's requirements and Australian Standards apart from the internal ramp that at present can not accommodate a B99 vehicle. A condition will require the ramp to be widened to accommodate a B99 vehicle to access the development.</p> <p>The application was also referred to RMS and they are satisfied with the traffic generated by the development and access into and out of the site subject to the imposition of conditions requiring the ramp to be designed to enable a B99 vehicle to access.</p>	<p><i>bicycle parking spaces and a designated motorbike space which wasn't catered for originally.</i></p> <p><i>Yes – the modification improves the parking layout and arrangement.</i></p> <p><i>Yes – no change.</i></p>
B5 – Waste Management	Submit a Waste Management Plan (WMP).	<p>The application was accompanied by a WMP which was assessed by Council's Coordinator of Environmental Sustainability.</p> <p>No objection was raised in respect to the design of the garbage and waste disposal area and arrangement subject to standard conditions. It is intended on placing the garbage bins outside Blake Avenue for collection. A condition</p>	<p><i>Yes – the waste servicing arrangement and location of the waste room has improved; the modified design provides for a better layout.</i></p>

		will require the removal of the WC to provide some more space within the bin store for any bulky goods or larger items to be stored or disposed of.	
B6 – Water Management	<p>Detention storage is to be provided that is equal to or greater than the specified Site Storage Requirements (SSR).</p> <p>Rainwater tank installed to meet BASIX water conservation requirements will be given credit for SSR purpose.</p> <p>Drainage easements servicing stormwater pipes and/or overland runoff from catchments upstream of the development site are to be managed according with Council's guidelines.</p> <p>Discharge of stormwater runoff from a development site is to be undertaken in accordance with the design practice note, Site Drainage and Flood Management regarding direct discharge to kerb, discharge to a Council owned stormwater conduit, discharge to natural areas, discharge through private property and discharge within the</p>	<p>The subject site is not located within flood prone land.</p> <p>No rainwater tank is included and will be requested to be implemented.</p> <p>The application was referred to Council's Stormwater Engineers who assessed the proposed stormwater and drainage arrangement and are generally satisfied with the layout as the development intends on draining to the rear of the site to Shipwrights Bay which is consistent with the current drainage from the sites.</p>	<p>N/A</p> <p><i>Yes - No rainwater tank was included in the approved scheme but has been incorporated in the modified proposal which is considered acceptable.</i></p> <p><i>No change is proposed to the approved stormwater arrangement.</i></p>

	development site.		
B7 – Environmental Management	Orient the building, as far as possible, so that the longest side is on the east-west axis.	The application is accompanied by a BASIX certificate which confirms compliance with the minimum requirements of the SEPP (thermal comfort and water usage).	Yes – <i>updated BASIX provided with the modification and conditions will be altered accordingly.</i>
	The main facades of a building should be orientated towards the north, preferably within a range of 30 degrees east and 20 degrees west of true north.	The northern elevation of the development has a narrow width and the majority of the openings face Shipwrights Bay towards the western side.	<i>No change.</i>
	Maximise the number of windows on the northern face of the building.	The northern façade is well articulated with window openings which address main habitable areas and face the pocket park land opposite.	<i>No change.</i>
	The use of dark coloured roofing is discouraged unless solar cells are integrated into the roof.	The proposed flat roof includes a roof terrace, the proposed finishes and colours are light and generally transparent.	<i>No change.</i>
	Minimise glazing on the southern and western sides of the building.	Balconies face west and north-west. The approved plans included privacy screens which will be adjustable and can move across the elevation. Glazing has been minimized along the southern side.	<i>The modified plans remove some of the privacy screens. These should be reinstated along the southern side and this will be included as a condition.</i>
Part C2 – Medium Density Housing			
Site Isolation and amalgamation	A number of sites have been highlighted in the KDCP that will require	The subject site is not subject to the amalgamation plan.	Yes – <i>no change.</i>

	amalgamation to avoid site isolation.	The proposal involves the consolidation of four (4) sites which is a desirable long term future outcome for this waterfront area and is necessary to achieve the required allotment size.	
Precinct Controls	A number of sites have been highlighted as “precincts” within subsection 2 of the DCP.	The site is located within Foreshore Locality No.5 Blakehurst South.	Yes – <i>no change.</i>
Minimum site and density requirements	<p>Stipulates a minimum frontage width of 20m and a minimum of 2.1sqm per sqm of per dwelling for RFB's in designated precincts.</p> <p>The minimum site area requirements for multi dwelling housing and residential flat buildings are contained in Clause 4.1A of Kogarah LEP 2012.</p>	<p>The site has a frontage of 40.4m to Princes Highway.</p> <p>Complies with Kogarah Local Environmental Plan provisions which override KDCP in terms of density, scale and height. The site area exceeds the minimum 1,000sqm that is required pursuant to Kogarah Local Environmental Plan 2012.</p>	Yes – <i>no change to the minimum site area and frontage requirements.</i>
Height and building envelope	<p>Building envelopes have been established for development in the R3 zone. In respect to RFB's the DCP stipulates an overall height of 14m (to the ridge line) for 4 storeys and a maximum wall height of 12m.</p> <p>Min floor to ceiling height of 2.7m</p> <p>Rooftop terraces are</p>	<p>The building exceeds the 14m overall height. This control is outdated as the DCP has not been amended to reflect the changes in the Kogarah Local Environmental Plan which permit a building of 21m.</p> <p>Complies, all levels have a minimum floor to ceiling height of 2.7m.</p> <p>Rooftop terraces are</p>	<p><i>No, however the Kogarah Local Environmental Plan controls override the Kogarah Development Control Plan controls and the modifications do not alter this situation.</i></p> <p>Yes</p> <p>No - however</p>

	prohibited unless they are directly linked to penthouse units.	permitted and encouraged by SEPP 65 especially if it provides for communal open space. The space is centralised and communal in nature and will not adversely affect adjoining properties.	ADG provisions encourage communal areas of open space on the roof top. <i>No change to this control.</i>
Building setbacks	Front setback - 75% of the width of the building must be setback a min 5m with the remaining 25% setback 7m	<p>This provision would require 30m of the frontage width of the building to be setback 7m with the remaining 10.4m setback at 5m from the front.</p> <p>The building has been setback 4m from the front with the staircase structure encroaching on the front setback. The staircase is considered to be an architectural element that has been designed to create increased articulation and break up the bulk when viewed from the frontage.</p> <p>There is no consistent front building alignment along this side of the street with the two existing commercial properties are sited directly on the front boundary. Given that the proposal is located on a busy main road, greater height to this frontage and lesser setback is considered acceptable as it will not adversely affect the amenity of adjoining properties. Refer to discussion below.</p>	<p>No, but considered acceptable given the site constraints as discussed in the SEPP 65 assessment. See Setback discussion below</p> <p><i>The modification application maintains a 4m setback for the main front elevation and the staircase/lift shaft is setback at 2.56m. An awning has also been integrated at the first floor level which is an appropriate design feature.</i></p>

	Side and rear setbacks – 3m plus one-quarter the amount that the wall exceeds 3m.	<p>This control requires a side setback of 7.5m based on the 21m height of the building.</p> <p>On the southern side the building is setback 6m up to the fourth level then setback 9m for the fifth and sixth levels. There is only a minimal non-compliance with the DCP provision at the first four levels however the proposal along this side satisfies the separation distances required by the ADG. Along the northern side the building is setback 4m. Although non-compliant with both the DCP and the ADG the siting of the building is considered satisfactory given it adjoins a secondary roadway and a local pocket park.</p> <p>The issue of side setbacks and minimum separation distances is addressed as part of the ADG assessment earlier in this report.</p>	<i>No – no change proposed to the side setbacks.</i>
Site Coverage	RFB's max 45% site coverage which amounts to 454sqm	Site coverage amounts to 457sqm which amounts to 45%	<i>Yes – no change proposed to the building footprint.</i>
Open Space	<p>Ground floor courtyards min 35sqm in area per dwelling with min dimension 3m</p> <p>Minimum width of 4m</p>	<p><i>As amended the rear private courtyards have areas of 36sqm and 61sqm.</i></p> <p>Minimum width of some courtyards is less than 4m but they are irregular in shape but have large, useable sections.</p>	<p>Yes</p> <p>Yes</p>

	<p>Maximum gradient of 1 in 10</p> <p>Suitably landscaped and directly accessible from the dwelling at ground level; and</p> <p>Balconies with min area 12sqm and min dimension of 3m</p> <p>Common open space – 30sqm per dwelling which requires a total area of 510sqm of common open space</p>	<p>Complies – level access.</p> <p>Deep soil and paved courtyards.</p> <p>Balcony sizes are substantial in area exceeding the DCP and ADG minimum area requirements. This is in accordance with the SEPP 65 provisions which override the DCP criterion.</p> <p>The amended development provides for some useable ground floor area that is common area and provides for a rooftop area of communal open space which complies with the ADG requirements.</p>	<p><i>Generally compliant. Access to the foreshore from the rear includes a set of stairs however level access can be obtained through the building.</i></p> <p><i>Satisfies ADG requirements.</i></p> <p><i>Balcony sizes exceed 12sqm.</i></p> <p><i>ADG requirements for communal open space supersede the KDCP. The development complies with this provision and the modified application provides for some small pockets of communal open space at the rear.</i></p>
Car Parking	<p>Numerical compliance in accordance with B4 of the DCP</p> <p>Minimise driveways off main roads</p>	<p>One point of access from the secondary</p>	<p><i>Yes – no change other than the basement parking levels have been</i></p>

	<p>Parking spaces to have min dimensions 2.6m by 5.5m</p> <p>Provision of a car wash bay</p>	<p>roadway Blake Street.</p> <p>Car parking spaces and general arrangement and layout is compliant.</p> <p>One car wash bay is provided.</p>	<p><i>well designed and access and circulation has been improved.</i></p>
Solar Access	Where the neighbouring properties are affected by overshadowing, at least 50% of the neighbouring existing primary private open space or windows to main living areas must receive a minimum of 3 hours sunlight between 9am–3pm on the winter solstice (21 June).	<p>Proposal complies with the minimum requirements as all immediately neighbouring properties receive a minimum of 3 hours of solar access throughout the day in midwinter.</p> <p><i>A detailed assessment of the overshadowing occurred as part of the original application.</i></p>	<p>Generally compliant – <i>minimal change due to the exhaust shaft which increases the height of this element of the building.</i></p>
Views and view sharing	Development shall provide for the reasonable sharing of views.	The proposal will not adversely affect or impact on any existing views or outlook from adjoining properties.	Yes – <i>no change and no affectation.</i>
Adaptable and Accessible Housing	<p>The minimum number of adaptable units designed in accordance with AS4299 - 1995 Adaptable Housing must be incorporated into the above developments:</p> <p>(i) 3-10 units – 1 adaptable unit</p> <p>(ii) 11-20 units – 2 adaptable units</p>	<p>A minimum of three (3) adaptable units are provided.</p> <p><i>Apartments 1-03, 2-03 and 3-03 are designated as “adaptable”.</i></p>	<p>Yes – <i>the modified proposal retains 3 adaptable apartments.</i></p>
C3 - Foreshore & Waterfront Controls			
	Clause 6.4 of Kogarah Local Environmental Plan 2012 specifies provisions to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area.	Limited works are proposed along the waterway inter-face, include private structures that currently encroach on the waterway being the boat ramps and/or shed that exists is proposed to be removed which will reduce the potential for waterway use and activity by boats.	Yes – <i>no change proposed.</i>

6.1 Foreshore & Waterfront Development	<p>Council will not grant consent for residential waterfront structures to land which does not have frontage to the waterway. This includes allotments which only have a right of way to the waterway.</p> <p>Where an existing allotment has a water frontage of less than 9m, Council will not permit waterfront structures unless they are shared.</p>	<p>The subject site has a frontage much greater than 9m and is a large integrated development.</p> <p>The development is not proposing the construction of any new structures along the waterfront (i.e. jetties, boatsheds, slipways etc.) The existing structures are to be removed apart from the Jetties that are to be retained.</p>	Yes – <i>no change</i> .
6.2 Jetty, ramp and pontoon structures	<p>A fixed jetty is not to exceed a length of 9m from MHWL including any existing reclamations. The jetty may have a maximum width of 1500mm and a maximum height of 750mm above MHWL (1.29 AHD)</p> <p>(2) A ramp and pontoon extension to a jetty may be permitted provided that the total length of the ramp and jetty does not exceed 15m from MHWL (Figure 1).</p>	No jetty, pontoon, ramp or associated structures are proposed as part of this application.	N/A
6.3 Stabilisation Piles	<p>Council will generally only permit a maximum of two freestanding end piles to stabilise a jetty or a pontoon in areas subject to moderate to heavy wave exposure.</p> <p>The Foreshore Locality Controls specify the circumstances when stabilisation piles are permitted.</p>	Not proposed as part of this application.	N/A
6.4 Sliprails	Sliprails are to be in the form of two parallel rails located as close as practical to the seabed and must be recessed	Not proposed as part of this application.	N/A

	into any seawall or reclamation to minimise the height of the sliprails.		
6.5 Boatsheds	Boatsheds are to be single storey and will generally only be permitted at or above MHWM.	Not proposed as part of this application.	N/A
6.6 Swimming Pools/Spa Pools	Any swimming pool or spa pool is to be sited as close to natural or existing ground level as possible. In this regard, the coping level of swimming pools and spa pools is not to be elevated more than 500mm above natural or existing ground	No swimming pool or spa is proposed.	N/A
6.7 Seawalls	The construction of seawalls is not generally favoured as these detract from the natural appearance of the foreshore and will only be considered where justified on the basis of avoiding flooding or for necessary retention works.	There is currently no defined seawall along the rear of these properties. It is currently defined by the existing structures (boat sheds, jetties and smaller boundary fences) The proposal will provide for a more defined rear boundary sandstone wall that will act as a seawall.	Yes – <i>no change proposed</i> .
6.8 Reclamation	Council will only consider reclamations where there are exceptional circumstances.	No reclamation of any land is proposed.	N/A
6.9 Inclinator and Stairs	Inclinator and stairs to enable pedestrian access to the waterfront are permitted between the FBL and MHWM.	No inclinator is proposed.	N/A
6.10 Landscaping	Natural features along the foreshore are to be retained and the removal of natural rock, trees and vegetation to enable the construction of landscaping will not be supported. Natural ground levels are	The rear yards of the subject properties on the foreshore have been substantially altered and include a number of built forms. There are no natural features to be retained or landscaping elements. There are no natural	Yes – <i>no change proposed to the approved scheme when considering its relationship to the foreshore.</i>

	<p>to be retained with minimal use of retaining walls. Where retaining walls are constructed, materials and colours that blend into the character and landscape of the area shall be used.</p> <p>Endemic native species should be used in areas where native vegetation is present or has the potential to be regenerated.</p> <p>Existing mature trees should be retained where possible and incorporated into the design of new developments.</p> <p>Vegetation along ridgelines and on hillsides should be retained and supplemented with additional planting to provide a backdrop to the waterway.</p> <p>A landscape plan is to be submitted for any development between FBL and MHW. The level of detail required will depend on the level of works being undertaken. Where a landscape plan is submitted it should indicate the existing and proposed changes in contours, existing trees/vegetation to be retained and removed, measures to protect vegetation during construction and proposed planting including species and common names.</p>	<p>rock outcrops, remnant vegetation or natural features that exist at the rear of the site.</p> <p>The new landscaping that is proposed for the site will include native species and aims to enhance the natural landscape by introducing new landscaping elements.</p> <p>There are no large, significant trees that exist on site. The proposed landscaping plan will introduce large trees to be planted along the front and southern side of the site where there are pockets of deep soil area.</p> <p><i>An updated Landscape Plan has been provided which updates the approved plan and is considered satisfactory.</i></p>	Yes
6.11 Dredging	Council will generally not support dredging in the	Not proposed as part of this development.	N/A

	W2 Recreational Waterways zone unless a Public Authority is undertaking the work or there is a general public benefit to be gained by the work.		
C4 Foreshore Locality Controls – Blakehurst South			
5.3 Natural Environment	<p>The Aquatic Lands Inventory Sheet (1991) indicates the following natural characteristics were present in this Locality:</p> <ul style="list-style-type: none"> • Seagrasses • Mud/Sand Flats, Scattered Rock, Rocky Foreshore • Tidal Public Foreshore Access. • Fish breeding/feeding ground. <p>An ecological study may be required to be submitted with any application for development below MHWL.</p>	No works are proposed below the MHWL. However new louvres are proposed in the basement to be located at RL2.05. Advice has been provided by a Building Surveyor which states that “the mean high water mark which is the average of the high tides is around RL0.57 with the Christmas tide around RL1.15”. The louvres will be above this level however for the future these need to accommodate potential sea level rise, flooding and potential water inundation. As such a condition is included that will require this to be taken into account when approving these elements.	N/A
Locality 5(a)	Development between MHWL and the FBL (1) The following table indicates the type of development “permitted”, “restricted” and “permitted, subject to specific controls” between Mean High Water Mark (MHWL) and the Foreshore Building Line (FBL):		Yes
5.7 Water and Land Interface Development (between MHWL and FBL)	<p>Boatsheds (single storey) permitted</p> <p>Fencing (open form) permitted</p>	<p>No new boatsheds are proposed.</p> <p>Design of fencing along the foreshore is an open</p>	<i>The modification</i>

		style and consistent with the desired future character for fencing.	<i>alters the fencing at the rear of the site. It was approved as a palisade style fence however is now proposed as a solid fence. A condition will require the palisade style fence to be reinstated as the solid fence is too bulky.</i>
	Inclinators – permissible	Not proposed.	
	Jetties and ramps – permitted subject to specific conditions	Not proposed.	
	Landscaping – subject to compliance with the requirements of the Green Web.	Satisfactory.	
	Sliprails, stairs, swimming pools and spa pools – permissible	Not proposed.	
5.8 Water Based Development (development below MHWL)	Boatsheds, jetties, ramps, pontoons, stabilisation piles, swimming pools – not permissible	None of these structures are proposed as part of this application.	N/A
5.9 Land Based Development	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 and the natural landform 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: i. do not increase the visual impact of the dwelling, when viewed from the water; ii. still achieve a built form	These controls were developed prior to these sites being up-zoned and relate specifically to new dwellings and alterations and additions. The DCP has not been amended to reflect the LEP changes. The built form and overall design of the RFB has been amended to be a more sympathetic response to this sensitive waterfront location. It will be one of the first developments in this precinct however has been designed to comply with Council's new height and FSR control and to satisfy the majority of the ADG controls.	<i>No change proposed by the S4.55.</i> <i>The modification proposes subtle design changes to the built form which will improve its appearance and functionality.</i>

	<p>that is in scale and proportion with the site and adjoining development; and iii. the overall development complies with the floor space requirements as contained in Part C1 Section 1.2.1.</p> <p>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</p> <p>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) Preservation of topographic features of the site, including rock shelves and cliff faces; (ii) 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</p>	<p>The development proposed has a part seven (7) storey, part six (6) storey scale, and therefore does not satisfy the control however the development complies with the LEP planning controls in respect to height and FSR.</p> <p>The development exceeds two (2) storeys in scale and as previously mentioned this DCP has not been updated to reflect the density and height changes that have been included in the LEP, which permits a height of 21m.</p> <p>This clause permits a variation to the maximum two (2) storey scale if the characteristics of the foreshore and topographic features are maintained and preserved.</p> <p>Although the development exceeds the scale and form that is anticipated under the DCP, the proposal seeks to improve the visual qualities of the foreshore and improve the interface between</p>	<p><i>No change is proposed to the approved built form and the stepping of the rear areas of open space and courtyards is retained.</i></p> <p><i>N/A as Kogarah Local Environmental Plan overrides these provisions.</i></p> <p><i>No change proposed.</i></p>
--	--	---	---

		the water and new built form. The introduction of landscaping adjacent to the water and the reduction in the overall height of structures will improve the visual qualities of the water and transition of development to the foreshore.	
	<p>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%.</p>	<p>The western façade which faces the water comprises of balconies as this is the best orientation for these elements as the eastern side of the site faces the busy highway.</p>	<p><i>No change – the modified proposal accentuates the circular features and elements of the balconies to enhance the articulation of the building.</i></p>
	<p>Colours that harmonise with and recede into the background 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.</p>	<p>The proposed colours, materials and finishes are contemporary in nature and aim to be sympathetic with the coastal characteristics present. The proposed colours and materials are considered to be consistent with and respect the character of the area and locality.</p>	<p><i>There is little change to the proposed materials and finishes. This issue is dealt with in more detail later below.</i></p>
	<p>Swimming pools and surrounds should be sited in an area that minimises the removal of trees and limits impact on the natural landform features (rock</p>	<p>No swimming pools or spas are proposed.</p>	<p>N/A</p>

	shelves and platforms).		
	On steeper slopes, preference is given to the use of stable rock ledges and escarpments, as opposed to retaining walls. In circumstances where it is appropriate, a landscape batter is preferable to retaining walls.	The proposal includes some retaining walls which will act as a seawall to some degree. The basement car park level cannot be catered for solely below ground to ensure driveway gradients comply.	<i>No change – acceptable design resolution proposed</i>
	Adequate landscaping shall be provided to screen undercroft areas and reduce their impact when viewed from the water.	There is no landscaping adjoining the foreshore and the development will improve this situation.	<i>No change to approval.</i>
	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 windows, modulation, spatial separation, landscaping etc) that are compatible with that character.	The building includes a series of elements and architectural features which intend on creating a strong architectural design form. The rear balconies are curvilinear, and the inclusion of sliding privacy screens will not make this façade static.	<i>No change to the approved architectural elements.</i>
	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; or (ii) recessing or projecting architectural elements; or (iii) open, deep verandas.	There are no blank walls facing the water. The development includes deep verandas and balconies as anticipated by the DCP.	<i>No change proposed.</i>

Car parking

116. The originally approved car parking layout and arrangement satisfied Council's numerical requirements and Australian Standards as the parking spaces could accommodate a B85 vehicle however a condition was imposed that required the driveway ramp to be enlarged to be able to accommodate a B99 vehicle. The basement design was amended on three (3) occasions with Issue E plans approved as these improved the configuration of the basement levels. The design is considered to be satisfactory subject to the imposition of standard conditions to ensure compliance with AS2890 is achieved.

117. The original proposal was also referred to RMS (although not a concurrence authority in this case) and they were satisfied with the traffic generated by the development subject to the imposition of conditions. RMS did not raise any concerns as access was not off the Princes Highway. No changes are proposed in respect to the location and siting of the driveway and therefore no additional referral to this authority is required. Their originally imposed conditions remain relevant and applicable.
118. The originally approved car parking design and access arrangement although compliant was extremely tight and convoluted. The proposed modification application reduces the number of car parking spaces that are required however simplifies and substantially improves access to the car parking level and the layout of spaces is better organised however this comes at a loss of the actual number of car parking spaces. Figure 13 below compares the modification application basement plans with the approved scheme.
119. **Table 5** below compares the car parking numbers provided as part of the approved development and the parking provided as part of the modification. Numerical compliance is no longer compliant and there is a deficiency of 3 spaces.

Table 5: Car parking layout and numerical compliance

Control	Approval	Modification	Compliance
B4 Car Parking and Access (KDCP)			
1 bedroom unit = 1 space/unit	Nil	1 x 1 bedroom unit 1 x 1 = 1 space	Yes
2 bedroom unit = 1.5 spaces/unit	8 x 2 bedroom units 1.5 x 8 = 12 spaces	8 x 2 bedroom units 8 x 1.5 = 12 spaces	Yes
3 bedroom unit = 2 spaces/unit	9 x 3 bedroom units 2 x 9 = 18 spaces	8 x 3 bedroom units 8 x 2 = 16 spaces	Yes
1 visitor space/5 units or part thereof, and 1 designated car wash bay which may also be a visitor space.	17/5 = (3.4) 4 spaces No car wash bay	17/5 = (3.4) 4 spaces 1 x car wash bay	
Total Required Total provided	34 37	33 30	The approved scheme complied however the modified scheme is short by 3 spaces.

120. The basement car parking layout relies on some tandem spaces. There are 4 sets of tandem spaces at both B3 and B2 which means that the eight (8) 3 bedroom apartments will all have 2 spaces and will be in a tandem configuration. This will satisfy the parking arrangement for the 3 bedroom units. The 1 bedroom apartment will have one (1) car parking space dedicated to it and the four (4) visitor spaces are marked on the plan and dedicated appropriately with one space to include a car wash bay. This leaves 9 spaces for the eight (8) x 2 bedroom apartments. This means that one apartment will have access to 2 spaces and the remaining apartments will each have access to 1 space. The provision of an additional 3 spaces would mean that 4 x 2 bedroom apartments will have 2 spaces and 4 apartments will only have 1 space each. This is a better planning and design outcome.
121. Given the site constraints it is much better to have a spacious and easy to access car parking level than one that is tight and extremely difficult to manoeuvre in creating potential conflicts and resulting in more vehicles being parked on the street.
122. Considering the layout one more space could be accommodated within the basement. The area dedicated for bike parking can become a space for a “small vehicle” and can be sign posted accordingly. Visitor space No.1 should be dedicated to an apartment. Given the availability of public parking and street parking it is more beneficial to have resident parking. Visitor parking space No.1 should be dedicated as a resident space. The bike parking can be relocated to another area in the basement. One of the Conditions will be imposed to ensure the space is redesigned to accommodate these additional spaces.
123. By picking up these two (2) spaces the deficiency will still be 2 spaces which is considered acceptable and means that all units will have a minimum of 1 car parking space.



Proposed B2 layout



Approved B2 layout

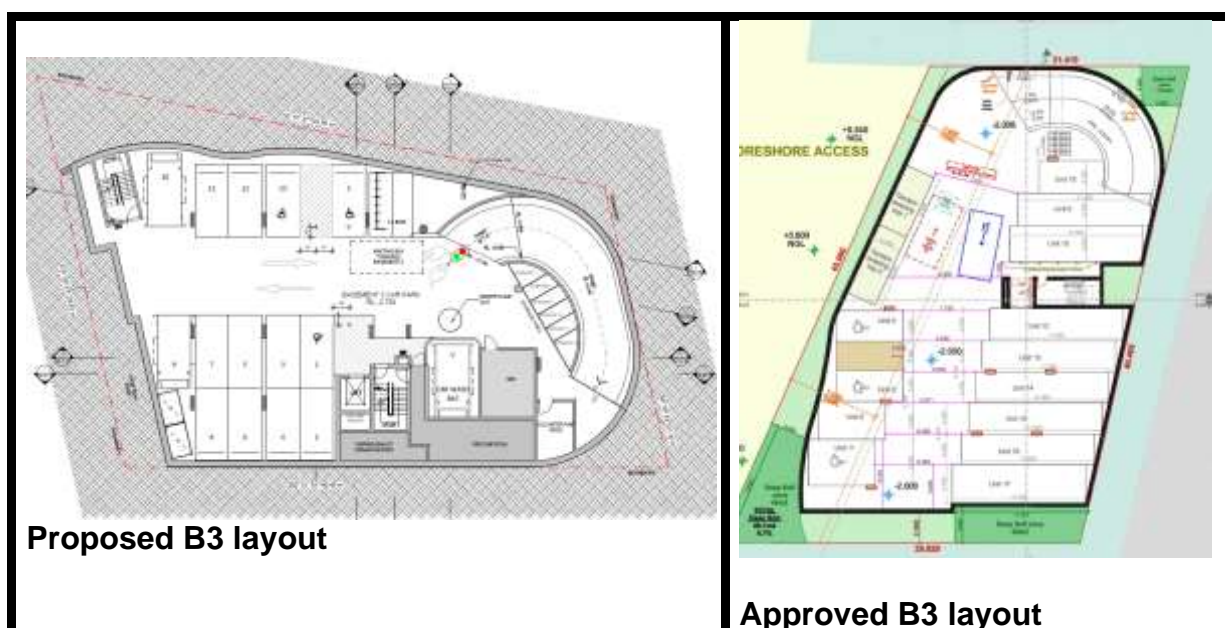


Figure 13: Comparison of the two (2) basement plan layouts the approved scheme (right) and modified scheme (left)

124. The modified scheme included the provision of swept path diagrams that have confirmed that a B85 vehicle can access the site. A condition will be included to ensure that future occupants will be aware that B85 vehicles are able to access and park within the basement.

Materials and finishes

125. The proposed modification makes some changes to the approved colours, materials and finishes. At the rear of the site the balustrades to the apartments at Basement 1 level have been designed to be solid with a sandstone finish. These were originally open style balustrade of a palisade style. The sandstone finish is aesthetic however adds bulk and the solidity of these elements at the rear should be reduced and become more transparent. A condition will require these balustrades to be a dark palisade, open style fence.
126. The design also seeks a higher front and side boundary fencing which in this case is considered satisfactory given the general environment along Princes Highway, its not an attractive pedestrian environment and even the northern side adjacent to Blake Avenue there is minimal pedestrian movement and a higher fence will not alter or adversely affect this area. The condition regarding fencing will be altered to reflect the changes proposed.

Other changes to conditions

127. The Applicant also seeks some changes to conditions and requests the following:

Condition 13 (e): delete requirement for booster along Blake Ave. This is not compliant with regulations requiring clear sight from front entry and will require a fire performance solution. The complaint solution is to locate the booster pump along Prices Hwy. – satisfactory booster is located along Princes Highway but will be appropriately screened.

128. *Condition 16 and 68 should be revised to reflect drainage details submitted with this application. – satisfactory details to be updated*
129. *Condition 17 (ii) - The required WC spatial area should be replaced with compliance with accessibility requirements. – satisfactory and requested to be updated*

130. *Condition 19- Road boundary fence max height noted as 1.5m. This condition should be deleted as this proposal includes details of proposed fencing.*
131. *Condition 26 - revised acoustic report from Resonate should replace reference to Day Design. – Satisfactory and needs to be updated*
132. *Condition 30- Notes construction of a Fire Control Centre Facility. This requirement should be replaced with a requirement for a Fire Indicator Panel. – satisfactory and reasonable to alter the condition.*
133. *Condition 31- Reference should be made to stormwater plans by Jones Nicholson to replace Alpha Engineers concept plans.- Updated stormwater plans were not formally submitted with this application therefore reference to the original stormwater plans will remain. The Applicant has been notified about this and they accept this.*
134. *Condition 47 (i)- This condition should be updated to reference Drew Dickson Architects -Agreed*
135. *Condition 82- delete as stormwater not being discharged to Princes Highway. – Acceptable as stormwater will be dispersed to the rear*
136. *Condition 96- amend this condition to references the acoustic report submitted with this application. – Acceptable to be updated to reflect new information.*

Section 7.12 Contributions

137. The originally approved development included a Section 7.11 development contribution which was calculated in respect to the density of development proposed which was 8 x 2 bedroom apartments and 9 x 3 bedroom apartments. The mix and density has slightly changed with the development now comprising of 1 x 1 bedroom plus study (given the study is a generous sized room this apartment is classed as a 2 bedroom for the purpose of calculating contributions) and 8 x 3 bedroom. This affects the overall monetary contribution condition which will be altered and amended accordingly. Figure 14 below shows the breakup of the contribution that is applicable for the modified scheme and is now comes to a total of \$173,451.61.

DEVELOPMENT CONTRIBUTIONS	
Kogarah Section 94 Development Contributions Plan No.1 - Roads and Traffic Management - Residential	\$ 335.61
Kogarah Section 94 Development Contributions Plan No.5 - Open Space 2007	\$ 166,068.71
Kogarah Section 94 Development Contributions Plan No.9 - Kogarah Libraries - Buildings	\$ 4,114.02
Kogarah Section 94 Development Contributions Plan No.9 - Kogarah Libraries - Books	\$ 2,933.27

Figure 14: Breakdown of the updated 7.11 contributions based on the modified scheme

IMPACTS

Natural and Built Environment, Social and Economic Impacts

138. The approved development is replacing some existing, outdated and unattractive buildings and structures on site with a larger scale modern contemporary residential flat building. Given the location of the site on the waterway and its frontage to a busy, noisy arterial road

the building has been designed to respect the environmental conditions and site constraints (steep nature and topography) to create an articulated and interesting built form that aims to improve the visual quality of the streetscape.

139. The development should provide short term economic benefits through the construction process and should provide some environmental benefits by improving the visual quality of the waterway and its connection to the adjoining area of public open space and creating a more sympathetic transition between the water and built form.
140. The proposal is unlikely to adversely affect the amenity of adjoining developments and aims to have a positive impact on the streetscape and the waterway. The modifications improve the visual appearance of the building and improve the internal amenity and its overall functionality through the consolidation of spaces and creating more useable and better designed spaces.
141. The modifications are considered to be improvements which are not perceived to have any adverse environmental, social or economic impacts.

Suitability of the site

142. The site is zoned R3 – Medium Density Residential. The proposal as amended remains a permissible form of development in this zone. The proposal will not have an unreasonable impact on the adjoining properties and there will be no loss of views from or to the waterway.
143. It is considered that the proposed development is of a scale and design that is suitable for the site having regard to its size and shape, its topography, vegetation and relationship to adjoining developments. This conclusion remains relevant for the modified application.

SUBMISSIONS AND THE PUBLIC INTEREST

144. The modification application (MOD2021/0134) was neighbour notified in accordance with Kogarah DCP 2013 for a period of 14 days.
145. One (1) submission was received and the issues raised in the submission is summarised below;
 - The site area of 1,009sqm should be confirmed as the minimum site area for an RFB is 1,000sqm.
 - The breach with the height limit of 21m although minor is unacceptable.
 - The GFA should also be confirmed as it is close to the 2:1 maximum allowable.
 - The design, height and scale of the building is out of character with the streetscape and context of the area which is generally low scale.
 - The carpark abutting the water would not permit access to the water and would be an overbearing structure.
 - The development would establish an undesirable precedent.
 - Our property value will be affected if a developer built a similar development to the south leaving our property isolated and will lose value.
 - The proposal fails to show where mechanical, electrical or plant and services equipment is located.
 - There will be a loss of privacy from the balconies that face the water and the street.
 - Increase in vehicular and pedestrian traffic.

- Permission from Crown Lands may need to be provided in relation to structures abutting the waterway.

146. The submitter has raised a series of concerns that were similar to the original application and most were addressed as part of the original assessment however the following additional points should be made:

- The existing site area of 1,009.4sqm has come from a survey plan and is the most accurate and reliable source of data to confirm site area.
- The exceedance with the height has been addressed in detail as part of the assessment above.
- The design and height of the building is within the desired future character intent for this area which has been rezoned and intends on permitting a larger scaled development through the planning controls.
- The car park access is not much bulkier or larger than the existing garage structures abutting the water.
- Unfortunately, devaluation of property values and affectation of these by new developments is not considered a planning consideration.
- The development will be a new element in the streetscape and will be one of the first larger scaled developments in this immediate precinct however with the R4 zoning and associated controls it is earmarked for redevelopment in this prime waterfront location.
- There will be a minimal increase in pedestrian and vehicular traffic as there will only be 17 apartments as part of the development.
- The proposed development shows all electrical, mechanical and exhaust services on the plans to comply with the Building Code of Australia and NCC.
- The proposed development does not exceed the MHWM which is the rear boundary and therefore no works are proposed on public land so Crown Land approval is not required.
- Privacy screens as approved as part of the original proposal have been removed however along the southern side the privacy screens will need to be reinstated to reduce the potential for any overlooking to the south. A condition has been imposed to address this issue.

REFERRALS

Council Referrals

Environmental Health and Building

147. The modification application was referred to Council's Building Section for comment. No objection was raised in respect to the proposed modifications and the building comments provided with the original Development Application (DA2018/0381) remain applicable. The conditions imposed as part of the DA consent will remain unaltered.

Development Engineer

148. The application was referred to Council's Engineers for comments. No objection was raised in respect to the design of the proposed stormwater/drainage subject to the imposition of conditions. No change is proposed to the stormwater/drainage arrangement as approved.

Traffic Engineer

149. The modification application was referred to Council's Traffic Engineer for comment. Council's Traffic Engineer stated that the modified design in respect to the basement car parking and access arrangement was a substantial improvement to the originally approved scheme.

150. Apart from the implementation of some standard conditions, most of which are included as part of the DA consent the following conditions are also to be included:

- **Public Car Parking spaces** - A separate plan and application will need to be submitted to Council in accordance with the Roads Act in respect to the proposed relocation of the public car parking spaces along Blake Street. The proposed arrangement and relocation of these spaces shall be approved prior to the commencement of works and all cost for the reinstatement of the car parking spaces in Blake Street Car Park shall be paid for by the developer.
- Details of the operation of the traffic signalling system in association with the waiting bays and tandem parking spaces shall be provided to Council and once approved this system is to be included in the Contract for the sale of the apartments so that potential purchasers understand the operation.
- Parking spaces shall be clearly designated (sign posted and marked on ground) and line marked prior to the issuing of an Occupation Certificate. Signage, pavement symbols and line marking shall comply with Australian Standards, AS1742, Manual of Uniform Traffic Control Devices and NSW Road Transport (Safety and Traffic Management) Regulations 1999.
- Driveway access to comply with figure 3.3-Minimum Sight Lines for Pedestrian Safety as per AS 2890.1:2004 of the Australian Standard for off-street car parking. Figure 3.3 specifies the minimum sight lines for pedestrian safety along a circulation driveway or domestic driveway.
- All vehicles must enter and exit the development in a forward direction.
- All allocated car parking spaces shall be freely available for the visitors of the proposed development.
- In the instance of multi storey car park and to prevent vehicles from running over the edge of a raised platform or deck of a multi-story car park, barriers in accordance to AS2890.1:2004 section 2.4.5.3 need to be installed.
- Any wall or fence or solid object on either side of the driveway/vehicular crossing where it meets the Council's road reserve at the boundary must comply with sight distance requirements stipulated in the Australian Standards AS2890.1
- No deliveries to the premises shall be made direct from a public place or street inclusive of footpaths, nature strip, roadway and car parks.

151. Considering the parking and access arrangements have slightly changed the imposition of these conditions is considered satisfactory as they relate to the proposed modifications. In relation to the relocation of the public car parking spaces, these have been addressed and appropriate conditions included on the consent that are relevant and will remain unchanged.

External Referrals

Department of Primary Industries – Water

152. The development is located within 40m of a waterway and is within “waterfront” land therefore the provisions of the Water Management Act 2000 need to be considered. The proposal was referred to the Natural Resources Access Regulator (NRAR), for concurrence. On 15 May 2019 NRAR provided a formal response and raised no objection to the proposed development subject to the implementation of General Terms of Approval (GTA) which requires a Controlled Activity approval under the *Water Management Act 2000* (WM Act).

153. These GTAs are included as conditions if consent is issued. The modification application was re-referred to NRAR for comment and on 13 September 2021 provided a formal

response and did not object to the proposed development and the originally imposed GTA's remain relevant.

Sydney Airports

154. The application was referred to Sydney Airports for comment as the building height exceeds the Obstacle Limitation Surface (OLS) Level of 15.24m. No objection is raised in respect to the proposed development as the height of the prescribed airspace at this location is 156m (AHD). An application for Approval of crane operation will be required prior to the Construction Certificate being issued. A condition is included to ensure this occurs.

155. The amended application was referred to Sydney Airports and for comment. On 17 September 2021 Sydney Airports provided a formal response and did not raise any concerns with the amended scheme.

Ausgrid

156. The application as amended was referred to Ausgrid. On 5 October 2021, Ausgrid raised no objections to the proposed amended scheme.

DETERMINATION AND STATEMENT OF REASONS

Statement of Reasons

It is recommended for MOD2021/0137 be approved for the following reasons:

- The proposed modifications to the approved development are considered to be “substantially the same” and satisfy the provisions of Section 4.55 of the Act.
- The proposed changes are a result of the development of the detailed design and to ensure compliance with the Building Code of Australia, NCC and associated building provisions.
- The proposed changes are minor and aesthetic in nature and will not adversely affect the approved built form, scale, height and visual appearance of the building.
- The proposed development will not result in unreasonable impacts to the natural and built environment.
- The proposed development will not result in unreasonable amenity impacts to the adjoining neighbours.
- The proposed changes are consistent with the original determination and in line with the statement of reasons.
- The proposed development is in the public interest.

Determination

THAT Pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979 that the Georges River Local Planning Panel approve the Section 4.55(2) application number MOD2021/0134 to DA2018/0381 to modify the internal layout of apartments and the building to comply with the Building Code of Australia and National Construction Code and improve the amenity and functionality of the building as well as improve parking and access in the basement to the approved development being demolition works and construction of a part six, part seven storey residential flat building containing 17 apartments and basement car parking for 37 vehicles, site consolidation, landscaping and site works at Lot 22, 23, 24 and 25 in DP6944, and known as 723-729 Princes Highway, Blakehurst, in accordance with the following conditions.

GENERAL CONDITIONS

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

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

Description	Reference No.	Date	Revision
Plans prepared by AGM Studio-Drew Dickson Architects			
3D Render 1	DA 01.1	25/11/2019	F
3D Render 2	DA 01.2	25/11/2019	F
3D Render 3	DA 01.3	25/11/2019	F
3D Render 4	DA 01.4	25/11/2019	F
3D Render 5	DA 01.5	25/11/2019	F
3D Render 6	DA 01.6	25/11/2019	F
Site Analysis	DA 01.10	25/11/2019	F
Demolition Plan and Retention of Structures on MHW	DA 01.12	25/11/2019	F
Site Plan	DA 01.13	25/11/2019	F
Site Plan and Development Summary		June 2021	G
B3 Carpark	DA 01.14	25/11/2019	F
Basement 3 Plan		June 2021	G
B2 Carpark	DA 01.15	25/11/2019	F
Basement 2 Plan		June 2021	G
B1 Carpark	DA 01.16	25/11/2019	F
Basement 1 Plan		June 2021	G
Ground floor	DA 01.17	25/11/2019	F
		June 2021	G
Level 1 floor plan	DA 01.18	25/11/2019	F
Level 01		June 2021	G
Level 2 floor plan	DA 01.19	25/11/2019	F
Level 02		June 2021	G
Level 3 floor plan	DA 01.20	25/11/2019	F
Level 03		June 2021	G
Level 4 floor plan	DA 01.21	25/11/2019	F
Level 04		June 2021	G
Level 5 floor plan	DA 01.22	25/11/2019	F
Level 05		June 2021	G
Roof Plan	DA 01.23	25/11/2019	F
		June 2021	G
Streetscape Elevation	DA 01.25	25/11/2019	F
		June 2021	G
Elevations 1	DA 01.27	25/11/2019	F
		June 2021	G
Elevations 2	DA 01.28	25/11/2019	F
		June 2021	G
Section A-01	DA 01.29	25/11/2019	F
		June 2021	G
Section A-02	DA 01.30	25/11/2019	F
		June 2021	G
Sections B-01, B-02	DA 01.31	25/11/2019	F
		June 2021	G
Section C-01	DA 01.32	25/11/2019	F
		June 2021	G

Driveway Profile	DA 01.33	25/11/2019 June 2021	F G
Ramp profile	DA 01.34	25/11/2019	F
Schedule of Finishes 1/2	DA 01.35	25/11/2019 June 2021	F G
Schedule of Finishes 2/2	DA 01.36	25/11/2019 June 2021	F G
Adaptable apartments Pre and Post Adaptation	DA.01.65	25/11/2019 June 2021	G
Survey Plan prepared by Daw and Walton Sheet 1/3 Sheet 2/3 Sheet 3/3	Job No. 4049-17	10/01/18	N/A
Landscape Plans prepared by Aspect	L/01'E', L/02'E', L/03'A', L/00 – L06	11/7/19 16/07/2021	N/A

(This condition is modified as part of MOD2021/0134)

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:

Placing or storing materials or equipment;

- Placing or storing waste containers or skip bins;
- Erecting a structure or carrying out work;
- Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
- Pumping concrete from a public road;
- Pumping water from the site into the public road;
- Constructing a vehicular crossing or footpath;
- Establishing a "works zone";
- Digging up or disturbing the surface of a public road (eg Opening the road for the purpose of connections to utility providers);
- Stormwater and ancillary works in the road reserve;
- Stormwater and ancillary to public infrastructure on private land.

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 Certifier prior to the issue of the Construction Certificate.

The relevant Application Forms for these activities can be downloaded from Council's

website www.georgesriver.nsw.gov.au. For further information, please contact Council's Customer Service Centre on (02) 9330 6400.

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

The following details must be submitted:

- k) That cable anchors will be stressed released when the building extends above ground level to the satisfaction of Council;
 - l) The applicant has indemnified Council from all public liability claims arising from the proposed works, and provide adequate insurance cover to the satisfaction of Council.
 - m) Documentary evidence of such insurance cover to the value of \$20 million;
 - n) The applicant must register a non-terminating bank guarantee in favour of Council. An amount will be determined when the application is lodged;
 - o) The guarantee will be released when the cables are stress released. In this regard it will be necessary for a certificate to be submitted to Council from a structural engineer at that time verifying that the cables have been stress released.
 - p) In the event of any works taking place on Council's roadways/footways adjoining the property while the anchors are still stressed, all costs associated with overcoming the difficulties caused by the presence of the 'live' anchors will be borne by the applicant.
4. **Road Opening Permit** - A Road Opening Permit must be obtained from Council for every opening of a public road reserve to access services including sewer, stormwater drains, water mains, gas mains, and telecommunications before the commencement of work in the road.

REQUIREMENTS OF 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. **Notice of Requirements for a Section 73 Certificate** - A Notice of Requirements of what will eventually be required when issuing a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please

refer to the 'Plumbing, building and developing' section of the web site www.sydneywater.com.au then refer to 'Providers' under 'Developing' or telephone 13 20 92 for assistance.

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

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

7. **Electricity Supply** - An application is required to be made to Ausgrid for a network connection. This may require the network to be extended or its capacity augmented. Evidence of this application being lodged with Ausgrid is required to be provided to the Certifying Authority prior to the issue of a Construction Certificate. For further details, you are advised to contact Ausgrid on 13 13 65 or www.ausgrid.com.au (Business and Commercial Services).
8. **Application for Approval of Crane Operation** - Construction cranes may be required to operate at a height significantly higher than that of the proposed development and consequently, may not be approved under the Airports (Protection of Airspace) Regulations. Sydney Airport advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct.
9. **Natural Resources Access Regulator** – The following general terms of approval will need to be satisfied prior to the commencement of any work or activity;
 - (i) Before commencing any proposed controlled activity on waterfront land, an application must be submitted to Natural Resources Access Regulator, and obtained, for a controlled activity approval under the Water Management Act 2000.
 - (ii) The following plan(s): - Erosion and Sediment Controls Plan must be:
 - A. prepared in accordance with Managing Urban Stormwater: Soils and Construction, Volume 1 (Landcom, 2004), as amended or replaced from time to time, and
 - B. submitted with an application for a controlled activity approval.
 - (iii) The consent holder must ensure that any proposed materials or cleared vegetation, which may:
 - i. obstruct water flow, or
 - ii. wash into the water body, or
 - iii. cause damage to river banks, are not stored on waterfront land, unless in accordance with a plan held by Natural Resources Access Regulator as part of a controlled activity approval.

When the carrying out of the controlled activity has been completed, surplus materials must be removed from waterfront land.

- (iv) The proposed erosion and sediment control works must be inspected and maintained throughout the construction period of the controlled activity and must not be removed until the site is fully stabilised.
- (v) This General Terms of Approval (GTA) only applies to the proposed controlled

activity(s) described in the plans and associated documents relating to Development Application as provided by Council to Natural Resources Access Regulator. B. Any amendments or modifications to the proposed controlled activity(s) may render the GTA invalid. If the proposed controlled activity is amended or modified, Natural Resources Access Regulator, Parramatta Office, must be notified in writing to determine if any variations to the GTA will be required.

- (vi) Rehabilitation and maintenance Vegetation clearance associated with the proposed controlled activity must be limited to where the controlled activity is to be carried out, as shown on the approved plan(s).

10. Natural Resources Access Regulator - The development consent holder must apply to NRAR for a Controlled Activity approval **after consent** has been issued by Council **and before** the commencement of any work or activity.

A completed application form must be submitted to NRAR together with any required plans, documents, application fee and proof of Council's development consent. Finalisation of an approval can take up to eight (8) weeks from the date the application and all required supporting documentation is received.

Application forms are available from the NRAR website at: <https://www.industry.nsw.gov.au/water/licensing-trade/approvals/controlled-activities>

11. Roads and Maritime - The following RMS requirements are to be met;

- a. All buildings and structures (other than pedestrian footpath awnings), together with any improvements integral to the future use of the site are wholly within the freehold property (unlimited in height or depth), along the Princes Highway boundary.
- b. The redundant driveways on Princes Highway shall be removed and replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter on Princes Highway shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained from Roads and Maritime Services, Manager Developer Works, Statewide Delivery, Parramatta (telephone 9598 7798).

Detailed design plans of the proposed kerb and gutter are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by Roads and Maritime.

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

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime.

The report and any enquiries should be forwarded to: Suppiah.Thillai@rms.nsw.gov.au

If it is necessary to excavate below the level of the base of the footings of the

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

- d. Detailed design plans and hydraulic calculations of any changes to the Roads and Maritime's stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.

Details should be forwarded to: Suppiah.Thillai@rms.nsw.gov.au

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works: Suppiah.Thillai@rms.nsw.gov.au

- e. The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.
- f. All vehicular access onto the site including construction access should be provided from Blake Avenue. Direct access via Princes Highway is prohibited.
- g. A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council for approval prior to the issue of a Construction Certificate.
- h. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Princes Highway.
- i. A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Princes Highway during construction activities.
- j. Any proposed landscaping and/or fencing must not restrict sight distance to pedestrians and cyclist travelling along the footpath.
- k. All vehicles are to enter and exit the site in a forward direction.
- l. All works/regulatory signposting associated with the proposed development are to be at no cost to Roads and Maritime.
- m. The swept path of the longest vehicle (including garbage trucks, building maintenance vehicles and removalists) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.

- 12. **NSW Roads and Maritime Services** - The site stormwater outlet pipe works shall be designed and constructed out in accordance with the requirements of the NSW Road and Maritime Services (if required).

PRIOR TO ISSUING THE CONSTRUCTION CERTIFICATE

- 13. **Design** – The following design changes are to be incorporated into the plans prior to the issuing of the Construction Certificate and shall be to the satisfaction of the Manager Development and Building:

- (a) The two existing jetties shall be retained and a detailed plan shall be provided

showing how these structures are to be retained, improved and access to them from the development site shall be provided. Details of compliance with this condition shall be provided prior to the issuing of the Construction Certificate.

- (b) The existing boatsheds and any ancillary structures (except the two jetties and slipway) at the rear of the subject sites which encroach on the boundary and foreshore shall be removed. Details of how the foreshore will be treated after the removal of these structures is to be lodged with Council. Access to the jetties shall be maintained from the development site.
- ~~(c) A rainwater tank shall be installed along the southern side of the site at the ground floor level and shall be used to water all deep soil areas and associated landscaping (planters or planter boxes) and to use for any other purposes.~~
- (d) The proposed electrical substation shall be relocated and shall be sited away from the main entry and setback a minimum of 5m from the main entry along Princes Highway and further to the southern side. Plans showing compliance with this condition are to be submitted with the Construction Certificate.
- (e) Any proposed hydrant boosters shall be located along Blake Avenue and shall be screened from view and softly landscaped.
- (f) Where possible all electrical services should be relocated underground.
- (g) Balconies shall have a maximum width of 2.2m at any point.
- (h) A full height privacy screen shall be located along the southern side of the balcony to apartment G-01, 1-01, 2-01 and 3-01. The privacy screens shall be constructed of light materials, timber slatted or the like to prevent the potential for overlooking to the south and compliment the design of the building.
- (i) The windows along the southern elevation to apartments G01, 1-01, 2-01, 3-01 shall be constructed of obscure glazing apart from the bedroom window. This is to minimise the potential for overlooking.
- (j) The external pathway along the full extent of the rear boundary (with access off Blake Avenue) and through to the rear lobby area shall be constructed of timber to be a softer and more permeable surface.
- (k) The external balustrade to the rear courtyards to apartments G-01 and LG-01 shall be constructed of an open style palisade fence with maximum height of 1.2m from the finished floor level with a dark finish.
- (l) A small accessible WC shall be included as part of the roof terrace.
- (m) The proposed roller door shutter to the parking level shall be replaced with a door that is designed and constructed of more natural like materials (e.g timber slatted design) as opposed to the proposed perforated design which is considered inappropriate given the foreshore location. Details of the roller door finish shall be to the satisfaction of Council's delegate prior to the issuing of the Construction Certificate.
- (n) An updated schedule of materials and finishes is required to be provided to Council

and requires sign off by Council's delegate prior to the issuing of the Construction Certificate.

- (o) All fencing along the rear of the site adjoining the foreshore shall also be constructed of an open style palisade fencing of a dark finish and also have a maximum height of 1.2m from the finished floor level. There shall be no gates to each of the existing jetty's and the gate to access the rear of the property off Blake Street shall be removed from the plans.
- (p) The solid style fence along the north-western section of the courtyard to Unit G-03 along Blake Street shall be constructed of an open style dark palisade fence in lieu of the solid rendered fence and shall wrap around until it reaches the driveway.
- (q) The louvres and any openings in the basement shall be constructed and located at a height to ensure they are future proofed so that they will not be affected by sea level rise, flooding and/or water inundation. A qualified Engineers report shall be submitted to the PCA to confirm compliance with this provision.

(This condition is modified as part of MOD2021/0134)

14. **Public Car Parking spaces** - A separate plan and application will need to be submitted to Council in accordance with the Roads Act in respect to the proposed relocation of the public car parking spaces along Blake Street. The proposed arrangement and relocation of these spaces shall be approved prior to the commencement of works.
15. **Parking and access** – The following design changes are to be provided to improve the car parking and access arrangement within the building;
 - (i) ~~Bike spaces within B1 Car Park are to be deleted to enable the width of the ramp to be enlarged.~~ The designated bike racks in B1 shall be relocated and this space shall become a car parking space designated for a "small vehicle" and signmarked accordingly.
 - (ii) ~~Visitor car space No.3 in B2 Car Park is to be removed and this visitor space is to be taken up by the car space designated as "Unit 8" in B3 Car Park. Visitor No.4 shall be increased in size and could accommodate a motor bike space next to this space. This is in order to enable the ramp to be increased.~~ Visitor car parking space No.1 shall become a resident car parking space and shall be signposted accordingly and dedicated to an apartment within the development.
 - (iii) ~~A minimum of two (2) bicycle spaces shall be deleted in B3 Car park to enable the access ramp to be widened.~~
 - (iv) Details of the operation of the traffic signalling system in association with the waiting bays and tandem parking spaces shall be provided to Council and once approved this system is to be included in the Contract for the sale of the apartments so that potential purchasers understand the operation.
 - (v) ~~One (1) motorbike parking space shall be accommodated in the basement level/s.~~
 - (vi) A minimum seven (7) bicycle parking spaces shall be accommodated within the basement level/s.
 - (vii) ~~The aisle width to the south of the "tandem swapping bay No.3" in B2 Car Park shall be increased by 500mm to the west to allow for a wider aisle width to improve access to car spaces.~~
 - (viii) Parking spaces shall be clearly designated (sign posted and marked on ground) and line marked prior to the issuing of an Occupation Certificate. Signage, pavement symbols and line marking shall comply with *Australian Standards*,

AS1742, Manual of Uniform Traffic Control Devices and NSW Road Transport (Safety and Traffic Management) Regulations 1999.

- (ix) Driveway access to comply with figure 3.3-Minimum Sight Lines for Pedestrian Safety as per AS 2890.1:2004 of the Australian Standard for off-street car parking. Figure 3.3 specifies the minimum sight lines for pedestrian safety along a circulation driveway or domestic driveway.
- (x) All vehicles must enter and exit the development in a forward direction.
- (xi) All allocated car parking spaces shall be freely available for the visitors of the proposed development.
- (xii) In the instance of multi storey car park and to prevent vehicles from running over the edge of a raised platform or deck of a multi-story car park, barriers in accordance with AS2890.1:2004 section 2.4.5.3 need to be installed.
- (xiii) Any wall or fence or solid object on either side of the driveway/vehicular crossing where it meets the Council's road reserve at the boundary must comply with sight distance requirements stipulated in the *Australian Standards AS2890.1*
- (xiv) No deliveries to the premises shall be made direct from a public place or street inclusive of footpaths, nature strip, roadway and car parks.
- (xv) The Contract for the sale of properties shall include a provision that ensure future occupants understand that the basement car parking areas and spaces have been designed to accommodate B85 vehicles and larger vehicles may have trouble accessing spaces.
- (xvi) No apartments within the development shall have more than 2 car parking spaces per unit.

Amended plans shall be provided to show compliance and shall be to the satisfaction of the Manager of Building and Planning including the swept paths to show that a B99 vehicle can access the ramp in accordance with the AS2890.1:2004 (minimum roadway width requirements).

(This condition is modified as part of MOD2021/0134)

16. **Stormwater design changes** - Referring to Stormwater Concept Plans dated 29 August 2018 and prepared by Australian Consulting Engineers design changes are required to the satisfaction of Council's Manager of Building and Planning prior to the issuing of the Construction Certificate.
 - (i) The site drainage out-let pipe cross sectional details shall be shown on the Stormwater Plans including pipe invert level, ground level, Shipwrights Bay bed level and astronomical highest spring tide levels. This is to ensure the site drainage is not affected by the sea water intrusions from Shipwrights Bay. The design treatment of the outlet pipe shall also be included to ensure the pipe is screened by landscaping and is a safe and well designed feature.
17. **Landscaping** - The Landscape Plan prepared by Aspect and dated 16/07/2021 shall be updated and shall include the following features and details to the Satisfaction of the

Manager of Development and Building;

- (i) The following details need to be provided and the Landscape Plan updated in relation to the ground floor areas of open space;
 - ~~Proposed trees shall be planted in the designated deep soil areas.~~
 - Trees shall have a minimum 100L pot size.
 - The proposed species shall be included and shall be endemic to the area.
 - Planting above the vehicular driveway shall including coastal creepers that are able to cascade down the driveway wall along the western side. Details of the type of species and an elevational plan of the driveway shall be submitted.
 - The main entry into the building on the ground floor shall be designed of permeable materials and include tiles or paving materials that permit landscaping elements within these.
 - ~~Two (2) x Tuckeroos shall be planted along the backfilled section of the site at the ground floor south of the main entry and one (1) x Tuckeroo shall be planted at the northern side of the entry.~~
- (ii) The following details need to be provided and the Landscape Plan updated in relation to the rooftop communal area of open space;
 - ~~The roof top area is to be totally dedicated as a communal area.~~
 - ~~A 1m wide by 1m high planter boxes shall be installed around the perimeter of the site and shall be setback 2m from the edge of the roof parapet.~~
 - ~~Landscaping on the rooftop shall include a variety of plants and comprise of deep and wide planter boxes that allow and encourage the planting of larger trees and shrubs.~~
 - ~~The roof top shall include a variety of finishes such as timber decking, real or artificial grass to create different spaces and areas. Planter boxes can be used to delineate spaces and shall include seating.~~
 - ~~The roof shall include a WC located next to the lift located adjoining the lift access stair with a max area of 1.2m by 2m.~~

The Landscape Plan shall be prepared by a Qualified Landscape Architect and should include species that are native and endemic to the area.

(This condition is modified as part of MOD2021/0134)

- 18. Public Domain Plan** - A public domain plan is to be submitted to Council and prepared by a Qualified Landscape Architect on behalf of Council.

The plan is to address the design criteria, including but not limited to:

- Location and the tree to be retained along Blake Avenue (new trees shall be planted in pots with a minimum pot size of 100L),
- Expanded soil volumes in verges for maximum root space.
- Planting of additional street trees, the proposed species and location (new trees shall be established and have a minimum pot size of 100L).
- The extinguishing and removal of all existing driveway crossings.
- New public footpath, its design and access to and around the site and the upgrade of any damaged footpaths along Princes Highway.
- New pathway location along Blake Avenue.
- The treatment of all immediately adjoining public spaces that are no longer taken up by structures and how these spaces will be revegetated and rehabilitated. The main space is the area that is no longer taken up by the boatshed which adjoins 723 Princes Highway. The treatment and revegetation of this space and its relationship

and access to the public reserve to the north shall be detailed.

- Plants to be considered need to be endemic to this waterfront location and consistent with the character of the area.
- The design treatment of the proposed drainage outlet pipe and associated vegetation.
- ~~The proposed public staircase structure that is included on the plans is to be deleted. Separate approval for this structure will be required and the Applicant is advised to liaise with Council's Property and Assets Services Team.~~

The cost of the works will be borne by the Applicant and will need to be completed to the satisfaction of the Manager of Building and Development prior to the issuing of the Construction Certificate.

(This condition is modified as part of MOD2021/0134)

- 19. Fencing** - Details of the fencing shall be provided to the satisfaction of the Director of Planning prior to the issuing of the Construction Certificate and the following details shall be included:

- The proposed planter boxes at the site shall have a maximum height of 1m and shall be constructed of a sandstone finish.
- ~~The height of front fencing to the Princes Highway and Blake Avenue shall have a maximum height of 1.5m at any point.~~
- The rear fencing to the private courtyards and communal area of open space shall be designed to be an open style dark palisade fence so that it will offer security whilst also be transparent for safety. The height of the fence shall not exceed 1.5m

(This condition is modified as part of MOD2021/0134)

- 20. Seawall** – A detailed structural and building/construction report shall be prepared that outlines the proposed construction method for all structures along the rear boundary (retaining walls and the like) and the method to be adopted ensures the structural adequacy, stability and integrity of all new rear fencing and associated walls which will act as a sea wall is provided for the future longevity of the development. The construction approach will aim to protect and strengthen the retaining structures for the future.

A Qualified Structural Engineer will be engaged to prepare this report and findings shall be included as part of the Construction Certificate.

- 21. Use of Rooftop open space** - A Plan of Management (POM) for use of rooftop open space must be submitted for approval of Council. The POM must outline the:

- hours of use of the rooftop deck which shall be restricted from 8am until 10pm;
- maximum number of users at any one time shall be specified (for this development a maximum of 20 is recommended);
- Outline provisions to maximise the safety (fire safety and general safety) for users of this area.
- No amplified music to be played;
- identify other measures to ensure that the amenity and safety of persons within the development and in nearby existing and future development is maintained.
- Location and type of signage to be installed in the building to notify residents and visitors in respect to the use of this space.

- The approved POM shall be incorporated into the Owners Corporation by-laws in any future Strata subdivision and a sign in the front entry of the building shall be included to ensure the use of this space is monitored and understood by all occupants.

The POM shall be prepared and shall be to the satisfaction of Council's Manager of Building and Development.

- 22. Materials and finishes** - The proposed materials and finishes selected shall be non-reflective and shall be of the highest quality and take into consideration the provision of marine grade quality materials to avoid rusting and the harsh coastal conditions.

A detailed finishes and materials board shall be submitted to the satisfaction of the ~~Manager of Planning and Building~~ Certifier prior to the issuing of the Construction Certificate. The board shall highlight all the proposed colours, materials and finishes and provide physical samples of these materials.

(This condition is modified as part of MOD2021/0134)

- 23. Demolition** - Prior to the demolition of the structures on site and prior to the issuing of the Construction Certificate the recommendations of the Preliminary Site Investigation prepared by Dirt Doctors and dated 25 August 2018 shall be adopted as part of the design and included in the construction management plan for the site.
- 24. Demolition/excavation** - Should the site soils require excavation and disposal from the site then these soils should be classified in accordance with the EPA (2014) Waste Classification Guidelines and disposed to an approved landfill facility. Any soils to be imported onto the site for the purpose of back-filling excavated areas will also require validation testing to confirm their suitability for the proposed residential land use.
- 25. Construction Management Plan** - A Construction Management Plan shall be submitted to the Certifying Authority and shall include details about stockpiling of materials and how waste and excavated materials shall be disposed of.

Stockpiling of waste and building materials shall be setback from the rear and shall not affect the waterway or be located on the waterway. A hoarding shall be provided along the rear boundary protecting the waterway from disposal of any waste products or rubbish.

- 26. Road Noise attenuation** - The site is affected by noise from the Princes Highway. The construction certificate plans shall show that the development has been designed in accordance with the measures of acoustic attenuation to meet the internal noise levels specified in Clause 102 of [State Environmental Planning Policy \(Infrastructure\) 2007](#). ~~The Acoustic Report prepared by Day Design and dated 7 September 2018 and shall be updated to reflect the amended plans (Revision C). A copy of the updated Acoustic report shall be submitted to Council and the findings and recommendations of this report shall be implemented as part of the Construction Certificate plans.~~

(This condition is modified as part of MOD2021/0134)

- 27. Geotechnical works** - Prior to the issuing of the Construction Certificate the recommendations in the Geotechnical Report prepared by Dirt Doctors and dated 25 August 2018 shall be implemented.

- 28. Disabled access** – The development must be designed and constructed to comply with: AS 1428.1 – 1993 Design for Access and Mobility Part 1 and AS 1428 – 1993 Design for Access and Mobility Part 2 Enhanced and Additional Requirements – Buildings and Facilities.
- 29. 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.
- 30. Building** - Prior to the issue of a Construction Certificate the applicant may be required, under Clause 144 of the Environmental Planning & Assessment Regulation, 2000 to seek written comment from FR NSW about the location of water storage tanks, construction of hydrant/booster pump and valve rooms, and any Fire Engineered Solution developed to meet the performance requirements under the Category 2 Fire Safety Provisions. The applicant is also advised to seek written advice from FR NSW on the location and construction of the proposed ~~Fire Control Centre Facility~~ Fire Indicator Panel and location and installation of the sites Fire Indicator / mimic Panels.

(This condition is modified as part of MOD2021/0134)

- 31. Stormwater Plans** – The Stormwater plans prepared by Alpha Engineers and Development, drawing no. A8278 – cover, A8278 – SW01, A8278 – SW02, A8278 – SW03, A8278 – SW04, A8278 – SW05 are concept plans only.
- 32. Site Management Plan - Major Development** - A Site Management Plan must be submitted with the application for a Construction Certificate, and include the following:
- (a) location of protective site fencing;
 - (b) location of site storage areas/sheds/equipment;
 - (c) location of building materials for construction, e.g. stockpiles
 - (d) provisions for public safety;
 - (e) dust control measures;
 - (f) method used to provide site access location and materials used;
 - (g) details of methods of disposal of demolition materials;
 - (h) method used to provide protective measures for tree preservation;
 - (i) provisions for temporary sanitary facilities;
 - (j) location and size of waste containers/skip bins;
 - (k) details of proposed sediment and erosion control measures;
 - (l) method used to provide construction noise and vibration management;
 - (m) construction and demolition traffic management details.

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

- 33. Street Tree Removal / Replacement by Council** - Two (2) mature street trees (Banksia integrifolia) with a minimum pot size of 100 litres, must be provided in the road reserve

fronting the site (Blake Avenue). The existing Melaleuca quinquervia located on the corner of Blake Avenue and Princes Highway shall be retained and protected to the satisfaction of Council's Landscape Officer, Details of the proposed protection measures shall be submitted to the satisfaction of Council.

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

34. Provision of a Car Wash Bay – The designated car wash bay must:

- (i) have clearly visible signs which indicate that no degreasing or mechanical work is to be undertaken in the bay;
- (ii) have a fixed basket trap for floor waste; and
- (iii) includes a 1000 litre general purpose pit.

Details of the disposal of trade waste water are to be indicated on the Construction Certificate drawings. Three options exist for the disposal of trade wastewater from residential car wash bays. They are:

- (i) removal off-site by an authorised liquid waste disposal contractor;
- (ii) reuse of treated wastewater for car washing or irrigation on landscaped areas. An appropriate method should be used to treat grease, oil and silt before reuse or irrigation; or
- (iii) discharge to the sewer via appropriate pre-treatment. If the car wash bay discharges into the sewer, a Permission to Discharge Trade Wastewater issued by Sydney Water must be obtained prior to approval of the development.
- (iv) If the carwash bay is not discharged into the sewer, applicants must provide Council with details and evidence of how wastewater will be removed (eg removal by an authorised liquid waste disposal contractor).
- (v) Plans and specifications of the car washing system which has been approved by Sydney Water must be submitted with the application for the Construction Certificate.
- (vi) All car washing bays shall be contained within a roofed and bunded car wash bay with pre-treatment approved by Sydney Water. The water from the car wash bay must be graded to a drainage point and connected to sewer.
- (vii) If alternative water management and disposal options are proposed (i.e. where water is recycled, minimised or reused on the site), detailed plans and specifications of the water recycling system must be submitted with the application for the Construction Certificate for approval.

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

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

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

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

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

Fee Type	Fee
GENERAL FEES	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See https://portal.longservice.nsw.gov.au/bci/levy/	
Inspection Fee for refund of Damage Deposit (\$371 per inspection)	\$742.00 (2 inspections)
Builders Damage Deposit (footpaths and roadworks) (Blake Avenue frontage – 21.4m x \$1,236.00)	\$26,450.40
(Princes Highway frontage – 40m x \$1,236.00)	\$49,440.00
DEVELOPMENT CONTRIBUTIONS	
Kogarah Section 94 Development Contributions Plan No.1 - Roads and Traffic Management - Residential	\$332.81 \$335.61
Kogarah Section 94 Development Contributions Plan No.5 - Open Space 2007	\$153,922.95 \$166,068.71
Kogarah Section 94 Development Contributions Plan No.9 - Kogarah Libraries - Buildings	\$3854.09 \$4,114.02
Kogarah Section 94 Development Contributions Plan No.9 - Kogarah Libraries - Books	\$2,747.92 \$2,933.27
TOTAL DEVELOPMENT CONTRIBUTION	\$173,451.61

General Fees

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

Development Contributions

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

Indexation

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

Timing of Payment

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

Further Information

A copy of the *all current Development Contributions Plans* may be inspected or a copy

purchased at Council's offices (Georges River Civic Centre, MacMahon Street, Hurstville and Kogarah Library and Service Centre, Kogarah Town Square, Belgrave Street, Kogarah) or viewed on Council's website www.georgesriver.nsw.gov.au.

(This condition is modified as part of MOD2021/0134)

36. Vehicular Crossing - Major Development - The following vehicular crossing and road frontage works will be required to facilitate access to and from the proposed development site:

- (a) Construct a footpath for the full length of the frontage(s) of the site in accordance with Council's Specifications applying at the time construction approval is sought.
- (b) All associated road pavement restorations.
- (c) Installation of turf as required across all street frontages.
- (d) The thickness and design of the driveway will be in accordance with Council's Specifications applying at the time construction approval is sought.
- (e) Construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontage(s) of the site in accordance with Council's Specifications for kerb and guttering, applying at the time construction approval is sought.
- (f) Any existing vehicular crossing and/or laybacks which are redundant will be removed.

The kerb and gutter, any other footpath and turf areas will be restored at the expense of the applicant. The work will be carried out in accordance with Council's specification, applying at the time construction approval is sought.

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

37. Damage Deposit - Major Works - In order to insure against damage to Council property the following is required:

- i. Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development: **\$26,450.40 (works on Blake Avenue) and \$49,440.00 for Princes Highway.**
- ii. Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee (for two inspections) to enable assessment of any damage and repairs where required: **\$742.00** (based on two (2) inspections at \$371.00 per inspection).

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

Tree Species	Location of Tree / Tree No.	Tree Protection Zone (metres) Fencing distance from trunk
T3 – <i>Melaleuca quinquervia</i>	Councils' street tree	2.4 metres

Details of the trees to be retained must be included on the Construction Certificate plans.

- The client shall engage a qualified Arborist who holds an AQF Level 5 or above in

Arboriculture and who is a current financial member of Arboriculture Australia – AA and or Institute of Australian Consulting Arboriculturists – IACA to oversee and validate all works.

- A certificate of compliance for tree protection measures shall be completed and forwarded to the Certifying Authority, before works, during works and once all building works have been completed, that tree protection measures have been installed and maintained during the building process.
- Details of the trees to be retained must be included on the Construction Certificate plans.

General Tree Protection Measures - All trees to be retained shall be protected before and maintained during demolition, excavation and construction of the site.

- (a) The tree protection measures must be undertaken in accordance AS4970 -2009 Protection of trees on development sites.
- (b) Details of the tree protection measures to be implemented must be provided with the application for a Construction Certificate by a suitably qualified Arborist who holds an AQF Level 5 or above in Arboriculture and who is a current financial member of Arboriculture Australia – AA and or Institute of Australian Consulting Arboriculturists – IACA.
- (c) The Project Arborist must be present on-site during the stages of excavation, demolition and construction when works are being undertaken that could impact on the tree canopy or root zone within the tree protection zone of each tree.
- (d) Unless otherwise specified in AS 4970-2009 Protection of trees on development sites, a protective fence consisting of 2.4 x 1.8 metres high, fully supported chainmesh fence shall be used. The distance of the fence from the base of each tree is to be in accordance with the TPZ listed in the table above. A layer of organic mulch 100 millimetres thick shall be placed over the protected area and no soil or fill should be placed within the protection area.
- (e) The Tree Protection Zone of each tree, to be protected, shall be watered thoroughly and regularly to minimise the effects of construction works.
- (f) No building products/ materials or services shall be installed within the TPZ of the tree/s unless approved by Council. This fence shall be kept in place during demolition, construction and also have a sign displaying 'Tree Protection Zone – DO NOT ENTER' attached to the fence and must also include the name and contact details of the Project Arborist.

Excavation – Excavation and earthworks near trees to be retained shall comply with the following measures:

- (a) Excavations around the trees to be retained on site or the adjoining properties shall be supervised by the Project Arborist to ensure that the root system will not adversely be affected.
- (b) Where the Tree Protection Zone (TPZ) of trees on site or adjoining sites become compromised by any excavation works, the Project arborist shall be consulted to establish the position of any major roots and determine the necessary measures to protect these roots. The recommendations of the Arborist shall be submitted to Council prior to any further demolition or construction works taking place.
- (c) Tree Protection Zone around the trees to be retained are not to have soil level

changes, building product / materials stored or services installed in this area. Any structures proposed to be built in this area of the trees are to utilise pier and beam or cantilevered slab construction.

- (d) Details satisfying this condition shall be shown on the Construction Certificate plans.

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

General Tree Removal Requirements – the following requirements need to be satisfied;

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

- 40. Compliance with submitted Arborist Report** - The recommendations outlined in the Arborist's Report titled Arboricultural Impact Assessment, prepared by The Tree Guardian and dated 10 September 2018 must be implemented throughout the relevant stages of construction apart from the retention of Tree No.3.

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*.

- 41. Traffic, Parking and Driveways** - All shared zone area marked for disabled parking need to have the bollards installed as per the AS2890.6. The proposed car wash bay shall be appropriately signposted.

- 42. Disabled access** - Access for persons with disabilities. Access for persons with disabilities must be provided direct to the site, including to the foyer, car park, required sanitary and kitchen facilities in accordance with the requirements of the Premises Standards, the Building Code of Australia and AS 1428.1. Details must be submitted with the Construction Certificate Application.

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

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

- 43. 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 excavation works and the designated Waste Management Facility must be submitted to the Certifier prior to the

issue of any Construction Certificate.

44. Construction Traffic Management Plan - A Construction Traffic Management Plan shall be submitted detailing the following:

- (i) construction vehicle routes;
- (ii) anticipated number of trucks per day;
- (ii) hours of construction;
- (iii) access arrangements
- (iv) proposed traffic measures to minimise impacts of construction vehicles must be submitted for the approval of Council's Engineers.
- (v) Compliance with AS2890
- (vi) Council's Engineers must specify in writing that they are satisfied with the Traffic Management Plan prior to the issue of the Construction Certificate.

45. Slip Resistance - All pedestrian surfaces in areas such as foyers, public corridors, common areas, stairs and ramps as well as floor surfaces in the wet rooms in any residential units must have slip resistance classifications, as determined using test methods in either wet or dry conditions, appropriate to their gradient and exposure to wetting. The classifications of the new pedestrian surface materials, in wet or dry conditions, must comply with AS/NZS4586:2004 - Slip Resistance Classifications of New Pedestrian Materials and must be detailed on the plans lodged with the application for the Construction Certificate.

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

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

47. Design Quality Excellence (Major Development) – In order to ensure the design quality excellence of the development is maintained the following procedures need to be implemented:

- i. The design architect, ~~Alan Mhanna~~ Alex de Belin (Registration No. ~~7755~~ 8330) is to have direct involvement in the design documentation, contract documentation and construct stages of the project;
- ii. The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of the design issues throughout the life of the project;
- iii. The design architect is to ensure that the approved materials, colours and finishes are to be integrated into the finished building.
- iv. Evidence of the design architect's commission is to be provided to the Council prior to release of the Construction Certificate.
- v. The design architect of the project is not to be changed without prior notice and approval of the Council.

(This condition is modified as part of MOD2021/0134)

48. NBN Connection - Prior to the issue of the Subdivision or Construction Certificate in connection with a development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:

- (i) the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose; and
- (ii) the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

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

49. Electricity Supply Development – The electricity supply to the Development must be underground.

PRIOR TO THE COMMENCEMENT OF WORK (INCLUDING DEMOLITION AND EXCAVATION)

50. Works Zone - The installation of a "Works Zone" for the site will require the approval from the Traffic Advisory Committee. As a result, the applicant will provide a formal request to Council's Traffic Section with the duration and exact location of the required "Works Zone" at least 6 weeks prior to its required installation date. All costs associated with the installation of a "Works Zone" will be at the applicants expense.

51. Development Engineering - Driveway Construction Plan Details - Engineer's details shall be submitted with the Construction Certificate application regarding the proposed construction of the driveway. An Application for Driveway Crossing & Associated Works on Council Road Reserve' will need to be applied for.

These plans shall show longitudinal and cross sections, gradients, swept paths, type of construction materials and shall be designed in accordance with AS/NZS2890.1-2004. The driveway shall be designed with a surface that shall be non-slip and in accordance with Council's requirements for driveways.

52. Dial before your dig - The applicant will 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" will be forwarded to Council's Engineers for their records.

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

54. Hoarding Application - Prior to demolition of the buildings on the site or the commencement of work above ground level a separate application for the erection of an A class (fence type) or a B class hoarding or C type scaffold, in accordance with the

requirements of Work Cover Authority of NSW, must be erected along that portion of the footway/road reserve, where the building is within 3.0 metres of the street boundary. An application for this work under Section 68 of the Local Government Act 1993 and the Roads Act 1993 must be submitted for approval to Council.

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

- (a) A site and location plan of the hoarding with detailed elevation, dimensions, setbacks, heights, entry and exit points to/from the site, vehicle access points, location of public utilities, electrical overhead wire protection, site management plan and builders sheds location; and
- (b) Hoarding plan and details that are certified by an appropriately qualified engineer; and
- (c) The payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges (available on our website) before the commencement of work; and
- (d) A Public Risk Insurance Policy with a minimum cover of \$10 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained a copy provided to Council. The Policy is to note Council as an interested party; and
- (e) The application must be endorsement by the Roads & Maritime Services (RMS) as the hoarding is located within 100m of an intersection with traffic lights. For assistance you should contact the DA unit at RMS and speak to Hans on 88492076. Or email hans.pilly.mootanah@rms.nsw.gov.au to obtain concurrence for the hoarding structure.

55. Registered Surveyor's Report - During Development Work - A report will be submitted to the Certifier at each of the following applicable stages of construction:

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

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

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

- (i) Photographs showing the existing condition of the road pavement fronting the site
- (ii) Photographs showing the existing condition of the kerb and gutter fronting the site
- (iii) Photographs showing the existing condition of the footpath pavement fronting the site
- (iv) Photographs showing the existing condition of any retaining walls within the footway or road,
- (v) Closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site, and
- (vi) The full name and signature of the structural engineer.

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

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

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

- 57. Dilapidation Report on Private Land** - Prior to the commencement of works (including demolition and excavation), a dilapidation report must be prepared for the properties adjoining the development site being No.731 Princes Highway. The report must include the following:

Photographs showing the existing condition of the dwelling and all associated ancillary structure (including fences, retaining walls, garages, swimming pools etc) as well as an internal inspection of the property.

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

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

- 58. 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 that shall be affected by the excavation as determined by the consulting engineer. The report shall be prepared at the expense of the applicant and submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate. A copy of the pre-construction dilapidation report is to be provided to the adjoining properties (subject of the dilapidation report), a minimum of 5 working days prior to the commencement of work. Evidence confirming that a copy of the pre-construction dilapidation report was delivered to the adjoining properties must be provided to the PCA. Should the owners of properties (or their agents) refuse access to carry out inspections, after being given reasonable written notice, this shall be reported to Council to obtain Council's agreement to complete the report without access. Reasonable notice is a request for access in no sooner than 14 days between 8.00am-6.00pm.

- 59. Demolition and Asbestos** - The demolition work shall comply with the provisions of Australian Standard AS2601:2001 - Demolition of Structures, NSW Work Health & Safety Act 2011 and the NSW Work Health & Safety Regulation 2011. The work plans required by AS2601:2001 shall be accompanied by a written statement by a suitably qualified

person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the safety statement shall be submitted to the Principal Certifier prior to the commencement of works.

For demolition work which involves the removal of asbestos, the asbestos removal work must be carried out by a licensed asbestos removalist who is licensed to carry out the work in accordance with the NSW Work Health & Safety Act 2011 and the NSW Work Health & Safety Regulation 2011 unless specified in the Act and/or Regulation that a license is not required.

All demolition work including the removal of asbestos, shall be undertaken in accordance with the Demolition Code of Practice (NSW Work Cover July 2015).

Note: Copies of the Act, Regulation and Code of Practice can be downloaded free of charge from the SafeWork NSW website: www.SafeWork.nsw.gov.au.

- 60. Demolition Notification Requirements** - The developer /builder must notify adjoining residents five (5) working days prior to demolition. Such notification is to be a clearly written note giving the date demolition will commence, contact details of the developer/builder, licensed asbestos demolisher and the appropriate regulatory authority. Notification is to be placed in the letterbox of every premises (including every residential flat or unit, if any) either side and immediately at the rear of the demolition site.

Five (5) working days prior to demolition, the developer/builder is to provide written notification to Council advising of the demolition date, details of the SafeWork licensed asbestos demolisher and the list of residents advised of the demolition.

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

- 61. Demolition work involving asbestos removal** - Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 458 of the Work Health and Safety Regulation 2011.
- 62. Utility Arrangements** - Arrangements are to be made with utility authorities in respect to the services supplied by those authorities to the development. The cost associated with the provision or adjustment of services within the road and footway areas is to be at the applicant's expense.
- 63. Erosion and Sedimentation Control** - Erosion and sediment controls must be provided to in accordance with the approved Site Management Plan.

Removal or disturbance of vegetation and top soil is confined to within 3m of the approved building area (no trees to be removed without approval). All disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar.

All clean water run-off is diverted around cleared or exposed areas.

Silt fences, stabilised entry/exit points or other devices are installed to prevent sediment from entering drainage systems or waterways.

Controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadway. Compliance with [Managing Urban Stormwater – Soils and Construction \(Blue Book\) produced by Landcom 2004](#) is to be met.

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

- 64. 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.
- 65. Vehicular Crossing – Major Development** - The following vehicular crossing and road frontage works will be required to facilitate access to and from the proposed development site:
- (i) Construct a 1.5 metre wide footpath for the full length of the frontage of the site in Princes Highway in accordance with Council's Specifications applying at the time construction approval is sought;
 - (ii) The thickness and design of the driveway shall be in accordance with Council's Specifications applying at the time construction approval is sought.
 - (iii) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the applicant. The work shall be carried out in accordance with Council's specification, applying at the time construction approval is sought.

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

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

Longitudinal and cross sections, gradients, access onto the proposed lots, type of construction materials designed in accordance with Council's Subdivision standards and AS/NZS2890.1-2004;

Suitable underground provision for the supply of all relevant services to the proposed lots (proposed position of pipes and conduits); and

The full length of the driveway designed with a minimum 150mm thick reinforced concrete and minimum of 2.7m wide pavement/kerb face to kerb face width, and a non-slip surface.

- 67. Removal** – Bins are to be taken to the kerbside for collection and garbage bins are to be

collected twice a week and recycling bins are to be collected weekly. They are to be collected from the kerbside and removed from the kerbside as soon as possible after collection.

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

- (a) All stormwater shall drain by gravity to Council's kerb and gutter in the street as indicated on the approved drainage plan 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 (2005 or 2016) and Council's Stormwater Drainage Guidelines, shall accompany the application for the Construction Certificate.
- (c) The underground basement car park must pump to and all other stormwater must drain by gravity to a silt arrestor pit.
- (d) The construction of the building and driveway shall be designed to protect the underground basement from possible inundation by surface waters. The crest of the driveway shall be set least 150 mm above the top of the kerb levels.
- (e) The sub soil drainage for the below ground structures including basement car parks shall be designed in accordance with the findings and recommendations in the geotechnical report. The geotechnical report should assess any possible impact of the proposed development upon existing ground water table and surrounding land and buildings. Should the results of the report indicate that the site is likely to experience issues associated with groundwater management, a fully-tanked dry basement with no sub soil drainage collection or disposal and an allowance made for any hydrostatic pressures.
- (f) Prior to the commencement of works, the PCA/builder shall ensure that the stormwater discharge pipe across the footpath shall be RHS at an angle and is laid with minimum disturbance at a minimum 1% grade to the kerb and gutter in the street and is made in good working condition.
- (g) There shall be no damage to the adjoining driveway crossing. All damages are to be rectified to its original condition at the cost of the applicant.

69. Stormwater Systems with Basement - The underground basement car park must pump to and all other stormwater must drain by gravity to the drainage system within the site via a silt trap pit.

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

70. Protection of basement from inundation of stormwater waters - The protection of the underground basement shall be protected from possible inundation by surface waters from the street.

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

71. Pump-Out System Design for Stormwater Disposal - The design of the pump-out system for storm water disposal will be permitted for drainage of basement areas only, and must be designed in accordance with the following criteria:

- (a) The pump system shall consist of two pumps, connected in parallel, with each pump being capable of emptying the holding tank at the rate equal to the rate of inflow for the one-hour duration storm. The holding tank shall be capable of holding one hour's runoff from a one-hour duration storm of the 1 in 20 year storm. Minimum storage volume shall be 3m³;
- (b) The pump system shall be regularly maintained and serviced, every six (6) months; and
- (c) The drainage disposal shall be discharged to a silt arrestor pit.

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

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

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

73. Council Property Shoring - Prior to the issue of the Construction Certificate, plans and specifications prepared by a professional engineer specialising in practising structural engineering must detail how Council's property shall be supported at all times.

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

74. Geotechnical requirements prior to construction - The recommendations of the Geotechnical Report prepared by Dirt Doctors and dated 25 August 2018 shall be

implemented and satisfied

Construction methods must ensure that nuisance from vibration does not occur, at levels below the threshold for building damage. Vibration monitoring in this regard may be required and on-site guidance by a vibration specialist during the early part of excavation.

As the submitted Geotechnical Report is based on the findings and data that is limited and has been extrapolated across the site, should actual site conditions differ from those inferred, an updated Geotechnical Report, prepared by a professional engineer specialising in geotechnical engineering who holds the relevant Certificate of accreditation as required under the Building Professionals Act 2005 in relation to dilapidation reports, all site works and construction is to be submitted before the issue of the Construction Certificate.

75. **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).
76. **Allocation of street addresses** - In order to comply with AS/NZS 4819:2011 Rural and Urban Addressing, the NSW Addressing User Manual (Geographical Names Board of NSW) and Georges River Council's requirements, the street address for the subject development is allocated as follows:

Primary Street Address

723 Princes Highway BLAKEHURST NSW 2221

Unit Addresses

Refer to the attached list of unit addresses for the subject development Table included at the end of this consent

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

77. **Access for Persons with a Disability and Adaptable Housing** - Access for persons with disabilities and adaptable housing must be provided to the premises/building in accordance with the requirements of AS4299-1995, the Building Code of Australia, and AS 1428.1 where relevant. The requirements and amendments indicated in Access Report prepared by Vista Access Architects Revision B are to be complied with and are to be shown on the construction certificate drawings.
78. **State Environmental Planning Policy 65 Design Verification Statement** - A design verification statement, prepared by the qualified designer, shall be submitted to the Certifier verifying that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out under Schedule 1 of State Environmental Planning Policy No 65 -Design Quality of Residential Flat Development.
79. **BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate ~~No.959108M~~ 959108M_02 dated ~~10 September 2018~~ 16 August 2021 shall be updated to reflect the amended plans (Revision C and E) and the commitments must be implemented on the plans lodged with the application for the Construction Certificate.

(This condition is modified as part of MOD2021/0134)

- 80. Waste Storage** - The number of bins required for this property is 15 X 240L garbage bins and 15 X 240L recycling bins and 3 x 240L Green Bins. Bins will be collected once a week and need to be taken to the Blake Avenue for collection.

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

- i) floor to be sealed;
- ii) walls and floor surface is flat and even;
- iii) all walls painted with light colour and washable paint;
- iv) equipment electric outlets to be installed 1700mm above floor levels;
- v) is mechanically exhausted as required by AS 1668.2;
- vi) must be well lit (sensor lighting recommended); a light switch is installed at height of 1.6m;
- vii) an optional automatic odour and pest control system may be installed to eliminate all pest types and assist with odour reduction;
- viii) all personnel doors are hinged and self-closing; and
- ix) conform to the Building Code of Australia, Australian Standards and local laws; and childproofing and public/operator safety shall be assessed and ensure that the bin movements should be with ease of access.
- x) Occupational Health and Safety issues such as slippery floors in waste rooms and the weight of the waste and recycling receptacles will need to be monitored.
- xi) Cleaners will monitor the bin storage area and all spills will be attended to immediately by cleaners.

- 81. Structural details** - Engineer's details prepared by a practising Structural Engineer being used to construct all reinforced concrete work, structural beams, columns and other structural members. The details are to be submitted to the Certifier for approval prior to construction of the specified works. A copy shall be forwarded to Council where Council is not the Certifier.

DURING CONSTRUCTION

- 82. Physical connection of stormwater to site** - No work is permitted to proceed above the ground floor slab level of the building until there is physical connection of the approved stormwater drainage system from the land the subject of this consent to Princes Highway.

- 83. 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)

- 84. 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.

- 85. No 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.
- 86. 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.

- 87. Waste Management Facility** - All materials removed from the site as a result of demolition, site clearing, site preparation and, or excavation shall be disposed of at a suitable Waste Management Facility. No vegetation, article, building material, waste or the like shall be ignited or burnt. Copies of all receipts for the disposal, or processing of all such materials shall be submitted to the Principal Certifier, and Council, where Council is not the Principal Certifier.
- 88. 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.
- 89. Waste Management Facility** - All materials removed from the site as a result of site clearing, site preparation and, or excavation will be disposed of at a suitable Waste Management Facility. No vegetation, article, building material, waste or the like will be ignited or burnt.
- Copies of all receipts for the disposal, or processing of all such materials will be submitted to the Principal Certifier and Council, where Council is not the Principal Certifier.
- 90. 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.
- 91. Discovery of Additional Information** - Council and the Principal Certifying Authority (if Council is not the PCA) must be notified as soon as practicable if any information is discovered during demolition, excavation or construction that has the potential to alter previous conclusions about site contamination or Acid Sulfate Soil risks.
- 92. 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)

- 93. Noise control measures** - All noise and vibration control measures nominated in the acoustical consultant's report and any related project documentation must be implemented as a minimum.
- 94. Registered Surveyors Report - During Development Work** - A report must be submitted to the Principal Certifier at each of the following applicable stages of construction:
- (i) Set out before commencing excavation;
 - (ii) Floor slabs or foundation wall, before formwork or commencing brickwork;
 - (iii) Completion of Foundation Walls - Before any construction of flooring, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans;
 - (iv) Completion of Floor Slab Formwork - Before pouring of concrete/walls construction, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans. In multi-storey buildings a further survey must be provided at each subsequent storey;
 - (v) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries;
 - (vi) Completion of all Work - Detailing the location of the structure (including eaves/gutters) relative to adjacent boundaries and its height relative to the datum shown on the approved plans. A final Check Survey must indicate the reduced level of the main ridge.

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

PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

- 95. Structures, retaining walls and fencing at the rear** – The structures at the rear including fencing and retaining walls shall be formally certified by a qualified Structural Engineer prior to the issuing of the Occupation Certificate
- 96. Acoustic Certification** - Prior to the issue of any Occupation Certificate, a report prepared by a suitably qualified acoustic consultant must be submitted to the PCA certifying that the construction has incorporated the recommendations in the Acoustic Report prepared by ~~Acoustic Vibration and Noise Pty Ltd~~ Resonate and dated ~~16 August 2018~~ 18 November 2021.

(This condition is modified as part of MOD2021/0134)

- 97. 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 Principal Certifier prior to the issue of any Occupation Certificate.

- 98. Vehicular crossing & Frontage work – Major development** - The following road frontage works shall be constructed in accordance with Council's Specification for Vehicular Crossings and Associated Works together with the Vehicular Crossing Approval issued by Council's Engineering Services Division. Also, the works are carried out in accordance with NSW Roads and Maritime Services:

- (a) Construct footpath for the full length of the frontage of the site in accordance with Council's Specifications for footpaths.
- (b) Construct the vehicular crossing in accordance with Council's Specifications for vehicular crossings.
- (c) Construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontage(s) of the site in accordance with Council's Specifications for kerb and guttering.
- (d) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the applicant and in accordance with Council's Specification for Vehicular Crossings and Associated Works.

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

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

- 99. Completion of Landscape Works** - All landscape works must be completed before the issue of the Final Occupation Certificate in accordance with the updated Landscape Plans and in accordance with conditions in this consent which require the landscape plans to be modified.
- 100. Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.
- 101. 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 two (2) adjoining premises to the south and the public infrastructure and assets to the north.

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

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

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

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

- 103. State Environmental Planning Policy 65 Design Verification Statement** - The Principal Certifier must not issue an Occupation Certificate to authorise a person to commence occupation of the residential flat development unless design verification from a qualified designer, being a statement in which the qualified designer verifies that the residential flat development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to the design quality principles set out in Part 2 (Schedule 1) of State Environmental Planning Policy No 65 Design Quality of Residential Apartment Development.

- 104. Major Development Car Parking Areas** - 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.

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

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

- 107. Works as Executed and certification of stormwater works** - Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards. A works-as-executed drainage plan and certification must be forwarded to the Principal Certifier and Council, from a professional engineer specialising in hydraulic engineering.

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

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

- (i) The location of any detention basin/s with finished surface levels;
- (ii) Finished site contours at 0.2 metre intervals (if applicable);
- (iii) Volume of storage available in any detention areas;
- (iv) The location, diameter, gradient and material (i.e. PVC, RC etc.) of all stormwater pipes;
- (v) The orifice size/s (if applicable);
- (vi) Details of any infiltration/absorption systems; and (if applicable);
- (vii) Details of any pumping systems installed (including wet well volumes) (if applicable).

108. Design Quality Excellence (Major Development) – In order to ensure the design quality excellence of the development has been maintained throughout the construction process the Design Architect is to provide final sign off prior to the issuing of the Occupation Certificate to state that the development satisfies the ADG criteria (as approved) and has been constructed using the highest quality materials and finishes and is in accordance with the approved materials and finishes schedule/board that Council approved prior to the CC being issued.

109. Requirements prior to the issue of the Occupation Certificate - The following shall be completed and or submitted to the Principal Certifier prior to the issue of the Occupation Certificate:

- a) All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
- b) Work as Executed Plans prepared by a Chartered Professional Engineer or a Registered Surveyor when all the site engineering works are complete shall be submitted to the Principal certifier prior to the issue of the Occupation Certificate.

110. Vehicular crossing & Frontage work – Major development - The following road frontage works shall be constructed in accordance with Council's Specification for Vehicular Crossings and Associated Works together with the Vehicular Crossing Approval issued by Council's Engineering Services Division. Also, the works are carried out in accordance with NSW Roads and Maritime Services:

- (e) Construct footpath for the full length of the frontage of the site in accordance with Council's Specifications for footpaths.
- (f) Construct the vehicular crossing in accordance with Council's Specifications for vehicular crossings.
- (g) Construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontage(s) of the site in accordance with Council's Specifications for kerb and guttering.
- (h) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored

at the expense of the applicant and in accordance with Council's Specification for Vehicular Crossings and Associated Works.

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

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

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

- (a) Driveways and vehicular crossings within the road related area;
- (b) Removal of redundant driveways and vehicular crossings;
- (c) New footpaths within the road related area;
- (d) Relocation of any existing above ground utility services
- (e) Relocation/provision of street signs
- (f) New or replacement street trees;
- (g) New footway verges, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street.
- (h) New or reinstated kerb and guttering within the road related area; and
- (i) New or reinstated road surface pavement within the road.

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

112. Dilapidation Report on Public Land - Upon completion of works, a follow up dilapidation report must be prepared or the items of Council infrastructure adjoining the development site. The dilapidation report must be prepared by a professional engineer specialising in structural engineering, and include:

- (i) Photographs showing the condition of the road pavement fronting the site;
- (ii) Photographs showing the condition of the kerb and gutter fronting the site;
- (iii) Photographs showing the condition of the footway including footpath pavement fronting the site;
- (iv) Photographs showing the condition of retaining walls within the footway or road;
- (v) Closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site, and
- (vi) The full name and signature of the professional engineer.

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

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

113. Stormwater drainage works – Works As Executed - Prior to the issue of the

Occupation Certificate, storm water drainage works are to be certified by a professional engineer specialising in hydraulic engineering, with Works-As-Executed drawings supplied to Council detailing:

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

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

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

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

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

115. Allocation of car parking spaces - Car parking associated with the development is to be allocated as follows and shall be reflected on the strata plan:

- a) Minimum 32 resident car parking spaces
- b) 4 residential visitor spaces
- c) 3 accessible spaces.
- d) 1 car wash bay
- e) Motorbike parking catering for a minimum of 1 motorbike
- f) Minimum of seven (7) designated bicycle spaces

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

Certificate.

117. **BASIX Certificate** - All energy efficiency measures as detailed in the approved/updated BASIX Certificate and the plans approved with the Development Consent, must be implemented before issue of any Occupation Certificate.
118. **Maintenance Schedule – On-site Stormwater Management.** A Maintenance Schedule for the proposed on-site stormwater management measures is to be prepared and submitted to Council. The Maintenance Schedule will outline the required maintenance works, how and when these will be done and who will be carrying out these maintenance works.
119. **Stormwater** - Prior to the issue of an Occupation Certificate, the PCA must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards. A works-as-executed drainage plan and certification must be forwarded to the PCA and Council, from a professional engineer specialising in hydraulic engineering.

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

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

- (a) The location of any detention basin/s with finished surface levels;
 - (b) Volume of storage available in any detention areas;
 - (c) The location, diameter, gradient and material (i.e. PVC, RC etc.) of all stormwater pipes;
 - (d) The orifice size/s.
120. **Acoustic Certification** - Prior to the issue of any Occupation Certificate, a suitably qualified acoustic consultant will certify that the operation of the premises and plant equipment will not give rise to a sound pressure level at any affected premises that exceeds the relevant acoustic criteria. The development will at all times comply with these noise levels post occupation.
121. **Waste room** - The waste room will contain the following to minimise odours, deter vermin, protects surrounding areas, and make it a user-friendly and safe area:
 - waste room floor to be sealed;
 - waste room walls and floor surface is flat and even;
 - all walls painted with light colour and washable paint;
 - equipment electric outlets to be installed 1700mm above floor levels;
 - The bin storage rooms will be mechanically exhausted as required by AS 1668.2;
 - light switch installed at height of 1.6m;
 - waste rooms must be well lit (sensor lighting recommended);
 - optional automatic odour and pest control system installed to eliminate all pest types and assist with odour reduction - this process generally takes place at building handover - building management make the decision to install;
 - all personnel doors are hinged and self-closing;

- waste collection area must hold all bins - bin movements should be with ease of access;
- conform to the Building Code of Australia, Australian Standards and local laws; and childproofing and public/operator safety shall be assessed and ensured.
- Occupational Health and Safety issues such as slippery floors in waste rooms and the weight of the waste and recycling receptacles will need to be monitored.
- Cleaners will monitor the bin storage area and all spills will be attended to immediately by cleaners:

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

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

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

OPERATIONAL CONDITIONS (ONGOING)

124. Noise Control - The use of the premises must not give rise to the transmission of offensive noise to any place of different occupancy. Offensive noise is defined in the Protection of the Environment Operations Act 1997 (as amended). This includes the use of the rooftop open space.

125. Roof top terrace – The Plan of Management for the use of this space shall be adhered to for the perpetuity of the development. The Strata Manager shall ensure that the plan is provided to all residents and occupants of the development and a sign shall be installed next to the lifts on the rooftop level to highlight the hours of use of the area (8am until 10pm daily) and any other operational restrictions ie keeping the space clean, rules around using the bbq's and associated equipment.

125A. Privacy screens – Shall be maintained in their approved position at all times and affixed to the building securely.

(This condition is added as part of MOD2021/0134)

125b. Details of the operation of the traffic signalling system as approved is to be included in the Contract for the sale of the apartments so that potential purchasers understand the operation.

(This condition is added as part of MOD2021/0134)

125c. Vehicles sizes - The Contract for the sale of properties shall include a provision that ensure future occupants understand that the basement car parking areas and spaces have been

designed to accommodate B85 vehicles and larger vehicles may have trouble accessing spaces.

(This condition is added as part of MOD2021/0134)

- 126. Final Acoustic Report – Verification of Noise report** - Within three months from the issue of an Occupation Certificate, an acoustic assessment is to be carried out by an appropriately qualified acoustic consultant, in accordance with the EPA's Industrial Noise Policy and submitted to Council for consideration. This report should include but not be limited to, details verifying that the noise control measures as recommended in the acoustic report.
- 127. Clothes drying** – Clothes drying shall not occur on balconies. Each unit shall include a dryer.
- 128. Compliance with POM for use of rooftop open space** - The approved Plan of Management (POM) for use of the rooftop open space shall be enforced by the Owners Corporation.
- 129. 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.
- 130. Entering & Exiting of vehicles** - All vehicles shall enter and exit the premises in a forward direction.
- 131. 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.
- 132. Responsibility of Owners Corporation** - The Owners Corporation shall be responsible for presenting all approved waste and recycling receptacles for collection, and returning all receptacles to the Main Waste Collection Room, as soon as practicable after they have been serviced.

The Owners Corporation shall also be responsible for maintaining all equipment, systems, facilities and storage areas used in conjunction with the provision of waste management services in accordance with all applicable regulatory requirements, relevant health and environmental standards, and to the satisfaction of Council.
- 133. Maintenance of Landscaping** - All trees and plants forming part of the approved landscaping must be maintained in perpetuity. Maintenance includes watering,

weeding, removal of rubbish from tree bases, fertilizing, pest and disease control, replacement of dead or dying plants and any other operations required to maintain healthy trees, plants and turfed areas.

- 134. 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.
- 135. Waste facilities** - Occupational Health and Safety issues such as slippery floors in waste rooms and the weight of the waste and recycling receptacles will need to be monitored. Cleaners must monitor the bin storage area and all spills need to be attended to immediately by cleaners.
- 136. Activities and Storage of Goods Outside Buildings** - There will be no activities including storing or depositing of any goods or maintenance to any machinery external to the building with the exception of waste receptacles.
- 137. Disability Discrimination Act** – The applicant is responsible to ensure compliance with this and other anti-discrimination legislation.

OPERATIONAL REQUIREMENTS UNDER THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

- 138. Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued.
- 139. Appointment of a Principal Certifier** - The erection of a building must not commence until the applicant has:
 - i) appointed a Principal Certifier for the building work; and
 - ii) if relevant, advised the Principal Certifier that the work will be undertaken as an Owner -Builder.

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

- iii) 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
 - iv) notify the Principal Certifier of the details of any such appointment; and
 - v) 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.
- 140. Notification Requirements of Principal Certifier** - No later than two days before the building work commences, the Principal Certifier must notify:
 - a) the consent authority and the Council (if not the consent authority) of his or her appointment; and

- b) the applicant of the critical stage inspections and other inspections that are to be carried out with respect to the building work.

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

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

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

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

- 142. FR NSW Comments** - Prior to the issue of a Construction Certificate the applicant may be required, under Clause 144 of the Environmental Planning & Assessment Regulation 2000 to seek written comment from FR NSW about any Fire Engineered Solution developed to meet the performance requirements under Category 2 Fire Safety Provisions.
- 143. Building - Energy Efficiency Provisions** - Should Council be appointed as the Certifying Authority, a report prepared and endorsed by an Energy Efficiency Engineer or other suitably qualified person must be submitted, detailing the measures that must be implemented in the building to comply with Section J of the Building Code of Australia. The proposed measures and feature of the building that facilitate the efficient use of energy must be identified and detailed on the architectural plans. At completion of the building and **before the issue of an Occupation Certificate**, a certificate certifying that the building has been erected to comply with the energy efficiency provisions must be submitted to the Certifying Authority.
- 144. Notice of Commencement** - The applicant must give at least two days notice to the Council and the Principal Certifier of their intention to commence the erection of a building.
- 145. Critical Stage Inspections** - The last critical stage inspection must be undertaken by the Principal Certifier. The critical stage inspections required to be carried out vary according to Building Class under the Building Code of Australia and are listed in Clause 162A of the Environmental Planning and Assessment Regulation 2000.
- 146. Notice to be given prior to critical stage inspections** - The principal contractor for a building site, or the owner-builder, must notify the Principal Certifier at least 48 hours

before each required inspection needs to be carried out. Where Georges River Council has been appointed as the Principal Certifier, 48 hours notice in writing, or alternatively 24 hours notice by facsimile or telephone, must be given when specified work requiring inspection has been completed.

- 147. Occupation Certificate** - A person must not commence occupation or use of the whole or any part of a new building unless an Occupation Certificate has been issued in relation to the building or part. Only the Principal Certifier appointed for the building work can issue the Occupation Certificate.

PRESCRIBED CONDITIONS

- 148. Clause 97A - BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
- 149. 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.
- 150. Clause 98A – Erection of Signs** - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the Principal Certifier and the Principal Contractor.
- 151. 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.
- 152. 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.
- 153. 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/ADVISES

- 154. Review of Determination** - Section 82A 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.

- 155. Appeal Rights** - Division 8 (Appeals and Related matters) Part 4 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.
- 156. 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 95 of the Environmental Planning and Assessment Act 1979 as amended.
- 157. Council as PCA - Compliance with the Building Code of Australia** - Should the Council be appointed as the Principal Certifying Authority in determining the Construction Certificate, the building must comply with all the applicable deemed to satisfy provision of the Building Code of Australia. However, if an alternative solution is proposed it must comply with the performance requirements of the Building Code of Australia, in which case, the alternative solution, prepared by an appropriately qualified fire consultant, accredited and having specialist qualifications in fire engineering, must justifying the non-compliances with a detailed report, suitable evidence and expert judgement. Council will also require if deemed necessary, for the alternative solution to undergo an independent peer review by either the CSIRO or other accredited organisation. In these circumstances, the applicant must pay all costs for the independent review.
- 158. 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 Building Code of Australia. 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
- 159. 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.
- 160. Council as PCA - Total Conformity with Building Code of Australia** - Should the Council be appointed as the Principal Certifying Authority, the Construction Certificate Application must be accompanied by the following details, with plans prepared and certified by an appropriately qualified person demonstrating compliance with the Building

Code of Australia:

- Mechanical ventilation to bathroom, laundry and basement areas not afforded natural ventilation.
- Provision of natural light to all habitable areas.
- Fire-fighting services and equipment including hydrant and booster assembly systems, sprinkler and valve room systems, hose reels, portable fire extinguishers, smoke hazard management systems and sound & warning systems.
- Emergency lighting and exit signs throughout, including terrace areas, lobby and basement areas.
- Construction of all fire (smoke) doors including warning and operational signage to required exit and exit door areas.
- Egress, travel distance and the discharge from an exit including the swing of exit doors.
- The protection of openings including spandrel separation.
- Fire compartmentation and fire wall separation details including all stairway, lift and service shaft areas.
- Protection of openings including paths of travel from fire isolated exists
- Re-entry facilities from fire isolated exit stairways.
- Sound transmission and insulation details.
- Window schedule is to include the protection of openable windows.
- The location of sanitary facilities for employees in accordance with Table F2.1

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

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

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

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

- 162. 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.

163. 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](#):

- (a) Complete the Driveway Crossing on Council Road Reserve Application Form which can be downloaded from Georges River Council's Website at www.georgesriver.nsw.gov.au.
- (b) In the Application Form, quote the Development Consent No. (DA2018/0038) and reference the relevant condition number.
- (c) Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Council's adopted Fees and Charges for the administrative and inspection charges associated with Vehicular 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 by a private contractor in accordance with Council's specifications prior to the issue of an Occupation Certificate.

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

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

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

164. 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.

165. Development Engineering - Conditions relating to future Strata Subdivision of Buildings - No approval is expressed or implied for the subdivision of the subject building(s). For any future Strata subdivision, a separate Complying Development Certificate shall be approved by Council or an Accredited Certifier.

Prior to the issue of any Strata Certificate of the subject building(s) the following conditions shall be satisfied:

(a) Unit Numbering

Apartment type numbers shall be installed adjacent or to the front door of each unit. The unit number shall coincide with the strata plan lot numbering.

(b) Car Parking Space Marking and Numbering

Each car space shall be line marked with paint and numbered in accordance with the strata plan lot numbering.

"Visitor Parking" signs shall be installed adjacent to any and all visitor car spaces prior to the issue of any Strata Certificate.

"Accessible spaces" shall also be accordingly marked and designated.

(c) Designation of Visitor Car Spaces on any Strata Plan

Any Visitor car spaces shall be designated on the final strata plan as "Visitor Parking - Common Property".

(d) Allocation of Car Parking Spaces, Storage Areas and Common Property on any Strata Plan

- i. All car parking spaces shall be created as a part lot of the individual strata's unit lot in any Strata Plan of the subject building.
- ii. All storage areas shall be created as a part lot of the individual strata's unit lot or a separate Utility Lot (if practical) in any Strata Plan of the subject building.
- iii. The minimum number of parking spaces required to be allocated as a part lot to each individual strata's unit lot shall be in accordance with the car parking requirements of Council's Development Control Plan and as required by the relative development consent for the building construction.
- iv. No parking spaces shall be created as an individual strata allotment on any Strata Plan of the subject building unless these spaces are surplus to the minimum number of parking spaces required.

If preferred the surplus car spaces shall be permitted to be created as separate Utility Lots, (instead as a part lot of the individual strata's unit lot), in accordance with section 39 of the Strata schemes (freehold development Act 1973).

The above requirements regarding car parking spaces and storage areas may only be varied with the conditions of a separate Development Application Approval for Strata Subdivision of the Building(s).

(e) On Site Detention Requirements

The location any on-site detention facility shall be shown on the strata plan and suitably denoted.

(f) Creation of Positive Covenant

A Positive Covenant shall be created over any on-site detention facility by an Instrument pursuant to Section 88B of the Conveyancing Act 1919, with the covenant including the following wording:

"It is the responsibility of the Owner's Corporation to keep the on-site detention facilities, together with any ancillary pumps, pipes, pits etc, clean at all times and maintained in an efficient working condition. The on-site detention facilities shall not be modified in any way without the prior approval of Georges River Council."

Georges River Council is to be nominated as the Authority to release, vary or modify this Covenant.

166. Strata Subdivision - Council will check the consent conditions on the relevant Strata Subdivision consent. Failure to submit the required information will delay endorsement of

the plan of subdivision.

Council will undertake the required inspections to satisfy the requirements of the [Strata Schemes Development Regulation 2016](#) to determine the Strata Certificate.

Strata Plans, Administration Sheets, 88B Instruments and copies must not be folded. All Strata Plans, Strata Plan Administration Sheets and 88B Instruments shall be submitted to Council enclosed in a protective cardboard tube (to prevent damage during transfer).

- 167. 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).

- 168. Noise** - Council will generally enforce noise related conditions in accordance with the *Noise Guide for Local Government* (<http://www.environment.nsw.gov.au/noise/nlgq.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).

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

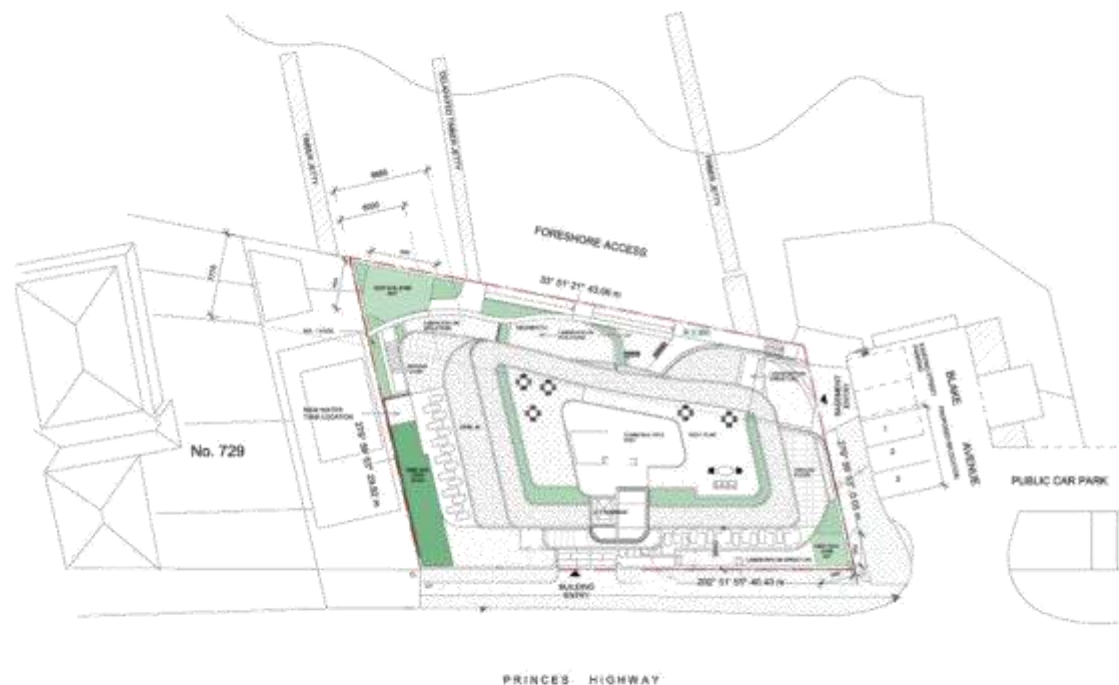
- a) Australian Acoustical Society—professional society of noise-related professionals (www.acoustics.asn.au)
- b) Association of Australian Acoustical Consultants—professional society of noise related professionals (www.aaac.org.au)
- c) NSW Industrial Noise Policy – Office of Environment & Heritage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

These conditions comprise the operational and statutory conditions which must be satisfied under the Environmental Planning and Assessment Act 1979 and the Environmental Planning & Assessment Regulation 2000. Please refer to the full details of the Act and Regulations as in force, at www.legislation.nsw.gov.au. It is the responsibility of the beneficiary of this consent to determine which operational and statutory conditions apply.

Unit Addresses at 723 Princes Highway BLAKEHURST NSW 2221					
Unit numbers and addresses allocated by Council					
From DA Plans	Unit No	Street No	Street Name	Suburb	COMPLETE ADDRESS
Unit 1	G01	723	Princes Highway	BLAKEHURST NSW 2221	G01/723 Princes Highway BLAKEHURST NSW 2221
Unit 2	G02	723	Princes Highway	BLAKEHURST NSW 2221	G02/723 Princes Highway BLAKEHURST NSW 2221
Unit 3	G03	723	Princes Highway	BLAKEHURST NSW 2221	G03/723 Princes Highway BLAKEHURST NSW 2221
Unit 4	101	723	Princes Highway	BLAKEHURST NSW 2221	101/723 Princes Highway BLAKEHURST NSW 2221
Unit 5	102	723	Princes Highway	BLAKEHURST NSW 2221	102/723 Princes Highway BLAKEHURST NSW 2221
Unit 6	103	723	Princes Highway	BLAKEHURST NSW 2221	103/723 Princes Highway BLAKEHURST NSW 2221
Unit 7	201	723	Princes Highway	BLAKEHURST NSW 2221	201/723 Princes Highway BLAKEHURST NSW 2221
Unit 8	202	723	Princes Highway	BLAKEHURST NSW 2221	202/723 Princes Highway BLAKEHURST NSW 2221
Unit 9	203	723	Princes Highway	BLAKEHURST NSW 2221	203/723 Princes Highway BLAKEHURST NSW 2221
Unit 10	301	723	Princes Highway	BLAKEHURST NSW 2221	301/723 Princes Highway BLAKEHURST NSW 2221
Unit 11	302	723	Princes Highway	BLAKEHURST NSW 2221	302/723 Princes Highway BLAKEHURST NSW 2221
Unit 12	302	723	Princes Highway	BLAKEHURST NSW 2221	302/723 Princes Highway BLAKEHURST NSW 2221
Unit 13	401	723	Princes Highway	BLAKEHURST NSW 2221	401/723 Princes Highway BLAKEHURST NSW 2221
Unit 14	402	723	Princes Highway	BLAKEHURST NSW 2221	402/723 Princes Highway BLAKEHURST NSW 2221
Unit 15	403	723	Princes Highway	BLAKEHURST NSW 2221	403/723 Princes Highway BLAKEHURST NSW 2221
Unit 16	501	723	Princes Highway	BLAKEHURST NSW 2221	501/723 Princes Highway BLAKEHURST NSW 2221
Unit 17	502	723	Princes Highway	BLAKEHURST NSW 2221	502/723 Princes Highway BLAKEHURST NSW 2221
Unit 18	503	723	Princes Highway	BLAKEHURST NSW 2221	503/723 Princes Highway BLAKEHURST NSW 2221
Unit 19	601	723	Princes Highway	BLAKEHURST NSW 2221	601/723 Princes Highway BLAKEHURST NSW 2221
Unit 20	602	723	Princes Highway	BLAKEHURST NSW 2221	602/723 Princes Highway BLAKEHURST NSW 2221
Unit 21	603	723	Princes Highway	BLAKEHURST NSW 2221	603/723 Princes Highway BLAKEHURST NSW 2221

ATTACHMENTS

Attachment [1](#)  blakehurst 723 plans - LPP



Site Area:	1009.30m ²
Max Building Height:	21m
Building Height:	22.750m
Lift Overrun:	27.100m
(Lift Overhead):	4.350m
Max GFA:	3519.4m ²
Achieved GFA:	2087m ²
Max FSR:	3.05:1
Achieved FSR:	2.1
Required Deep Soil Zone:	7%
Required deep Soil Zone:	70.6m ²
Achieved Deep Soil Zone 3m min:	7%
Achieved deep Soil Zone 3m min:	70.6m ²
Soil Landscape Area Provided:	100m ²
1m min Deep Soil Provided:	100m ²
Max Site Coverage:	48%
Site Coverage:	380.8m ²
Site Coverage:	37.7%
Max Impervious Area:	58%
Max Impervious Area:	427.55m ²
Max Impervious Area:	42.35%
1 Bed:	1
2 Bedroom:	8
3 Bedroom:	8
Total Units:	17
Required Car Spaces:	30
Total Car Spaces:	
Tandem:	8 x 2 = 16
Single:	14
Adaptable:	3
Visitor parking:	4
Carwash Bay: within visitor space:	1
Bicycle Parking:	7
Motorbikes:	1
Tandem Swap bays:	
(not included in calculation)	

1 S4.55 Site Plan
 1 : 200

Disclaimer:
 While drawings to building form and configuration may be required when drawings are submitted to the council for construction purposes, the council does not warrant the accuracy of the drawings.

NO.	REVISION / DESCRIPTION	DATE
1	ISSUED FOR SUBMISSION	21
2	ISSUED FOR SUBMISSION	21

ARCHITECTS	CLIENT	PROJECT
DRUM DESIGN ARCHITECTS	EDGE POINT DEVELOPMENTS PTY LTD	RESIDENTIAL DEVELOPMENT
40/11 GOWALL STREET ORCHARD NSW 2058		100 PRINCES HIGHWAY, BLAKEHURST NSW 2227

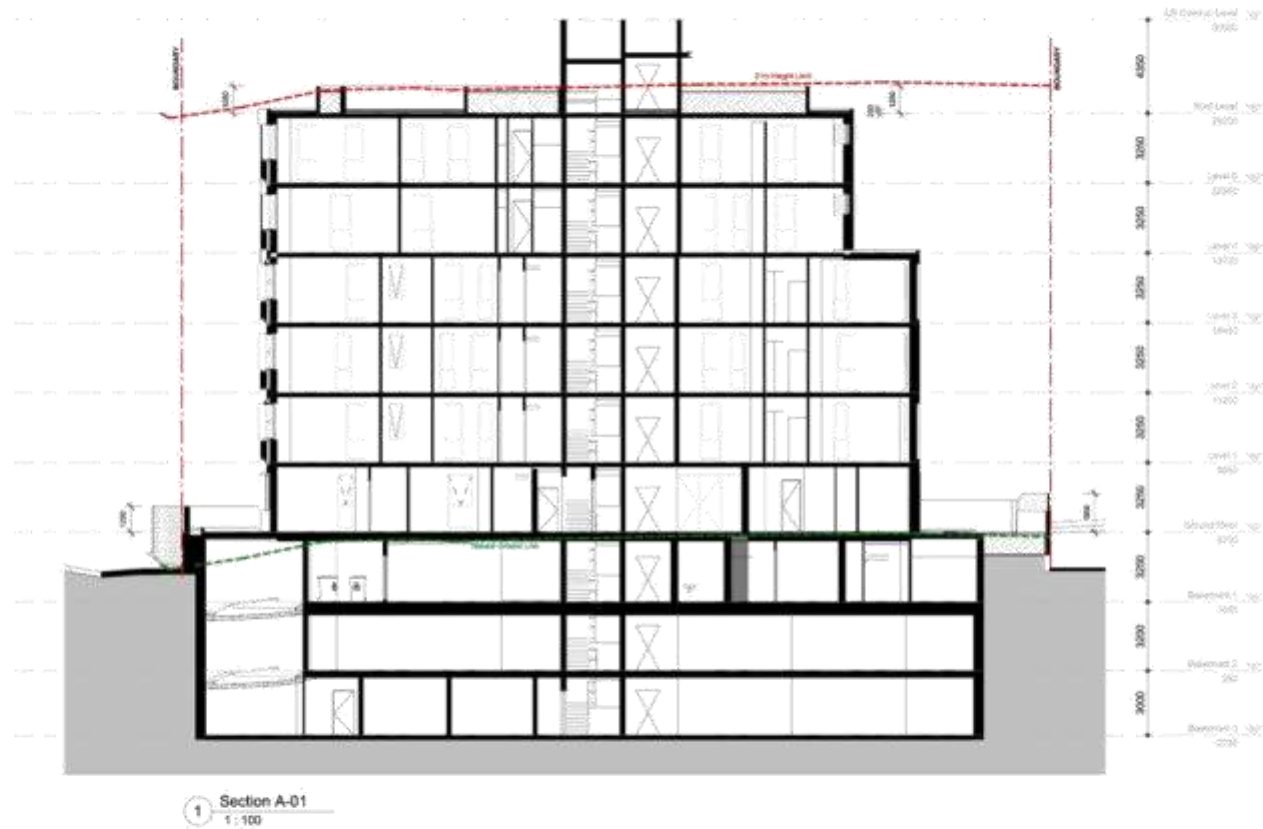
Scale: 1:200

DEVELOPER	DATE	BY	DATE
EDGE POINT DEVELOPMENTS PTY LTD	21/04/21	AT	21/04/21
DEVELOPMENT APPLICATION	DATE	BY	DATE
21044	21/04/21	AT	21/04/21









Explanatory Note:
 Where changes to building form and configuration may be required after drawings are submitted, please provide for construction purposes after the ground development is complete.

Drawings	Revisions
1.00	1.00
2.00	2.00
3.00	3.00
4.00	4.00
5.00	5.00
6.00	6.00
7.00	7.00
8.00	8.00
9.00	9.00
10.00	10.00



CLIENT:
 EDGE POINT
 DEVELOPMENTS PTY LTD
 40 ST GEORGE STREET SYDNEY NSW
 2000

PROJECT:
 Residential Development
 723-729 Princes Highway, Blakehurst NSW 2207

Drawings	Revisions
1.00	1.00
2.00	2.00
3.00	3.00
4.00	4.00
5.00	5.00
6.00	6.00
7.00	7.00
8.00	8.00
9.00	9.00
10.00	10.00



Explanatory Note:
 When changes to building form and configuration may be required after drawings are submitted, please provide a written explanation of the proposed changes to the Council.

Drawings	Revisions
1.00	1.00
2.00	2.00
3.00	3.00
4.00	4.00
5.00	5.00
6.00	6.00
7.00	7.00
8.00	8.00
9.00	9.00
10.00	10.00

ARCHITECT	CLIENT
DREW JACKSON ARCHITECTS	EDGE POINT DEVELOPMENTS PTY LTD
10/11 GOWALL STREET ORCHARD NSW 2058	723-729 Princes Highway, Blakehurst NSW 2207

PROJECT	SECTION
Residential Development	SECTION A-02

Drawing Title & ID	Date	Drawn by
1-100	2021	LW
Project Name	Project No.	Project Date
DEVELOPMENT APPLICATION	21044	21-01-30

**REPORT TO GEORGES RIVER COUNCIL
LPP MEETING OF THURSDAY, 09 DECEMBER 2021**

LPP073-21

LPP Report No	LPP073-21	Development Application No	DA2020/0475
Site Address & Ward Locality	22 Merriman Street Kyle Bay Blakehurst Ward		
Proposed Development	Partial demolition works, alterations and additions to the existing dwelling and first floor addition, removal of existing swimming pool and construction of a new inground swimming pool, landscaping and site works		
Owners	Mr Peter Bananis and Ms Marianne Bananis		
Applicant	Mr Peter Bananis		
Planner/Architect	Planner: Rod Logan Architect: voarc		
Date Of Lodgement	17/12/2020		
Submissions	No submissions		
Cost of Works	\$998,000.00		
Local Planning Panel Criteria	The proposal has been referred to the Georges River Local Planning Panel (LPP) as the proposal seeks for a variation greater than 10% to the foreshore building line contained within Clause 6.4 - Limited development on foreshore area development standard contained within Kogarah Local Environmental Plan 2012.		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy No 55 - Remediation Of Land; State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017; State Environmental Planning Policy (Coastal Management) 2018; Draft Environment State Environmental Planning Policy; Draft Remediation of Land SEPP; Georges River Local Environmental Plan 2021; Draft Design and Place State Environmental Planning Policy; Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, State Environmental Planning Policy (Infrastructure) 2007, Kogarah Local Environmental Plan 2012 Kogarah Development Control Plan 2013; Georges River Development Control Plan 2021.		
List all documents submitted with this report for the Panel's consideration	Statement of Environmental Effects Clause 4.6 – Clause 6.4 Limited Development in Foreshore Area Architectural Plans		
Report prepared by	Principal Planner		

Recommendation	That the application be approved in accordance with the conditions included within this report.
-----------------------	---

Summary of matters for consideration under Section 4.15 Have all recommendations in relation to relevant s4.15 matters	Yes
--	------------

been summarised in the Executive Summary of the assessment report?	
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed and relevant recommendations summarised, in the Executive Summary of the assessment report?	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Yes - Clause 6.4 Limited Development on foreshore area
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 with the site is outlined in blue

Executive Summary Proposal

1. Council received a development application seeking planning approval for partial demolition works, alterations and additions to the existing dwelling and first floor addition, removal of existing swimming pool and construction of a new inground swimming pool, landscaping and site works.
2. In response to the issues raised by Council and comments provided from internal specialists, the proposal was amended.

Site and Locality

3. The subject development site is identified as Lot 1 DP 508492, known as 22 Merriman Street, Kyle Bay. The site is located on the southern side of Merriman Street between Waratah Street to the east and Inala Avenue to the west.
4. The lot is a battle-axe allotment with an access handle (3.05m driveway frontage to Merriman Street) located along the north western boundary of 22A Merriman Street. The site has a total area of 842.9sqm, with direct access to Kyle Bay.
5. A single storey brick dwelling with tile roof, attached carports and inground swimming pool is currently located on the site. The site observes a slight fall from the front to the rear of the allotment of approximately 0.78m. The swimming pool and a small portion of the existing dwelling currently encroaches the foreshore building line.
6. Beyond the allotment boundary to the south adjoining the Kyle Bay Foreshore is an area identified as reclaimed land. This irregular shaped area has an eastern boundary of 6.3m, western boundary of 1.8m and a width of 15.8m along the foreshore interface.
7. In the wider context, the subject site is located in an established R2 Low Density Residential Area containing other multi storey dwellings on properties with similar site characteristics and topography. The site is located in the Foreshore Scenic Protection Area and is affected by a 15m Foreshore Building Line.

Zoning, Permissibility and Kogarah Local Environmental Plan (2012) Compliance - LEP

8. The subject site is zoned R2 - Low Density Residential under the provisions of Kogarah Local Environmental Plan 2012 (KOGARAH LOCAL ENVIRONMENTAL PLAN 2012). Dwelling houses and ancillary development are permitted with consent in the zone. Notwithstanding the permissibility of the proposal, the development is considered to be consistent with the objectives of the zone.
9. The proposal seeks a variation to the limited development on foreshore area development standard.
10. The application has been accompanied by a Clause 4.6 exceptions to development standards request for the variation to Clause 6.4 – Limited development on foreshore area development standard. The proposal seeks to encroach the 15m Foreshore Building Line. This request has been supported for the reasons contained within this report.

Kogarah Development Control Plan 2013

11. The provisions of Kogarah Development Control Plan 2013 (KDCP) are applicable to the proposed development. The proposal is considered to be an acceptable urban design and planning outcome for the alterations and additions to the existing building on the site and generally satisfies the applicable provisions contained within KDCP.

12. A detailed assessment of the proposal against these controls is provided later in this report.

Submissions

13. The application was notified for a period of fourteen (14) days in accordance with the Kogarah Development Control Plan 2013. No submissions objecting to the development were received.

Reason for Referral to the Local Planning Panel

14. The proposal has been referred to the Georges River Local Planning Panel (LPP) as the proposal seeks consent for a variation of more than 10% to the foreshore building line contained within Clause 6.4 - Limited development on foreshore area development standard contained within Kogarah Local Environmental Plan 2012.

Planning and Design Issues

15. The proposed alterations and additions to the existing building result in the building encroaching into the 15m Foreshore Building line (FBL) at the rear of the allotment. The existing building already encroaches the FBL and the proposed modifications to the building result in a slight reduction in the encroachment.
16. The Applicant has submitted a Clause 4.6 Statement to justify the non-compliance with the FBL and in this case the variation is considered to be acceptable given the site constraints and the nature and character of existing built forms located along this waterway. The issue is discussed in greater detail in the body of this report.

Conclusion

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 and following a detailed assessment, the proposed Development Application (DA2020/0475) is recommended for approval subject to conditions of consent.

Report in Full

Description of the Proposal

18. Development consent is sought for partial demolition works, alterations and additions to the existing dwelling and first floor addition, removal of existing swimming pool and construction of a new inground swimming pool, landscaping and site works.



Figure 2: Perspective showing front (northern elevation) of dwelling.



Figure 3: Perspective showing rear (southern elevation) of dwelling as viewed from the rear of the site.

19. The existing dwelling contains the following:

Ground floor

- Kitchen dining and living room with terrace to rear yard off living room.
- Terrace in rear yard
- Master bedroom with ensuite and walk in robe.
- Bedroom 2 with ensuite.
- Study
- Laundry
- Garage
- Carports
- Rumpus room

- Front entry porch
- In ground swimming pool.

20. The proposed development results in alterations and additions to the existing ground floor portion of the dwelling and the construction of a new first floor addition. In addition, the existing pool will be removed and a new pool constructed. A detailed description of each floor level is as follows:

Ground Floor Level

- Front entry area and lobby
- Kitchen with walk in pantry, dining and living room with terrace to rear yard off living room.
- Terrace with BBQ area in rear yard
- Guest bedroom with ensuite.
- Internal access stairs
- Separate WC
- Study
- Laundry
- Removal of carports and provision of new double car garage
- Removal of existing swimming pool and construction of new inground swimming pool.

First Floor level

- Master bedroom with ensuite, walk in robe and south facing balcony.
- Bedroom 2 with ensuite and walk in robe.
- Bedroom 3 with walk in robe and dual accessed ensuite.
- Rumpus room
- Internal access stairs

21. There are no works proposed below the MHWL.

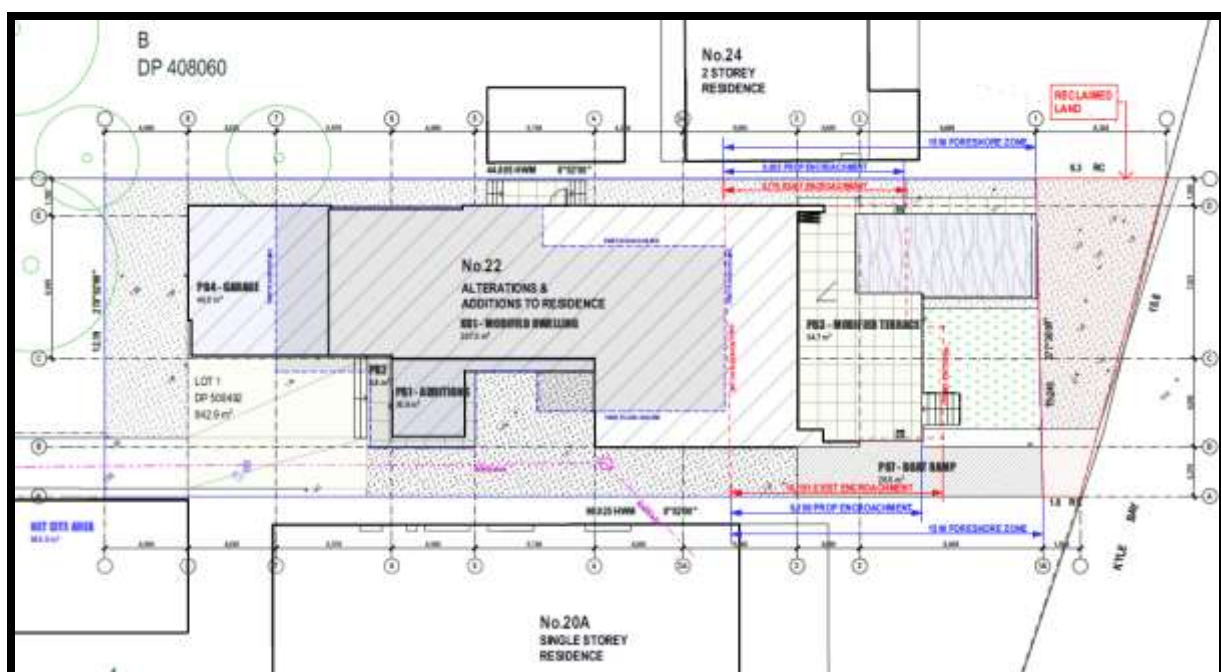


Figure 4: Proposed site plan- 22 Merriman Street, Kyle Bay (Source: voarc 2021).

Background

22. Pre DA (PRE2020/0047) meeting was held on 26 February 2020 and a formal letter sent to the applicant on 6 April 2020.
23. DA2020/0475 was lodged seeking approval for partial demolition works, alterations and additions to the existing dwelling and first floor addition, removal of existing swimming pool and construction of a new inground swimming pool, landscaping and site works.
24. Meeting held on 13 September 2021 to discuss the concerns raised in relation to riverine flooding, overland flow and sea level rise.
25. Email sent to applicant on 28 September 2021 in response to the concerns raised in the meeting as follows:
 - Plans are to be amended showing the height of the swimming pool out of ground is to be a maximum of 500mm.
 - No part of the building is to further encroach the FBL.
 - Councils Drainage engineer provided options for the applicant in order to address concerns raised in relation to sea level rise.
26. The proposal was amended and amended plans and supporting documentation was submitted to Council on 1 November 2021. As part of the amended plans, the height of the pool out of ground was lowered to a maximum of 500mm above natural ground level.

The Site and Locality

27. The subject development site is identified as Lot 1 DP 508492, known as 22 Merriman Street, Kyle Bay.



Figure 5: Aerial view of subject site outlined in blue.

28. The subject site is a battle-axe allotment with an access handle (3.05m driveway frontage to Merriman Street) located along the north western boundary of 22A Merriman Street. The site is located on the southern side of Merriman Street between Waratah Street to

the east and Inala Avenue to the west. The site has a total area of 842.9sqm, with direct access to Kyle Bay.



Figure 6: Access handle providing access to No 22 Merriman Street. No 22A Merriman is shown to the left.



Figure 7: Existing dwelling as viewed from access handle

29. A single storey brick dwelling with tile roof, attached carports and inground swimming pool is currently located on the site. The site observes a slight fall from the front to the rear of the allotment of approximately 0.78m. The swimming pool and a small portion of the existing dwelling currently encroaches the foreshore building line.



Figure 8: Existing dwelling viewing Kyle Bay.

30. Beyond the allotment boundary to the south adjoining the Kyle Bay Foreshore is an area identified as reclaimed land. This irregular shaped area has an eastern boundary of 6.3m, western boundary of 1.8m and a width of 15.8m along the foreshore interface.
31. In the wider context, the subject site is located in an established R2 Low Density Residential Area containing other multi storey dwellings on properties with similar site characteristics and topography. The site is located in the Foreshore Scenic Protection Area and is affected by a 15m Foreshore Building Line.

Surrounding Development

32. Adjoining the site immediately to the east is a two storey brick and tile dwelling with a single storey brick and tile dwelling located to the west. Both these properties are also accessed via a right of way from Merriman Street.
33. The dwellings immediately fronting these properties and also fronting No 22 Merriman Street, all are all two storey dwelling houses with tile roofs with direct street access to Merriman Street.



Figure 9: No 22A Merriman Street and No 20 Merriman Street (access handle to No 22A Merriman Street is located between the two buildings).



Figure 10: Street view showing Nos 24A, 22A and No 20 Merriman Street.

34. The locality is generally residential in character with the predominant land use being single dwelling houses either contemporary or traditional in design.
35. Merriman Foreshore Reserve and Kyle Bay Bowling Club (local heritage item I115) are located further to the west within walking distance of the subject site. Foreshore Reserve adjoins No 14 and 14A Merriman Street.



Figure 11: Merriman Foreshore Reserve and Kyle bay Bowling Club in the background.

36. To the north west, located on the corner of Merriman Street and Kyle Parade is a large parkland area known as The Green (Merriman Reserve).



Figure 12: The Green (Merriman Reserve) looking east down Merriman Street towards the subject site.

Compliance and Assessment

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

STATE ENVIRONMENTAL PLANNING INSTRUMENTS

38. 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 (Coastal Management) 2018	Yes
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017	Yes
Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment	Yes
State Environmental Planning Policy (Infrastructure) 2007	Yes

State Environmental Planning Policy No 55 – Remediation of Land

39. 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. State Environmental Planning Policy 55 aims to promote the remediation of contaminated land in order to reduce the risk of harm to human health or any other aspect of the environment.

40. 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."

41. A review of the site history indicates that the site has been used for residential purposes for extended periods of time, 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.
42. The proposal is therefore considered to be consistent with State Environmental Planning Policy 55 and suitable for the proposed development.

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

43. Regulations under the Act have established a scheme to encourage sustainable residential development (*the BASIX scheme*) under which:
- (a) an application for a development consent, complying development certificate or construction certificate in relation to certain kinds of residential development must be accompanied by a list of commitments by the applicant as to the manner in which the development will be carried out, and
 - (b) the carrying out of residential development pursuant to the resulting development consent, complying development certificate or construction certificate will be subject to a condition requiring such commitments to be fulfilled.
- (2) The aim of this Policy is to ensure consistency in the implementation of the BASIX scheme throughout the State.
- (3) This Policy achieves its aim by overriding provisions of other environmental planning instruments and Development Control Plans that would otherwise add to, subtract from or modify any obligations arising under the BASIX scheme.
44. The trigger for BASIX Certification is when the estimated cost of works for residential development (new dwelling(s)/alterations and additions) is equal to or above \$50,000. BASIX Certification is also triggered when proposing a swimming pool with a volume of 40,000 litres.
45. A BASIX Certificate prepared by Eco Certificates Pty Ltd, dated 12 November 2020, certificate number A1149299S, has been submitted with the Development Application satisfying the minimum requirements of State Environmental Planning Policies (Building

Sustainability Index: BASIX) 2004. The amendments to the plans did not necessitate the BASIX to be updated.

State Environmental Planning Policy (Coastal Management) 2018

46. State Environmental Planning Policy (Coastal Management) 2018 updates and consolidates three previous State Environmental Planning Policies (SEPP 14 Coastal Wetlands, State Environmental Planning Policy 26 Littoral Rainforests, State Environmental Planning Policy 71 Coastal Protection) into one integrated Policy and is a matter for consideration for the current DA.
47. The Coastal Management State Environmental Planning Policy 2018 aims to: *“Promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016 including the management objectives for each coastal management area”*.
48. The subject site has been identified as being located within a Coastal Environment Area, Coastal Use Area and the Coastal Zone as per NSW State Environmental Planning Policy (Coastal Management) 2018 - Maps.

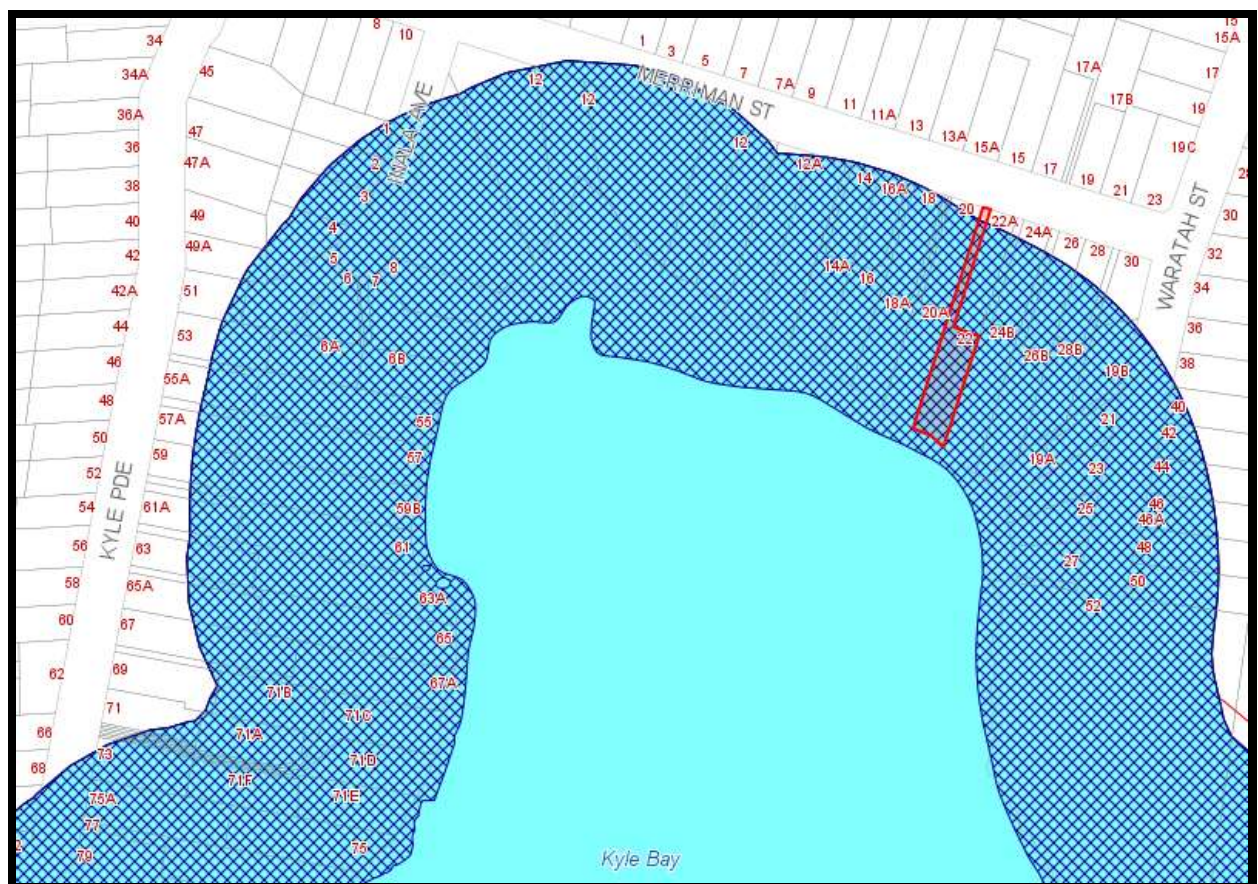


Figure 13: SEPP (Coastal Management) 2018 land map – subject site bordered in red

49. The proposal has been assessed under the relevant provisions of the Coastal Management State Environmental Planning Policy 2018 as applicable to the Coastal Environment Area, Coastal Use Area and Coastal Zone.

Division 3 Coastal Environmental 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,	Satisfies - the proposal will have minimal impacts on the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment.
(b) coastal environmental values and natural coastal processes,	Satisfies - the proposed development will have minimal impacts on the 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,	N/A The site is not located 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,	Satisfies - the development will have minimal impacts on marine and native vegetation.
(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,	Satisfies - The subject site is privately owned and there is no public access to Kyle Bay through this site or impacted by this development.
(f) Aboriginal cultural heritage, practices and places,	Satisfies - The works are respectful of the cultural heritage, practices and places. The site is however not known as a place of aboriginal significance.
(g) the use of the surf zone.	Satisfies - The development is not located near the surf zone.
(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 (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.	Satisfies - The proposed dwelling although partially forward of the FBL is well sited and will be managed to avoid adverse impact on the marine habitat. The subject site is privately owned and currently does not afford or prevent public access to the waterway. It is not expected the proposed development will adversely impact the water quality.
Division 4 Coastal use area	
14 Development on land within the coastal use area	
Control	Comment and compliance

(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,	Satisfies - The proposed development does not provide public access to the Georges River, no access currently exists.
(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,	Satisfies - The development does not have unreasonable impacts regarding overshadowing and sightlines.
(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,	Satisfies - development does not have unreasonable impact on the visual amenity and scenic qualities of the coast.
(iv) Aboriginal cultural heritage, practices and places,	Satisfies - The property is not a known as a site of Aboriginal heritage.
(v) cultural and built environment heritage, and	Satisfies - The site does not contain or adjoin any heritage items.
(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	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 - development will have minimal impacts on the coastal zone and its processes.
(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.	Satisfies - the application has considered the surrounding coastal area. The proposed development is of a built form unlikely to adversely impact upon the surrounding coastal area with regards to bulk and scale.
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	Satisfied - the proposed works are in keeping with the provisions of the Georges River Coastal Zone Management Plan.
---	--

50. Upon a thorough assessment for the application under the State Environmental Planning Policy Coastal Management 2018, the proposal reasonably satisfies the objectives and controls of the State Environmental Planning Policy.

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

51. The Vegetation State Environmental Planning Policy regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.
52. The Vegetation State Environmental Planning Policy applies to clearing of:
- (a) *Native vegetation above the Biodiversity Offset Scheme (BOS) threshold where a proponent will require an approval from the Native Vegetation Panel established under the Local Land Services Amendment Act 2016; and*
 - (b) *Vegetation below the BOS threshold where a proponent will require a permit from Council if that vegetation is identified in the council's development control plan (DCP).*
53. The objectives of the State Environmental Planning Policy are to protect the biodiversity values of trees and other vegetation in non-rural areas and preserve the amenity of non-rural areas through the preservation of trees and other vegetation. This policy is applicable pursuant to Clause 5(1) of the State Environmental Planning Policy as the site is within both Georges River Council and the R2 Low Density Residential zone.
54. Pursuant to Clause 8(1) of the State Environmental Planning Policy, clearing does not require authority under the policy as it is a type of clearing that is authorised under Section 60O of the Local Land Services Act 2013 (specifically, that associated with a development consent issued under Part 4 of the Environmental Planning and Assessment Act 1979).
55. The proposed development as amended does not require the removal of any trees; however, tree protection measures will be required to be put in place for trees located on the adjoining properties at No 22A Merriman Street and No 24 Merriman Street. The application was referred to Council's Consultant Arborist and specific conditions of consent have been recommended.

Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment.

56. 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,*

57. The proposed stormwater drainage system has been assessed by Council's Development Engineer and has been found to be satisfactory. Specific stormwater conditions have been imposed.

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

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

- improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services, and
- providing greater flexibility in the location of infrastructure and service facilities, and
- allowing for the efficient development, redevelopment, or disposal of surplus government owned land, and
- 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
- identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and
- providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and
- providing opportunities for infrastructure to demonstrate good design outcomes.

59. The proposal has been considered in accordance with the applicable provisions of the State Environmental Planning Policy and found to be acceptable.

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

Draft Environment State Environmental Planning Policy

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

- State Environmental Planning Policy No. 19 – Bushland in Urban Areas;
- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011;
- State Environmental Planning Policy No. 50 – Canal Estate Development;
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment;.

- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997);
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;
- Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property.

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

Draft Remediation of Land State Environmental Planning Policy

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

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

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

Draft Design and Place State Environmental Planning Policy

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

65. The Design and Place State Environmental Planning Policy will:

- Establish principles for the design and assessment of places in urban and regional NSW;
- Establish matters for consideration and application requirements that collectively respond to each of the principles;
- Provide a single point of reference for design-related considerations and performance criteria in the planning system;
- Define scales of development – precincts and significant development, and all other development;
- Introduce a robust and consistent design process through requirements for design skills, design evaluation and review, and design excellence;
- Integrate a design-led, place-based approach, which includes embedding the draft Connecting with Country Framework;
- Be supported by existing, revised and new guidance, including a revised Apartment Design Guide (ADG), a new Urban Design Guide (UDG), and revisions to the Building Sustainability Index (BASIX);
- Repeal and replace State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development and State Environmental Planning Policy

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

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

The application is not inconsistent with this Draft State Environmental Planning Policy.

KOGARAH LOCAL ENVIRONMENTAL PLAN 2012

66. The subject site is zoned R2 Low Density Residential under the provisions of the Kogarah Local Environmental Plan 2012. Refer to zoning map below. The proposed development is for a dwelling house and ancillary structures which are permissible land uses in the zone.



Figure 14: Zoning Map – subject site is shown outlined in blue

67. 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.*
68. The proposed development generally meets the objectives of the zone by providing housing needs of the community. The works to the dwelling are generally within the existing building footprint to minimise any adverse impacts upon the amenity of neighbouring properties from the alterations and additions and ancillary works.
69. The extent to which the proposed development complies with the Kogarah Local Environmental Plan 2012 (KOGARAH LOCAL ENVIRONMENTAL PLAN 2012) is outlined in the table below.

Kogarah Local Environmental Plan 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 consistent with the aims of the plan.	Yes
1.4 – Definitions	Dwelling house <i>means a building containing only one dwelling.</i>	The proposed development is consistent with the definition.	Yes
Part 2 Permitted or prohibited development			
2.3 - Zone objectives and Land Use Table	Meets objectives of R2- Low Density Residential Zone: Development must be permissible with consent	The proposal satisfies the objectives of the R2 zone and is permissible with development consent.	Yes
2.7 Demolition	Demolition requires development consent.	Partial demolition of the dwelling will occur along with the removal of the existing pool.	Yes
Part 4 Principal development standards			
4.3 – Height of Buildings	9m as identified on Height of Buildings Map	8.72m.	Yes
4.4A – Exceptions to floor space ratio for residential accommodation in Zone R2	(2) Despite clause 4.4 (2), the floor space ratio for residential accommodation on land in Zone R2 Low Density Residential is not to exceed the maximum floor space ratio specified in the table to this subclause. For a site area less than 1,000 square metres but not less than 800 square metres, floor space is not to exceed: $[(\text{lot area} - 800) \times 0.2 + 402.5] \div \text{lot}$	The proposed development has a total GFA of 362.1sqm.	Yes

	area:1 Site area: 842.9sqm 0.49:1 or 411.08sqm		
4.5 – Calculation of floor space ratio and site area	FSR and site area calculated in accordance with Clause 4.5	The floor space of the dwelling has been calculated in accordance with Clause 4.5 and the “gross floor area” definition within the Kogarah Local Environmental Plan.	Yes
4.6 – Exceptions to development standards	(1) The objectives of this clause are as follows— (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.	A Clause 4.6 variation request has been submitted in relation to Clause 6.4 Limited development on foreshore areas development standard.	Please refer to clause 4.6 below
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.	Yes
5.10 – Heritage conservation	In accordance with Clause 5.10 (1)	The site is not a heritage item the site is not in a heritage conservation area. Within the vicinity of the subject site are heritage items located at 12A Merriman Street,	Yes

Kyle Bay (Kyle Bay Bowling Club – item No I115) and 52 Waratah Street, Blakehurst (Kyle Williams House and Reserve – Item No I117). The proposal is not considered to have an adverse impact on the heritage items.

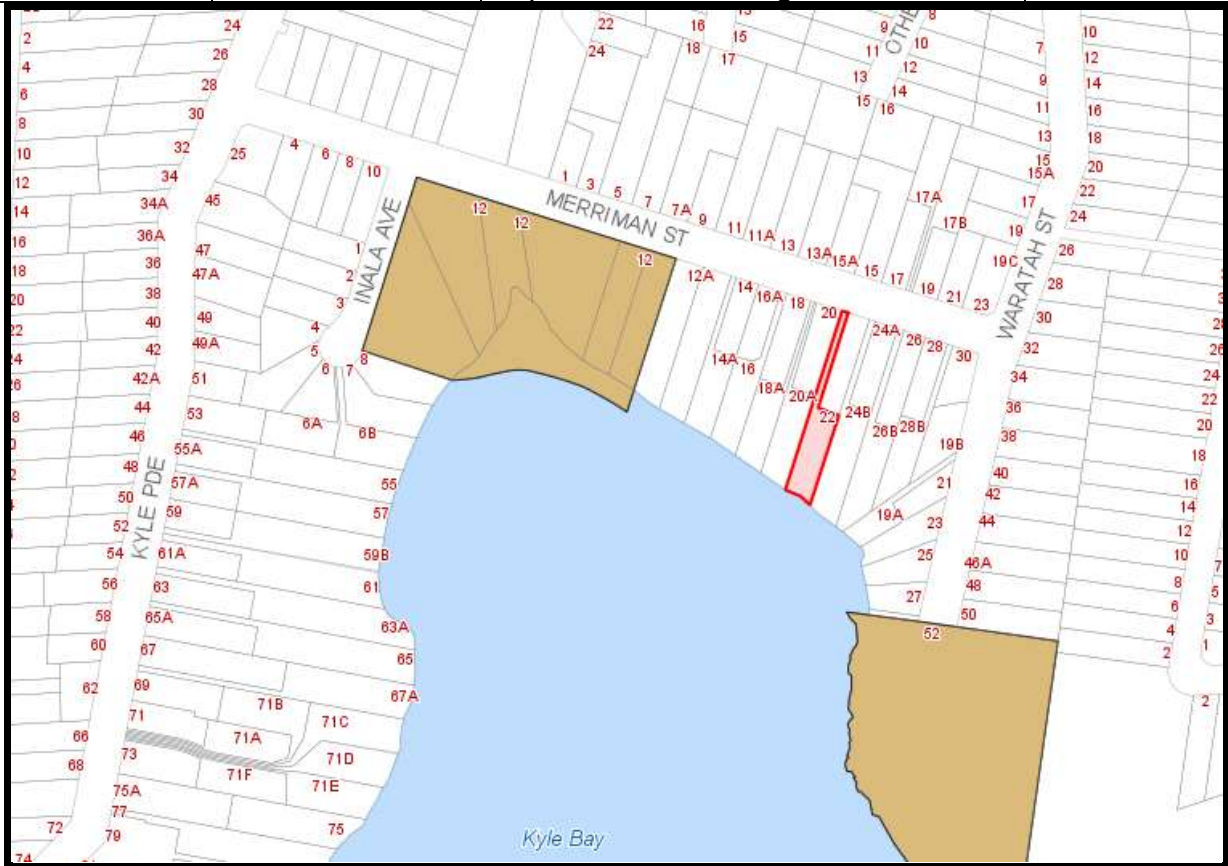


Figure 15: Map showing heritage items at 12 Merriman Street and 52 Waratah Street.

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	(1) The objectives of this clause are as follows— (a) to minimise the flood risk to life and property associated with the use of land,	The subject site has not been identified/mapped as being flood affected. The subject site has however been identified as being potentially affected by sea level rise.	Yes

	<p>(b) to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,</p> <p>(c) to avoid adverse or cumulative impacts on flood behaviour and the environment,</p> <p>(d) to enable the safe occupation and efficient evacuation of people in the event of a flood.</p>		
--	---	--	--



Figure 16: Flooding map

Part 6 Additional local provisions

6.1 – Acid sulfate soils	(1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.	Noted	Yes
6.1 (2)	<p>(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:</p> <p>Class 2 – Works below the natural surface. Works by which the watertable is</p>	<p>Subject site is located in a Class 2 Acid Sulfate Soils Area.</p> <p>The site is classified as a Class 2, with works that are below 5 metres AHD.</p> <p>A preliminary assessment was undertaken, an Acid Sulfate Soils Management Plan was prepared.</p>	Yes

	likely to be lowered.		
6.1 (3)	(3) Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.	An Acid Sulfate Soils Management Plan has been prepared for the proposed works. Appropriate conditions of consent have been imposed requiring compliance with this Management Plan.	Yes



Figure 17: Map showing Acid sulfate soils within and around the site.

6.2 – Earthworks	(2) Development consent is required for earthworks unless— (a) the earthworks are exempt development under this Plan or another	The proposed earthworks are considered acceptable having regard to the provisions of this clause as the works are not likely to have a detrimental impact on environmental functions and processes or neighbouring properties.	Yes
------------------	--	--	-----

	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.		
6.4 – Limited development on foreshore area	(1) The objective of this clause is to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area.	<p>The subject site is located within a designated Foreshore Area and the siting of the building is dictated by the established Foreshore Building Line (FBL). The subject site is affected by a 15m Foreshore Building Line.</p> <p>The development has been designed to respect the character and nature of the foreshore and has been designed to satisfy the FBL. However the rear southern portion of the building encroaches beyond the FBL. The new first floor addition is located wholly outside of the 15m FBL. This is considered acceptable given the siting of the existing building and structures on site. This issue has been discussed in more detail through a clause 4.6 assessment below.</p> <p>The proposal is consistent with the existing character of the area and nature of the development within the immediate area.</p>	Please refer to clause 4.6 below
Note: A Clause 4.6 objection has been submitted requesting a variation to the development standard for limited development on foreshore areas.			

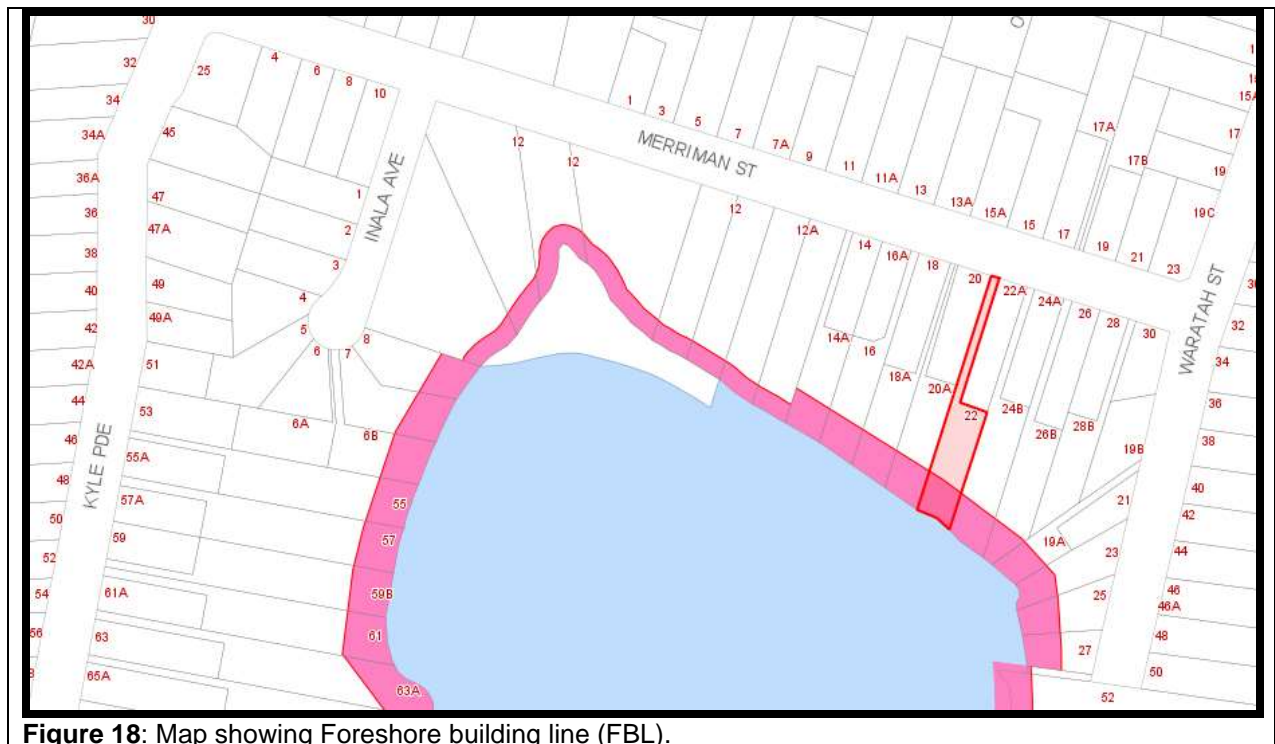


Figure 18: Map showing Foreshore building line (FBL).

Clause 4.6 Exceptions to Development Standards

Request for Variation under Clause 4.6 Kogarah Local Environmental Plan 2012 - Clause 6.4 Limited development on foreshore area

70. The proposed development seeks a variation to the development standard relating to Foreshore Development pursuant to Clause 6.4 of the KOGARAH LOCAL ENVIRONMENTAL PLAN. The LEP identifies a Foreshore Building Line (FBL) of 15m for the Site (refer to Figure 19 and 20 below). Parts of the existing and proposed building encroach the 15m FBL.



Figure 19: Extract from the KOGARAH LOCAL ENVIRONMENTAL PLAN (Foreshore Building Line Map)



Figure 20: The subject development site and the location of the foreshore building line.

71. The site has a Foreshore Building Line (FBL) of 15m as per Kogarah Local Environmental Plan 2012. The proposed development is for the rebuilding of elements of an existing dwelling, which is located partially within the foreshore area. It is noted that the proposal will not result in any further encroachment in a southerly direction

beyond the established rear dwelling building line. The proposal will in fact reduce the portion of encroachment by a reduction of the ground floor plate.

72. Numerically, if the encroachment is measured as a ratio between the established foreshore building line (15m) and the mean high water mark. The building at its most southern portion (5.801m setback between building and mean high water mark), the building encroaches approximately 61.3% past the 15m foreshore building line.
73. The existing building at its most southern portion (4.81m setback between building and mean high water mark), the existing building encroaches 67.94% past the 15m foreshore building line. This is only on a numerical basis and does consider the volume of built form encroaching past the 15m foreshore building line.
74. It is acknowledged that calculating encroachment as a ratio between the established foreshore building line (15m) and the mean high water mark is purely to yield a numerical value and does not consider the volume of built form encroaching past the 15m foreshore building line. An assessment against clause 4.6 and clause 6.4 has been undertaken to establish whether the encroachment in this case has sufficient environmental planning grounds to justify contravening the development standard and to establish if compliance with the development standard is unreasonable or unnecessary in the circumstances of this case.



Figure 21: Foreshore building line with respect to the existing dwelling – 22 Merriman Street, Kyle Bay.

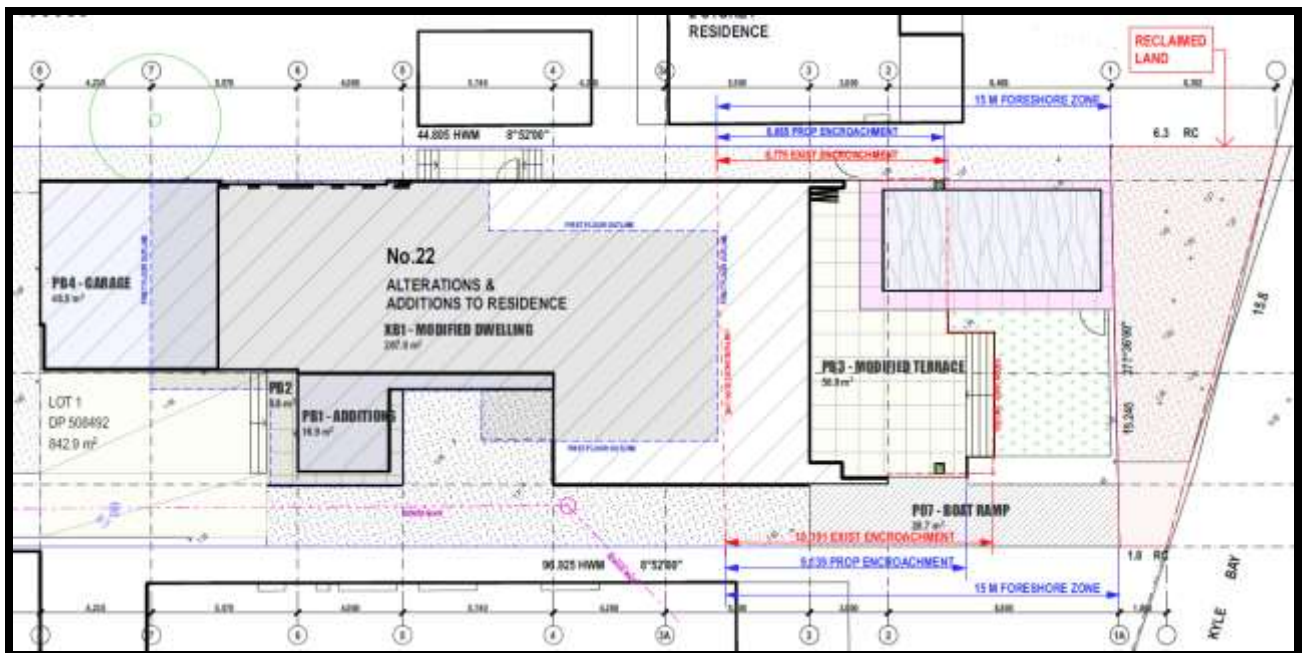


Figure 22: Existing building encroachment within the FBL depicted in red with the proposed encroachment in blue.

75. Any variation to the FBL (Clause 6.4) can only be considered under Clause 4.6 – Exceptions to Development Standards of the Local Environmental Plan. The Applicant has submitted a Clause 4.6 Statement to support the non-compliance. An assessment of the statement and reasoning for the variation is discussed below.
76. Clause 4.6(1) outlines the objectives of the standard which are to “provide an appropriate degree of flexibility in applying certain development standards to particular development” and “to achieve better outcomes for and from development by allowing flexibility in particular circumstances”.
77. Clause 4.6(3) states that:

“Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

 - *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - *that there are sufficient environmental planning grounds to justify contravening the development standard”*
78. To support the non-compliance, the applicant has provided a request for a variation to Clause 6.4 in accordance with Clause 4.6 of Hurstville Local Environmental Plan 2012. The Clause 4.6 request for variation is assessed as follows.

Is the planning control in question a development standard?

79. Limited development on foreshore area under Clause 6.4 of Kogarah Local Environmental Plan 2012 is a development standard.

What are the underlying objectives of the development standard?

80. The objective of the standard under Clause 6.4 of Kogarah Local Environmental Plan 2012 is *“to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area”*.

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

81. There have been several Court cases that have established provisions to assist in the assessment of Clause 4.6 statements to ensure they are well founded and address the provisions of Clause 4.6.

82. In *Wehbe V Pittwater Council* (2007) NSW LEC 827 Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. This list is not exhaustive. It states, inter alia:

“An objection under State Environmental Planning Policy 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.”

83. The judgment goes on to state that:

“The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).”

84. Preston CJ in the judgement then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy, as follows (with emphasis placed on number 1 for the purposes of this Clause 4.6 variation):

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.”*

85. The Clause 4.6 statement was prepared having regard to the recent court cases and their judgements.

86. Applicant's comment: In dealing with the “unreasonable and unnecessary” requirement of clause 4.6, Preston CJ identifies the 5 options typically available to an applicant in *Wehbe v Pittwater* [2007] NSW LEC 827 which can be adopted in dealing with the *unreasonable and unnecessary* test under **Cl. 4.6(3)(a)**.
87. In *Wehbe*, Preston CJ provided relevant assistance by identifying five ways in which it could be shown that a variation to a development standard was unreasonable or unnecessary. However, His Honour in that case (and subsequently in *Initial Action*) confirmed that these five ways are not exhaustive; they are merely the most commonly invoked ways. Further, an applicant does not need to establish all of the ways.
88. In *Initial Action* the Chief Judge also clarified the following, with respect to the 5-part *Wehbe* test (at [22]):
- “It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.”*
89. The five methods outlined in *Wehbe* are:
1. The objectives of the standard are achieved notwithstanding non-compliance with the standard (**First Method**).
 2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary (**Second Method**).
 3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable (**Third Method**).
 4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable (**Fourth Method**).
 5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone (**Fifth Method**).
90. In this instance, the First Method is of particular assistance in establishing that compliance with a development standard is unreasonable or unnecessary.

The objectives of the standard are achieved notwithstanding the non-compliance (First Method).

91. The sole objective of the control is to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area. The commentary provided in address of Clause 6.4 Limited Development on the Foreshore Area in the accompanying SEE (at pgs 23 – 27) details these matters.
92. In summary,
- The development will not adversely impact on natural foreshore processes or affect the significance and amenity of the area;
 - There is no existing public access to the intertidal area where such access would cause adverse environmental impact;

- The development will not have any adverse impact on water quality and will improve the quality of urban run-off entering waterways by implementing a new stormwater system;
- The foreshore is already highly modified in its existing form;
- The development minimises any adverse visual impact of development when viewed from adjacent land and waterways by using a design and materials that complement the natural landscape of the foreshore area;
- The extent of cut and fill is minimised resulting in no visually impactful change to the natural topography of the foreshore area; and
- The development has no impact upon the public use of waterway.

93. The established context is defined by a strong representation of both dwellings and ancillary structures that are located between the Foreshore Building Line and mean high water mark. It is notable that the subject site has a Foreshore Area that extends deeper into the block than any adjacent or nearby site, due to the affectation of a parcel of reclaimed land immediately adjacent to the waterway on this site which acts to push the MHWM (and therefore the measured Foreshore Area) further to the street frontage. This has the effect of introducing an artifice in terms of comparable building setbacks on adjacent sites and allows built elements on this site to be visually consistent with adjoining development, the objectives of the provision, despite the numerical variation to the standard being greater than that of surrounding development.
94. Furthermore, the proposed alterations and additions are of a built form, scale and materiality that does not unreasonably impose on its setting. In this regard, the extent of breach beyond the FBL will not result in any discernible visual impact nor will it result in an adverse impact to either the significance or amenity of the area.
95. Officer comment: The applicant's written request to vary the development standard has been considered and it is concluded that the applicant has justified that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard. This conclusion has been reached for the following reasons:
- The existing building is located partly in the foreshore area and clause 6.4 (2)(a) permits the rebuilding of a dwelling which is wholly or partially located in the foreshore area.
 - The proposal will not result in any further encroachment in a southerly direction beyond the established rear building line.
 - The proposal will be not be inconsistent with the established rear building line as observed along foreshore allotments in the locality.
 - The proposal has been designed to ensure compatibility with the character of the foreshore area and enhance the visual quality of the existing dwelling

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

Clause 4.6(3)(b) states that: *(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

97. Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, it is considered that there is an absence of any negative impacts of the proposed non-

compliance on the environmental quality of the locality and amenity of adjoining properties in terms of overshadowing, overlooking or view loss.

98. *Applicants comments: The environmental planning grounds relied on in the written request under Clause 4.6 must be sufficient to justify contravening the development standard. The focus is on the aspect of the development that contravenes the development standard, not the development as a whole. Therefore, the environmental planning grounds advanced in the written request must justify the contravention of the development standard and not simply promote the benefits of carrying out the development as summarised in (Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118).*
99. *It is also preferable, but not necessarily essential, that the environmental planning grounds be specific to the site and to the development, rather than general matters of policy: Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90.*
100. *The application relies upon the unique circumstances whereby any development on the land with an allowable FSR of 0.487:1 or 411.08m² and height limit of 9m, cannot be constructed to any reasonable capacity solely on the area of land located outside of the FBL. The variation does not establish a precedent in the locality that would derogate from the objectives of the zone. The corollary is that if strict compliance were required, the result would be that the site could not provide (or would be highly unlikely to provide) a residential density capable of providing for the housing needs of the community in a low density residential environment.*
101. *Although more general in nature, it is also relevant to observe that the proposed development is of a form and scale that is not incompatible with that envisaged by the planning strategies applicable to the land. It is also submitted that the well articulated building facades and range of material serve to provide a development scale and form congruous with the setting. The design, layout and built form of the development, most notably identified by the elements in breach of the FBL, are an appropriate response to the site and its immediate context and remain in conformity with the general scale and character and planned residential density envisaged for the area, despite the breach.*
102. *In dealing with the sufficient environmental planning grounds Preston CJ in Initial Action considers that it is available to the applicant to also deal with the Objectives of the Act under S1.3 in order to demonstrate that grounds exist to warrant a variation. While this does not necessarily require that the proposed development should be consistent with the objects of the Act, nevertheless, in **the table below** we consider how the proposed development is consistent with each object, notwithstanding the proposed variation.*

The objects of the Act and how this proposal responds to the object are as follows:

Object	Comment
<i>(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,</i>	<i>This object is not relevant to this development</i>
<i>(b) to facilitate ecologically sustainable development by</i>	<i>The proposal will facilitate an ecologically sustainable development given that no negative</i>

<i>integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,</i>	<i>impact on environmental and social considerations will arise. This in turn will serve to offer the ongoing sustainment of the economic health of the area.</i>
<i>(c) to promote the orderly and economic use and development of land,</i>	<i>The proposed development will promote the orderly and economic use of the land by way of providing a land use intensity consistent with that envisaged by Council.</i>
<i>(d) to promote the delivery and maintenance of affordable housing,</i>	<i>This object is not relevant to this development.</i>
<i>(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and habitats,</i>	<i>No endemic or contributory vegetation is identified on the land.</i>
<i>(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),</i>	<i>This object is not relevant to this development.</i>
<i>(g) to promote good design and amenity of the built environment,</i>	<i>The proposed development promotes good design in that it serves to provide a built form and massing arrangement that serves to positively influence the future amenity of the dwelling occupants while adopting a land use intensity compatible with both the established and emerging foreshore character.</i>
<i>(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,</i>	<i>The proposed development will comply with all relevant BCA codes and will promote the health and safety of occupants.</i>
<i>(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,</i>	<i>This object is not relevant to this development.</i>

103. Based on the above, the consent authority can be satisfied that the proposed development notwithstanding the Foreshore Building Line breach, remains consistent with the Objects of the Act.
104. Officer comment: The written request adequately addresses the matters in subclause (3). Sufficient environmental planning grounds have been demonstrated that the building encroachment past the foreshore building line will not unreasonably impact upon the amenity of adjoining residents and the locality and will not result in an undesirable precedent. It is noted prior to resolving if compliance with the limited development in foreshore area development standard is unreasonable and unnecessary in this case, the consent authority must be satisfied that the matters under Clause 4.6(4)(a) have been satisfied.

Clause 4.6(4)(a)(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

105. Clause 4.6 (4) states that

“Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out,”

106. In accordance with subclause 4.6(4), the proposal needs to satisfy both the development standard and zone objectives in order to determine whether the development is in the public interest. Assessment of the non-compliance with the limited development in foreshore area development standard is provided below.

107. Applicants’ comments: *Clause 4.6(4)(a)(ii) provides that development consent must not be granted for development that contravenes a development standard unless the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.*

108. In Part 4 of this request, it was demonstrated that the proposal is consistent with the objectives of the development standard. The applicant repeats and adopts those reasons. The proposal, inclusive of the non-compliance, is also consistent with the objectives of the R2 Low Density Residential as detailed below:

Zone R2 – Low Density Residential Objectives

Objective	Comment
To provide for the housing needs of the community within a low density residential environment.	The proposal provides for the alterations and additions to a dwelling being the most common development typology in a low density residential setting. The siting and built form and architectural language of the development is consistent with that likely to be encountered in a low density residential setting and is proportionate with that observed within the existing and evolving context.
To enable other land uses that provide facilities or services to meet the day to day needs of residents.	Not applicable to this development

109. Officer comments: The objectives of the R2– Low Density Residential are considered to be achieved as detailed below albeit non-compliance with limited development in foreshore area development standard.

Zone R2 – Low Density Residential Objectives

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.

Response

The proposed development will continue to provide low density residential housing within the locality and will improve the quality of the neighbourhood by improving the appearance and amenity of the existing dwelling. The development forward of the foreshore building line is a single dwelling and therefore consistent with the R2 zone objective.

The proposal will not have unreasonable impacts on the ability of other land uses to provide facilities and services within the locality given all surrounding properties within the immediate vicinity are primarily residential.

110. When considering the objective of Clause 6.4, subclauses Clause 6.4(2) and 6.3(3) need to be taken into account as they have been constructed to assist in the interpretation of the Clause and aim to provide an indication of development that is considered to be acceptable along the foreshore. Clause 4.6(2) states that development consent must not be granted to development on land in the foreshore area except for the following purposes:

- (a) ***the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area,***
- (b) *the erection of a building in the foreshore area, if the levels, depth or other exceptional features of the site make it appropriate to do so,*
- (c) *boat sheds, sea retaining walls, wharves, slipways, jetties, works to enable pedestrian access to the waterway, swimming pools, fences, cycleways or walking trails.*

111. In terms of compliance with Clause 6.4(2) the proposal complies as the proposal fits within the category of Clause 6.4(2)(a) as it is development that it involves “*the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area*”. It is noted that proposal does not extend further beyond the FBL than the development that presently exists on site. This dwelling will improve the breach by 0.992m on the western side and 1.1m on the eastern side.

112. Clause 6.4(3) requires a detailed assessment of the proposal against a series of provisions to ensure there are no detrimental impacts on the foreshore in terms of environmental, cultural, social and visual impacts:

Clause 6.4 (3) Provisions

Response

<i>(3) Development consent must not be granted under this clause unless the consent authority is satisfied that—</i>	
<i>(a) the development will contribute to achieving the objectives for the zone in which the land is located, and</i>	The dwelling will continue to achieve the objectives in the R2 zone.
<i>(b) the appearance of any proposed structure, from both</i>	The two (2) storey dwelling as viewed from the waterway will be compatible with the surrounding

<i>the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and</i>	locality.
(c) <i>the development will not cause environmental harm such as—</i> (i) <i>pollution or siltation of the waterway, or</i> (ii) <i>an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or</i> (iii) <i>an adverse effect on drainage patterns, and</i>	The proposed dwelling will be largely located within the existing footprint of the dwelling and does not propose to intensify the use. The application has been assessed with regards to stormwater and the proposed method of drainage has been supported by Council's engineers.
(d) <i>the development will not cause congestion or generate conflict between people using open space areas or the waterway, and</i>	The development will not result in a change in circumstances of the use of the waterway or public open space.
(e) <i>opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and</i>	The proposed development will not alter any existing access arrangements.
(f) <i>any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and</i>	The proposed dwelling will largely be located within the footprint of the existing dwelling. The existing interface with the waterway is modified with an existing seawall and this will remain in place and will not be altered or removed.
(g) <i>in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and</i>	Although the existing dwelling is located forward of the FBL, the dwelling will be located behind the forward most part of the existing dwelling not impacting the amenity or aesthetic of the foreshore.
(h) <i>sea level rise or change of flooding patterns as a result of climate change has been considered.</i>	The dwelling has been appropriately located to protect against rise in sea levels due to climatic changes.

Clause 4.6(4)(b) the concurrence of the Director-General has been obtained

113. Clause 4.6(4)(b) consent must not be granted for development that contravenes a development standard unless concurrence of the Director-General must be obtained.

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

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

115. Clause 4.6 (5) states that: *"Whether contravention of the development standard raises any matter of significance for State or regional environmental planning (Clause 4.6(5)(a))"*
116. Contravention of the limited development in foreshore area development standard proposed by this application does not raise any matter of significance for State or regional environmental planning.

Conclusion – Assessment of Clause 4.6 Request for Variation

117. Despite the non-compliance in terms of the foreshore building line, the proposed variation is considered to be acceptable and satisfies the provisions of Clause 6.4
118. The proposed variation satisfies the objective of Clause 6.4 Limited development on foreshore areas. The location of the building is considered to be consistent with other developments in the immediate locality and the scale of development is sympathetic with the existing scale and form of existing adjoining developments.
119. It is considered that the Clause 4.6 Statement lodged with the application addresses all the information required pursuant to Clause 4.6. The statement is considered to be well founded as there are sufficient environmental planning grounds to justify contravening the standard given that in this case the proposal satisfies the objectives of the zone and development standard (Clause 6.4, limited development on foreshore areas).
120. The proposed development is a reasonable planning and urban design outcome given that the variation satisfies the provisions as set by clause 6.4, the zone objectives, and the non-compliance does not conflict with the public interest.
121. For these reasons the Clause 4.6 Statement is considered to be well founded and is supported.

Georges River Local Environmental Plan 2021

122. Consideration is given to the provisions of Georges River Local Environmental Plan 2021 in the assessment this application.
123. 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 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."*
124. Of particular relevance and consideration to the proposal is Clause 6.4 Foreshore area and coastal hazards and risks. This clause seeks to control development within the foreshore area, with the following objectives:
- (a) *to protect people and property from unacceptable risk from coastal hazards associated with climate change,*

- (b) *to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the amenity of the area,*
- (c) *to facilitate opportunities for public access to and along the foreshore.*

6.4 (4) requires that the consent authority must consider the following:

- (a) *whether the development addresses the impacts of sea level rise and tidal inundation as a result of climate change,*
- (b) *whether the development could be located on parts of the site not exposed to coastal hazards,*
- (c) *whether the development will cause congestion or generate conflict between people using open space areas or the waterway,*
- (d) *whether the development will cause environmental harm by pollution or siltation of the waterway,*
- (e) *opportunities to provide reasonable, continuous public access along the foreshore, considering the needs of property owners,*
- (f) *appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

The subject site is affected by sea level rise as shown in the map in figure 23 below:



Figure 23: Map showing sites affected by sea level rise.

125. The applicant provided a Foreshore Risk Management Report with the application. This report was based on the provisions of the Georges River Local Environmental Plan 2021 and Georges River Local Environmental Plan 2021. Although these are not the Local Environmental Plan and Development Control Plan under which the application is being determined, these matters could have an impact upon the development and have been considered in the assessment. The applicant has provided the following floor levels to satisfy the controls:

- The Ground floor FFL will be RL 2.8m AHD.
- The Garage floor FFL will be RL 2.3m AHD.

126. Councils Drainage Engineer has advised that the proposal can be supported with these FFL's, however they will also need to ensure that development will be built completely in flood proof materials up to RL 3.1m AHD with electrical and mechanical equipment being installed in accordance with Appendix A10 of Councils Stormwater Management Policy.

DEVELOPMENT CONTROL PLANS

Kogarah Development Control Plan 2013.

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

Part C1- Low Density Housing															
Clause	Standard	Proposed	Compliance												
1.2 Building Scale and Height															
1.2.1 Floor space Requirements															
1.2.1 (1)	<div>The floor space ratio for dwelling houses must comply with the requirements in the table below:</div> <table><tr><th>Site Area</th><th>Maximum FSR</th></tr><tr><td>Less than or equal to 650m²</td><td>0.55:1</td></tr><tr><td>Greater than 650m² Less than or equal to 800m²</td><td>(Site Area – 650) × 0.3 + 357.5</td></tr><tr><td>Greater than 800m² Less than or equal to 1000m²</td><td>(Site Area – 800) × 0.2 + 402.5</td></tr><tr><td>Greater than 1000m² Less than or equal to 1500m²</td><td>(Site Area – 1000) × 0.15 + 442.5</td></tr><tr><td>Greater than 1500m²</td><td>(Site Area – 1500) × 0.1 + 517.5</td></tr></table> <div><i>Note: The maximum achievable floor space ratios/ floor areas are indicative only and all other objectives and design controls must be satisfied.</i></div> <div>Based on a site area of 842.9sqm, under this clause the max GFA is 411.08sqm, the proposal provides a GFA of 362.10sqm, which is compliant with this control. It is noted however that this control is overridden by Clause 4.4A of KOGARAH LOCAL ENVIRONMENTAL PLAN 2012, which the proposal also complies with.</div>			Site Area	Maximum FSR	Less than or equal to 650m ²	0.55:1	Greater than 650m ² Less than or equal to 800m ²	(Site Area – 650) × 0.3 + 357.5	Greater than 800m ² Less than or equal to 1000m ²	(Site Area – 800) × 0.2 + 402.5	Greater than 1000m ² Less than or equal to 1500m ²	(Site Area – 1000) × 0.15 + 442.5	Greater than 1500m ²	(Site Area – 1500) × 0.1 + 517.5
Site Area	Maximum FSR														
Less than or equal to 650m ²	0.55:1														
Greater than 650m ² Less than or equal to 800m ²	(Site Area – 650) × 0.3 + 357.5														
Greater than 800m ² Less than or equal to 1000m ²	(Site Area – 800) × 0.2 + 402.5														
Greater than 1000m ² Less than or equal to 1500m ²	(Site Area – 1000) × 0.15 + 442.5														
Greater than 1500m ²	(Site Area – 1500) × 0.1 + 517.5														
1.2.1 (3)	Notwithstanding compliance with the numerical requirements in Table 1, applicants must demonstrate that the bulk and relative mass of the proposed development is acceptable in the street and on adjoining dwellings, in terms of the following impacts: (i) streetscape considerations (bulk and scale); (ii) building setbacks; (iii) landscape requirements; (iv) the existence of	The proposed building is consistent with the streetscape character, even though is it physically separated from the street by the battle-axe handle.	Yes												

	significant trees/vegetation on site; (v) the size and shape of the allotment; and (vi) topography of the site.		
1.2.1 (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.	Indentations have been provided to the building to provide suitable and effective articulation. The proposal is sufficiently articulated.	Yes
1.2.1 (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 building is articulated and responds to the sites topography.	Complies
1.2.1 (7)	Where proposed development includes a two (2) residential level element, then the second level should not extend beyond 60% of the depth of the allotment measured from the street boundary. Where side boundaries are of varying length, the second level is limited to a line across the block between the points on both boundaries, see Figures 1 and 2.	In this case the 60% allotment depth line has been taken from the buildable area excluding the access handle. 60% allotment depth: 26.883m Proposed: 29.805m	No, however is considered acceptable.

Variation to 60% allotment depth

This control has been designed to ensure that the two storey element of the dwelling does not extend beyond 60% of the allotment depth. The allotment as measured from the street boundary. It does not take into consideration battle axe allotments, whereby compliance with this control would be difficult taking the measurement from the street boundary.

To achieve the same results, the 60% allotment depth line has been taken from the buildable area within the allotment, excluding the length of the access handle. Based on this the length of the buildable area is 44.805m. This permits the second storey portion to extend 26.883m. The proposed second storey extends 29.805m within the site, 15m from the MHWL. It is noted that the site has a 15m FBL, so the second storey does not encroach the FBL.

The area of non-compliance is predominantly the rear balcony, which is located off the master bedroom. This second storey portion sits behind the two storey dwelling at 24 Merriman Street and the second storey is centrally located to provide suitable separation between the subject site and the street facing property at No 22A Merriman Street, whilst also ensuring it does not encroach the FBL. This is not out of character with other properties within the vicinity and although non-compliant with the intent to reduce the extent of two storey development within an allotment, the proposal is considered reasonable in the circumstances given the allotment constraints.

1.2.2 Building Heights

1.2.2 (1)	7.2m to the underside of the upper ceiling	Ceiling – 7.65m	No
	7.8m to the top of the parapet for attached dual occupancies.	Parapet 8.375m	No
	9m to top of the ridge (pitched roof)	8.372m (to centrally located clerestory style roof feature)	Yes
<p><u>Discussion on variation to ceiling height and parapet height</u> KOGARAH LOCAL ENVIRONMENTAL PLAN 2012 permits a maximum building height of 9m. The building complies with the LEP which overrides the Development Control Plan control.</p> <p>The variation to the Development Control Plan controls in relation to ceiling height and parapet height are considered acceptable given the following:</p> <ul style="list-style-type: none"> • Meets the maximum building height development standard in Kogarah Local Environmental Plan 2012. • No unreasonable impacts upon the adjoining allotments. 			
1.2.2 (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)	Two (2) proposed.	Yes
1.2.2 (3)	Regardless of the number of levels, the maximum height of the building must be consistent with the maximum height requirements	The building complies with the maximum height control.	Yes
1.2.2 (4)	Foundation areas, garages, basements, storage rooms or the like must not have an external wall height greater than 1m above	The external wall height for foundation areas exceed 1m due to raising the floor level to accommodate sea level rise.	No, the floor level has been raised taking into consideration sea level rise and is considered

	ground level (existing) at any point on the building		acceptable
1.2.2 (5)	Where the dominant built form in the streetscape is single level, new buildings and alterations and additions should present as a single level building to the street. Any second level element is to be setback a minimum of 10 metres from the street boundary.	Two storey developments are dominant within the street.	Yes
1.2.3 Rhythm of the Built Elements in the Streetscape			
1.2.3 (1)	The primary building façade should not exceed 40% of the overall width of the total frontage (Figure 6).	N/A. No direct street frontage.	N/A
1.2.3 (2)	The secondary building façade should be set back a minimum of 1.5 metres from the primary building façade (Figure 7).	N/A. No direct street frontage.	N/A
1.2.3 (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.	A flat roof with a centrally located clerestory style roof is proposed however there are mixtures of flat roofs, parapet roofs and pitched roofs within the immediate vicinity of the subject site. The proposed roof form will not be out of character with existing and future development within the locality.	Yes
1.2.4 Building Setbacks			
1.2.4.2 Front Setbacks			
1.2.4.2 (1) Front Setbacks	Where the setback of an adjacent building is greater than 5m, an appropriate setback may be achieved by ensuring development is set back: (i) the same distance as one or the other of the adjoining buildings,	N/A – The site is a battle-axe allotment.	N/A

	provided the difference between the setbacks of the two adjoining buildings is less than or equal to 2.0m or; (ii) the average of the setbacks of the two adjoining buildings, if the difference between the setbacks of the buildings is greater than 2.0m (Figure 10)		
1.2.4.2 (2)	Where the setbacks of the adjacent buildings are 0m-5.0m, an appropriate setback may be achieved by ensuring development is set back the same distance as one or the other of the two adjoining dwellings (Figure 11)	N/A – The site is a battle-axe allotment.	N/A
1.2.4.3 Side and Rear Setbacks			
1.2.4.3 Rear Setbacks	Rear Buildings are to have a minimum rear setback of 15% of the average site length, or 6m, whichever is greater. Site length is 43.93m/47.55m = 6.86m	Complies.	Yes
1.2.4.3 Side setbacks	For buildings having a wall height of 3.5m or less, the minimum side boundary setback is 900mm.	East: 1304mm. West: 2370mm.	Yes Yes
1.2.4.3 Side setbacks	For buildings having a wall height of greater than 3.5m, the minimum side boundary setback is 1200mm	East: 1304mm. West: 2370mm.	Yes Yes
1.2.5 Fenestration and External Materials			
1.2.5 (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	The development does not have a presentation to the street frontage, being a battle-axe block. The development is considered to be consistent with the modern design and	Yes

	buildings in the streetscape.	colour range demonstrated throughout the immediate vicinity.	
1.2.5 (2)	Garage doors should not dominate the street front elevation (Figure 16)	N/A – battle axe allotment	N/A
1.2.5 (3)	The roof should be similar to the angle of pitch, materials and colour of roofs in the streetscape (Figure 14).	The roof pitch is not of out character with other buildings in the street. There are other buildings within the locality that have roof styles that exhibit a parapet flat roof form.	Yes
1.2.5 (4)	The colours of garages, window frames, and balustrading on main facades and elevations are to be integrated with the external design of the building.	The colours of window frames and balustrading are consistent with the external design of the building.	Yes
1.2.5 (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	N/A the property is a battle axe allotment.	N/A
1.2.5 (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.	N/A - the proposed does not have a presentation to the street, being a battle-axe allotment.	N/A
1.2.6 Street Edge			
1.2.6 (1)	New developments should provide front fencing that complements fencing within the streetscape.	N/A - the proposed does not have a presentation to the street, being a battle-axe allotment.	N/A
1.2.6 (2)	Fencing is to be consistent with the requirements of Section 4.2.	Noted.	Yes
1.2.6 (3)	Existing vegetation in the front building line setback or on the street verge that contributes to the character of the streetscape should be	No trees have been nominated for removal.	Yes

	preserved		
1.2.6 (4)	The driveway location should not result in the removal of any street trees or removal of substantial trees on the site	Existing driveway is to be retained and does not result in the removal of any street trees.	Yes
1.3 Open Space			
1.3 (1)	15% of the site area must be deep soil landscaped area.	22.1% of the site is deep soil landscaped area.	Yes
1.3 (2)	Private open space should be adjacent to and visible from the main living and/or dining rooms and be accessible from those areas.	Private open space is directly adjacent to and accessible from the living/dining area.	Yes
1.3 (3)	Development should take advantage of opportunities to provide north facing private open space to achieve comfortable year round use.	Given the orientation of the site, the proposed private open space is appropriately located to achieve solar access.	Yes
1.3 (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	Landscape areas have been maximised to allow for infiltration of stormwater.	Yes
1.3 (5)	Existing significant trees and vegetation must be incorporated into proposed landscape treatment.	No trees have been nominated for removal.	Yes
1.4 Vehicular access, parking and circulation			
1.4 (1)	Car parking is to be provided in accordance with the requirements in Section B4. Two (2) spaces required.	Two (2) parking spaces provided.	Yes
1.4 (4)	Crossings are to be positioned so that on-street parking and landscaping on the site are maximised, and removal or damage to	The proposal will utilise the existing vehicular crossing. No street trees are affected by the driveway.	Yes

	existing street trees is avoided		
1.4 (5)	Garaging should be setback behind the primary façade.	The garage is forward of the primary façade however acceptable given the site is a battle axe allotment and a vehicle needs to leave the site in a forward direction.	Yes
1.4 (6)	The maximum driveway width between the street boundary and the primary building façade is 4m	The existing driveway/access handle remains unaltered by this proposal.	Yes
1.4 (11)	Storage areas within basements or garages must not exceed 10m ² per dwelling (with a minimum width of 500mm)	Complies.	Yes
1.4 (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.	Parking layout, access and egress is in accordance with AS2890.1-2004.	Yes
1.5.1 Visual Privacy			
1.5.1 (1)	Windows from active rooms are to be offset between adjacent dwellings so as to avoid direct overlooking onto neighbouring windows	The majority of windows on the first floor service non active rooms including bedrooms and bathroom, which are less likely to present issues of overlooking given their use. The only active room on the first floor is a rumpus room and those windows face north towards the street and are setback from the boundary approximately 8.235m.	Yes
1.5.1 (2)	Where terraces and balconies are proposed and are elevated more than 1.5m above ground level (finished) and are located behind the street	The only balcony proposed is off the master bedroom which faces south towards the water. This balcony is setback 3.215m from	Yes

	front façade, they are restricted to a maximum width of 2.5m and must be setback a minimum 3m from any adjoining property boundary.	the eastern boundary (with a solid wall on the eastern side) and approximately 4m from the western boundary. The balcony also has a depth less than 3m.	
1.5.1 (3)	The area of balconies or terraces greater than 1.5m above ground level is limited to a cumulative total of 40m ² per dwelling	Complies. 12.9sqm	Yes
1.5.1 (4)	Council may consider a variation to the above requirements where it is considered that the terrace or balcony will not result in a loss of privacy to neighbouring properties.	N/A	N/A
1.5.1 (5)	For active rooms or balconies on an upper level, the design should incorporate placement of room windows or screening devices to only allow oblique views to adjoining properties (Figures 18 and 19).	<p>The only active room on the first floor is a rumpus room and window placement and setbacks are considered to be acceptable in minimising any potential impacts.</p> <p>There is a rear balcony located on the first floor and it does not adversely affect the amenity of adjoining properties as it is located off the master bedroom and has generous setbacks reducing potential for overlooking and is considered acceptable.</p>	Yes
1.5.1 (6)	Loss of privacy to neighbouring properties, as a result of a proposed development, will only be considered where a variation is sought to the objective or the design solution for floor space ratio, building height, building envelope, side	The proposed development does not seek variations to the floor space ratio or building height. The development has been designed to maintain privacy between properties.	Yes

	boundary setbacks, extent of second level development or size of balcony/terrace.		
1.6 Solar Access			
1.6 (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 shadow diagrams provided indicate that the development will achieve the required solar access.	Yes
1.6 (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).	The shadow diagrams submitted indicate compliance with this control.	Yes
1.7 Views and view sharing			
1.7(1)	Development shall provide for the reasonable sharing of views	No adverse impacts in relation to view loss. Reasonable view sharing has been maintained.	Yes
<p><u>Discussion on view sharing</u></p> <p>The subject site and surrounding lands are located in close proximity to Kyle Bay and benefit from views across the Georges River. As part of the development, the Local Environmental Plan and Development Control Plan controls seek to ensure the location and design of dwellings reasonably maintain existing view corridors or vistas from the neighbouring dwellings, streets and public open space areas. The proposed development involves alterations and additions to an existing building. It is noted that no concern has been raised by properties within the vicinity that may have views across the subject site to the Georges River.</p> <p>The notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment (taking it all away cannot be called view sharing, although it may, in some circumstances, be quite reasonable). To decide whether or not view sharing is reasonable, the LEC Court adopted a four-step assessment. In assessing any potential view loss, consideration has been given to the four-step assessment established in <i>Tenacity Consulting v Warringah [2004] NSWLEC 140</i>.</p> <p>In <i>Tenacity Consulting v Warringah Council</i> (Tenacity Consulting) 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.</p>			

The four steps and the guidance provided by the Court in *Tenacity Consulting* is as follows.

Step One – Assessment of the views to be affected

The first step is the assessment of views to be affected. *Water views are valued more highly than land views. Iconic views (e.g. 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, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*

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

The second step is to consider 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.*

Step Three – Assessment of the extent of the impact

The third step is to assess 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.*

Step 4 – Assessment of the reasonableness of the proposal that is causing the impact.

The fourth step is to assess 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.*

Applying the above principles to the proposed dwelling it is concluded that the proposed works do not unreasonably affect the view sharing that currently exists between properties.

The proposed alterations and additions have been prepared taking into account the site constraints and have provided setbacks and articulation within the building to open up viewing corridors for adjoining properties. The first floor is setback 2.37m to the western side and 1.3m to the eastern side, providing spatial separation. It is also noted that there are a number of substantial trees located in the south eastern corner of No 22A Merriman Street which also restrict viewing corridors for the street facing properties. The view to Kyle Bay from No 22A Merriman Street is from a balcony on the first floor which is accessed via a family room. The viewing corridor due to the location of buildings and

trees is in a south west direction between No 22 Merriman Street and across the roof of No 20A Merriman Street.

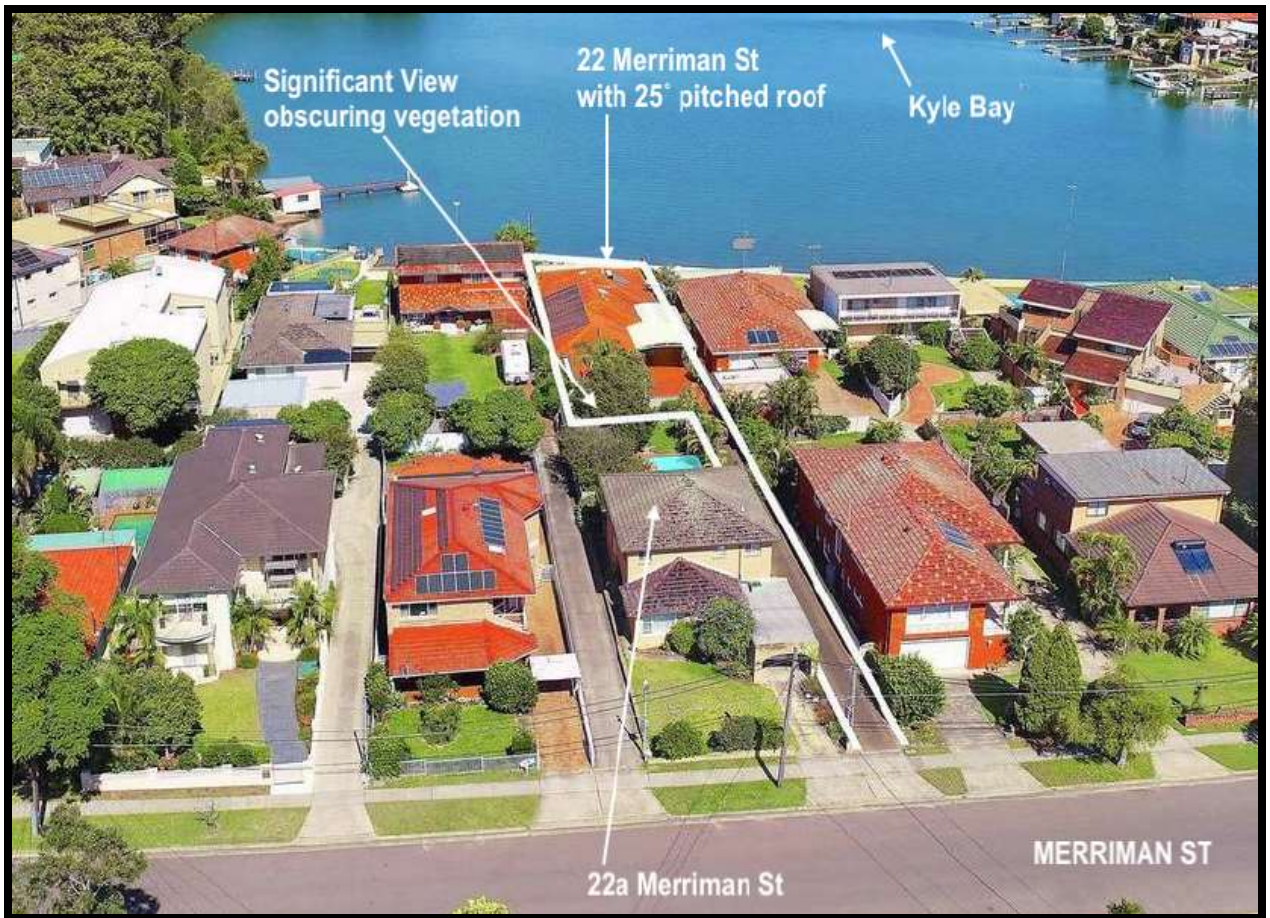


Figure 24: Aerial view of subject site and surround sites.

The applicant has provided the following comments in relation to view sharing:

- *All street fronting properties along Merriman Street are 2 storey in nature and from marketing research and visual inspection, these typically contain principle living areas on the ground floor and bedrooms on the first floor. Consequently any views from first floor windows and balconies do not occur from the principle living area.*
- *Internal access to properties such as 22A was not available*
- *The significant views are towards Kyle Bay which are wide angled views rather than narrow, and consequently, views will be available in multiple corridors between and across properties when viewed from No.20, 22a and 24A Merriman St*
- *Based on site investigations, aerial photos and pictures taken from a height of 4m on either side of the first floor balcony of No.22A (as the most affected property by the proposal), we advise that views from this property are significantly obscured by existing trees within and around the property of No. 22A, and that views are rather available are offset through a corridor to the south west rather than directly across No.22.*
- *Further to the above, any limited glimpses of the Kyle Bay water from 22A Merriman St across No.22, are also obscured by the existing 25-27 degree pitched roof of No. 22*



Figure 25: View analysis Plan



Figure 26: Photos showing views from different locations as shown on the view analysis plant



PHOTO LOCATION 5 AT EYE LEVEL

Figure 27: Photo looking back towards vegetation looking north east at No 22A Merriman Street.

Whilst access to the balcony of No.22A was not available, we have prepared photos from a 4m high pole on either side of the first floor balcony of No.22A – to simulate an eye level on this balcony. An existing view is maintained via diagonal corridor to the west of No.22.”

- *The proposed dwelling footprint uses the existing side boundary setbacks of the existing house to maintain view corridors that already occur between it and the adjoining dwellings;*
- *The length of the first floor occurs within the footprint of the existing dwelling, and occupy as much of the volume of the existing pitched roof as possible, whilst respecting the foreshore building line requirement. In this way a view corridor between trees and roofs to the from the first floor balcony of No.22A and to the west of No.22, is maintained;*
- *The rear of the first floor level provides additional side setbacks to as to maximise view angles from the 2 storey properties fronting Merriman St toward the bay.*
- *The proposal uses modest floor to ceiling heights, and a flat roof to keep the building height and scale as low as possible and below the maximum building height controls.*
- *The proposal has opted for an alternative compliance strategy to Council’s flood planning level recommendations on the ground floor – such that a ground level was achieved to keep the building height and scale as low as possible and below the maximum building height controls.”*

The proposed works are compliant with the maximum GFA and building height development standards consistent with an expected built form for the site. The subject site is also required to raise the floor levels to accommodate possible sea level rise, butt

the height permitted by the LEP is not exceeded, the floor to ceiling heights are not excessive and the setbacks are compliant. It is considered that the proposed works do not result in unreasonable adverse impacts upon the view sharing that exists.

4 Ancillary Structures

4.1 (1)	All dwellings are to have a street number, which can be clearly identified from the street.	Letterbox with street number will be retained at the street boundary.	Yes
4.1 (2)	All dwellings are to be provided with adequate and practical internal and external storage (garage, garden sheds, etc).	Adequate areas of storage have been provided.	Yes
4.1 (3)	Provision for water, sewerage and stormwater drainage for the site shall be to Council's satisfaction.	Utilities have been provided.	Yes
4.1 (4)	Waste facilities are to be located and designed for attractive visual appearance and function, and complement the neighbourhood character	Suitable areas behind the building line have been provided.	Yes
4.1 (5)	Waste and recycling areas are to be appropriately located so that waste and recycling containers can be easily moved to a nominated Council collection point.	Direct connection from the side of buildings to the street kerb via the right of way.	Yes
4.1 (6)	Letterboxes are to be located on the main street entrance of a property and be compatible in design and character with the buildings on site.	Letterboxes proposed on the street frontage adjacent to the driveway.	Yes
4.1 (7)	Each dwelling shall have a laundry and external clothes drying facilities. The open-air clothes drying facilities are to be easily accessible and visually screened from the street.	The dwelling contains a laundry and suitable external areas for clothes drying that is easily accessible.	Yes

4.2 Fences & Walls

4.2.1 Front Fences

4.2.1 (1)	In cases where an applicant can demonstrate the need for a front fence higher than	N/A – The site is a battle-axe allotment and as such no front fence is proposed.	N/A
-----------	--	--	-----

	1.4m, the maximum height of the fence must not exceed 1.8m		
4.2.1 (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	N/A	N/A
4.2.1 (3)	In the event of Council agreeing to a lesser setback, 1/3 of the length of the fence shall be permitted to be on the street alignment. The area between the fence and the street alignment shall be appropriately landscaped to soften the appearance of the fence. Details of the landscaping must be included on the landscaping plan.	N/A	N/A
4.2.1 (4)	Gates must not encroach over the street alignment when opening or closing.	N/A	N/A
4.2.1 (5)	Where a vehicular entrance is proposed in conjunction with a fence of height greater than 1.4m, a 45° splay or its equivalent is provided either side (as applicable) of the entrance to ensure driver and pedestrian vision. The splay is to have minimum dimensions of 2.0m by 2.0m	N/A	N/A
4.2.1 (6)	Services, including pipes, conduits and the like must not be attached to the face of front fences and walls.	N/A	N/A
4.2.1 (7)	Front fences must not be made of colorbond steel	N/A	N/A

	or timber palings. Preferred materials are masonry, stone, ornate timber and ornate metal.		
4.2.1 (8)	For sloping streets, the height of fences and walls may be averaged and fences and walls may be regularly stepped.	N/A	N/A
4.2.2 Side and rear fences			
4.2.2 (1)	Side and rear boundary fences must not be higher than 1.8m on level sites, or 1.8m as measured from the low side where there is a difference in level either side of the boundary. An additional 300mm of lattice is permitted for privacy screening	No boundary fencing is proposed as part of the development.	Yes
4.2.3 Retaining Walls			
4.2.3 (1)	Retaining walls over 600mm in height must be designed by a suitably qualified structural engineer.	Noted.	Yes
4.2.3 (2)	Construction of retaining walls or associated drainage work along common boundaries must not compromise the structural integrity of any existing retaining walls or structures. All components, including footings and aggregate lines, must be wholly contained within the property.	No retaining walls proposed along the common boundary.	Yes
4.2.3 (3)	A retaining wall that is visible from the street or public area must: (i) be constructed to a height no greater than 1.0m, and (ii) be designed so that there is a minimum setback of 1.0m between retaining walls and	No retaining walls proposed.	N/A

	landscaping is provided in the setback areas, and (iii) be constructed of materials that do not detract from the streetscape		
4.3. Air conditioning			
4.3 (1)	Air conditioning units should be sited so that they are not visible from the street.	The subject site is a battle-axe property, the AC unit will not be visible from the street	Yes
4.3 (2)	Air conditioning units should not be installed on the front façade of a building.	Property is not readily visible from the street.	Yes
4.3 (3)	Air conditioning units should not be installed within window frames or otherwise obscure a window.	Not proposed within window frames.	Yes
4.3 (4)	Air conditioning units should not obscure architectural details visible from the street.	The property is a battle-axe allotment and not readily visible from the street.	Yes
4.3 (5)	The noise level from air conditioning systems is not to exceed the Laeq 15 minute by 5dBA measured at the property boundary.	Noted and can be conditioned.	Yes
4.4 Outbuildings			
N/A – No outbuildings proposed			
4.6 Swimming pools, spas and enclosures			
4.6 (1)	Swimming pools/ spas should be located at the rear of properties.	Proposed pool is located at rear of allotment.	Yes
4.6 (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.	Pool coping is located >900mm from property boundary. Pool water line is > 1500mm from the eastern and western boundaries.	Yes
4.6 (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	It is proposed to be close to the existing ground. The pool will be a maximum of 500mm above ground level.	Yes

	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.		
4.6 (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.	Maximum 500mm proposed.	Yes
4.6 (8)	Filling is not permitted between the swimming pool and the property boundary. The position of the swimming pool, in relation to neighbours and other residents, must be considered to minimise noise associated with activities carried out in the swimming pool or from the swimming pool equipment, such as cleaning equipment.	No filling proposed.	Yes
4.6 (9)	Council may require mechanical equipment to be suitably acoustically treated so that noise to adjoining properties is reduced.	Conditions of consent will be imposed to comply.	Yes
4.6 (10)	A pool fence complying with the legislation should separate access from the residential dwelling on the site to the pool.	Conditions of consent will be imposed to comply.	Yes
4.6 (11)	Safety and security measures for swimming pools must comply with the relevant requirements of the Swimming Pools Act and any relevant Australian Standards.	Conditions of consent will be imposed to comply.	Yes
C3 – Foreshore and Waterfront Controls			
1.Foreshore Localities			
	In preparing a	Noted.	Yes

	development application for any waterfront property, you must firstly refer to the Foreshore Locality Controls in Part C4.		
3. Development on the Foreshore Area			
	Clause 6.4 of KOGARAH LOCAL ENVIRONMENTAL PLAN 2012 specifies provisions to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area. In preparing a Development Application for development in the foreshore area, the provisions of Clause 6.4 are required to be addressed.	Clause 6.4 has been addressed. A Clause 4.6 statement has been submitted in support of the application. See discussion earlier in this report.	Yes
6. Foreshore & Waterfront Development			
6.1 General Objectives & Controls			
6.1(1)	Council will not grant consent for residential waterfront structures to land which does not have frontage to the waterway. This includes allotments which only have a right of way to the waterway.	N/A	N/A
6.6 Swimming Pools/Spa Pools			
6.6 (1)	Any swimming pool or spa pool is to be sited as close to natural or existing ground level as possible. In this regard, the coping level of swimming pools and spa pools is not to be elevated more than 500mm above natural or existing ground level (Figure 4).	The swimming pool will be a maximum of 500mm above existing ground level.	Yes
6.6 (2)	Any exposed edge is to have the natural or existing ground level reinstated and be suitably	Suitable landscaping will be provided.	Yes

	landscaped with mature trees and landscaping so as to reduce the visual impact from the waterway.		
6.6 (3)	The construction of swimming pools and spa pools below the FBL and above MHWL should avoid reshaping of the landform and removal of native vegetation and significant trees. In areas where the construction of a pool will necessitate excessive excavation or the removal of significant vegetation, the siting of the pool may be restricted to above the FBL. The Foreshore Locality Controls specify areas where this may be required.	The proposed swimming pool will not result in the removal of native vegetation or significant trees.	Yes
6.6 (4)	Pool/spa fencing that is visible from the foreshore/water must be open or transparent and must be of a colour that blends into the landscape character of the waterway.	The pool fencing is proposed to be toughened glass.	Yes
6.6 (5)	With respect to existing swimming pools/spa pools below MHWL, Council is unlikely to request that the pool be removed or filled, unless it is considered that its economic life has been reached.	N/A	N/A
6.6 (6)	In circumstances where it is considered that the economic life of the pool has been reached, and the Department of Lands is in agreement, then Council may require, upon substantial redevelopment, that the pool be removed	N/A	N/A
C4 – Foreshore Locality Controls			

The subject site is located within Locality 6 - Kyle Bay. The locality has Foreshore Building Lines (FBL) between 15m -30m as shown on Kogarah LEP 2012 FBL map. The Kyle Bay locality map is shown below:



Figure 28: Locality 6 – Kyle Bay

6.6 Mapping Areas

This locality consists of four (4) smaller areas. These areas are consistent with the Department of Conservation and Land Management's Assessment of Crown Land at Georges River (Northern Shore). Each of the areas is shown in the following maps. The subject site is located in area 6(b).

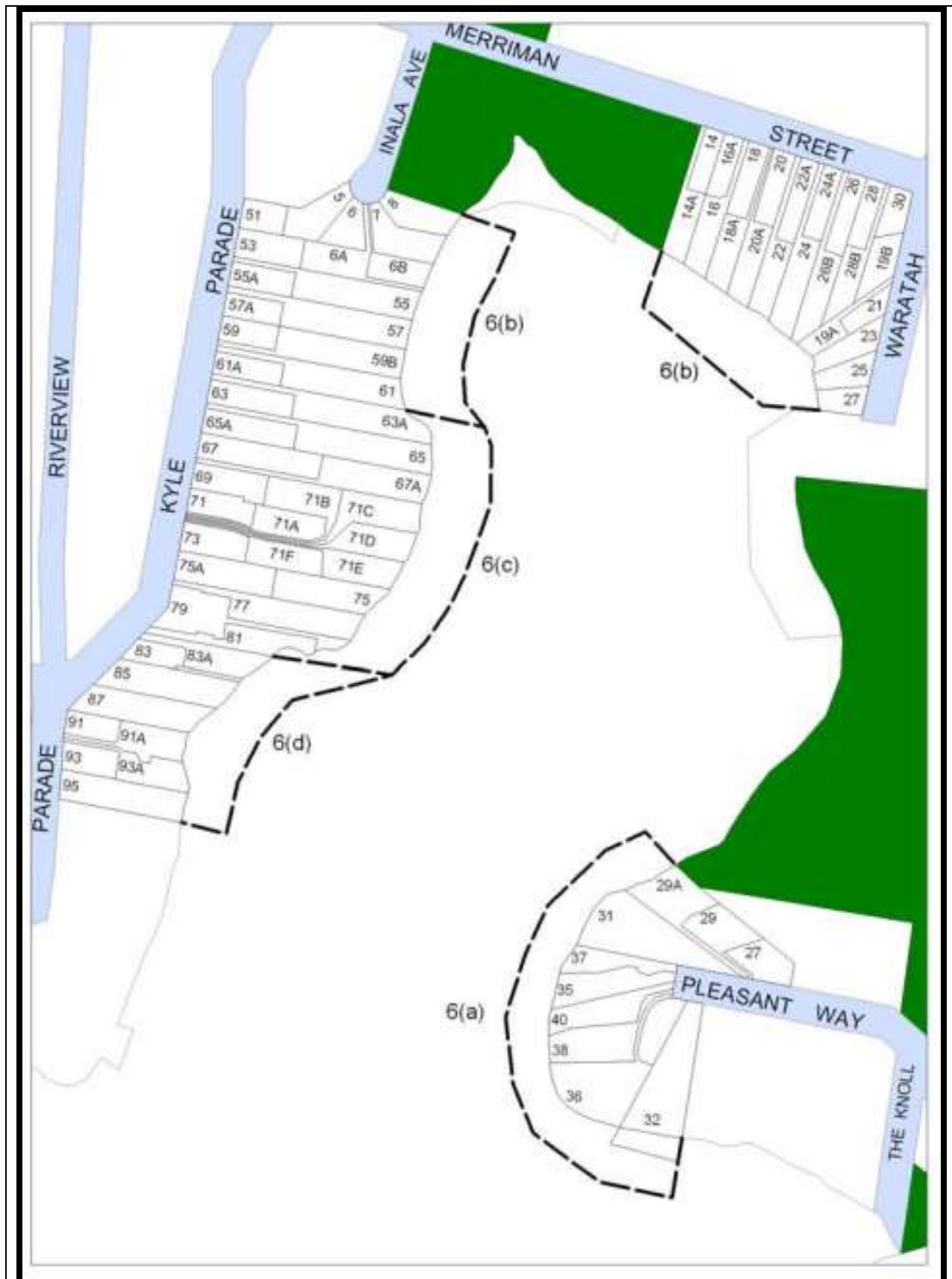


Figure 29: Locality Map showing areas 6(a), 6(b), 6(c) and 6 (d).

6.7 Water and Land Interface Development

Development between MHWM and the FBL

The following indicates the type of development “permitted”, “restricted” and “permitted, subject to specific controls” between Mean High Water Mark (MHWM) and the Foreshore Building Line (FBL):

In addition to the controls contained in Part C3 and Part C4 the following controls apply to areas 6(b)

6.7 (1) Retaining walls

Retaining walls are permitted development between MHW and FBL in Locality 6(b).

6.7 (1) Seawalls

The following controls apply to Areas 6(a) and 6(b). Due to the nature of the foreshore in this locality and the existence of sandstone platforms and rock shelves close to the water's edge, Council will only consider the construction of seawalls where justified on the basis of avoiding flooding or for necessary retention works. In these circumstances, the following criteria shall apply:

- (i) Natural sandstone blocks or sandstone facing over concrete walls are preferable to other materials
- (ii) Where existing sandstone seawalls are being extended or upgraded, similar sandstone coursing to match existing walls should be used.
- (iii) Rubble walls are not permitted and, if possible, existing rubble walls are to be replaced.

Refer to Part C3 Section 6.7 for specific provisions.

There are no proposed seawalls as part of this application.

6.7 (1) Swimming Pools and spa pools

Swimming pools and spa pools are permitted development between MHW and FBL in Locality 6(b)

6.9 Land based Development

6.9(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: <ul style="list-style-type: none"> (i) do not increase the visual impact of the dwelling, when viewed from the water; (ii) still achieve a built form that is in scale and proportion with the site and adjoining development; and 	The proposal does not seek the removal of any significant vegetation. The alterations and additions to the existing building will be predominantly located within the existing building footprint.	Yes
---------------	---	--	-----

	(iii) the overall development complies with the floorspace requirements as contained Part C1 Section 1.2.1.		
6.9(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.	N/A	N/A
6.9 (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 (See Figure 24-26).	The proposal will present as two (2) storeys.	Yes
6.9 (4)	Facades and rooflines of dwellings facing the water are to be broken up into smaller elements with a balance of solid	Complies.	Yes

	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%.		
6.9 (5)	Colours that harmonise with and recede into the background 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.	The proposed colour scheme is considered acceptable.	Yes
6.9 (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).	The location of the swimming pool will have no adverse impact on trees.	Yes
6.9 (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; or (ii) recessing or projecting architectural elements; or (iii) open, deep verandas.	The facade fronting the waterfront has been appropriately treated and articulated.	Yes

Interim Policy – Georges River Development Control Plan 2020

128. The proposed development is subject to the provisions of the Interim Policy Georges River Development Control Plan 2020. Only the applicable aspects have been assessed

with respect to the Interim Development Control Plan. All other aspects have been thoroughly assessed under Kogarah Development Control Plan.

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

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

Interim Policy – Georges River Development Control Plan 2020

Standard	Proposed	Complies
Building Setback (Front)		
Minimum setback from the primary street boundary is: a) 4.5m to the main building face b) 5.5m to the front wall of garage, carport roof or onsite parking space Or a) Within 20% of the average setback of dwellings on adjoining lots	N/A – subject site is a battle-axe property N/A N/A	N/A N/A N/A
Building Setback (Rear)		
Buildings are to have a minimum rear setback of 15% of the average site length, or 6m, whichever is greater Where the existing pattern of development displays an established rear setback, development should recognise and respond to site features and cross views of neighbouring properties	As the subject site is a battle-axe, the average length of the site would be unrealistic and difficult to achieve. The proposed setback is consistent with adjoining properties.	No, however see Clause 4.6 assessment for Clause 6.4 variation.
Note: As a foreshore site, this site is subject to a Foreshore Building Line (FBL) of 15m from the MHWL. The proposal seeks a variation to the development standard relating to limited development on foreshore area.		
Building Setback (Side)		
The minimum side setback outside FSPA is 900mm	Ground floor East: 1304mm	Yes

(ground floor) and 1.2m (first floor)	West: 2370mm First Floor East: 1304mm West: 2370mm	Yes Yes Yes
The minimum side setback inside FSPA is 900mm (ground floor) and 1.5m (first floor).	N/A	N/A
Landscaped area		
<ul style="list-style-type: none"> Where located outside the FSPA, a minimum of 20% of site area is landscaped open space Where located inside the FSPA, a minimum of 25% of the site area is landscaped open space The minimum dimension of landscaped open space is 2m, designed in a useable configuration A minimum of 15m² of the landscaped open space is provided between the front setback and the street boundary in the form of a front yard 	22.2% (186.7sqm) N/A Minimum 2m dimension provided Minimum 15sqm provided.	Yes N/A Yes Yes
Private Open Space		
An area of Principal Private Open Space is to be provided which: a) has a minimum area of 30m ² b) has a minimum dimension of 5m, designed in a useable configuration c) is located at ground level and behind the front wall of the dwelling d) is directly accessible from a main living area	Minimum 30sqm provided. Minimum 5m dimension provided. Located at ground level and behind the front wall of the dwelling. A terrace and grassed area are provided which is directly accessed via a living room.	Yes Yes Yes Yes
Solar Access		
Where the neighbouring properties are affected by overshadowing, at least 50% of the neighbouring existing primary private	Due to the orientation of the site the shadowing impacts are minimal and compliant. Shadow diagrams were provided in	Yes

<p>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> <p>Note 1: development applications for development two storeys and over are to be supported by shadow diagrams demonstrating compliance with this design Interim Policy – Georges River Development Control Plan 2020 July 2019 Page 6 of 8 solution.</p> <p>Note 2: Exemptions will be considered for developments that comply with all other requirements but are located on sites with an east-west orientation.</p>	<p>accordance with the requirements of the Development Control Plan.</p>	
---	--	--

Georges River Development Control Plan 2021

130. The Georges River Development Control Plan 2021 became effective on 8 October 2021 upon the gazettal of the Georges River Local Environmental Plan 2021. However, given the date the application was lodged, the Kogarah Local Environmental Plan 2012, the Interim Policy - Georges River Development Control Plan and the Kogarah Development Control Plan 2013 remain the instruments for assessment of this proposal

Developer Contributions

131. The development is subject to Section 7.12 contributions as the proposed cost of works exceed \$100,000.00. In accordance with Georges River Council Local Infrastructure Contributions Plan 2021 Levies are applicable to dwelling house developments. A condition of consent requiring payment of the contribution has been imposed should the application be supported.

Contributions on this application have been determined in accordance with the Georges River Council Local Infrastructure Contributions Plan 2021 (Section 7.11 and Section 7.12). This plan applies to a development application (DA) and application for a complying development certificate (CDC) that had been submitted but not determined on the date on which this plan took effect.

132. In this case the levied charge is \$9,980, which is required to be paid in full prior to the release of any Construction Certificate.

IMPACTS

Natural Environment

133. The proposed development will not adversely affect the natural environment, with the built form works for the dwelling contained predominantly within the existing building footprint.
134. The proposed method of drainage to the waterway has been assessed by Council's Development Engineer and conditions of consent have been imposed in that regard.

Built Environment

135. The proposal represents an acceptable planning outcome for the site with respect to its bulk, scale and density and is an appropriate response to the context of the site and its R2 Low Density Residential zoning.
136. The development will modernise the built form presentation to the waterway.

Social Impact

137. The assessment demonstrates that the proposal in its current form will not have an adverse impact on the character of the locality and the amenity of neighbouring residential properties. No adverse social impacts have been identified as part of the assessment. The environmental impacts on the social environment are considered reasonable and the application is supported.

Economic Impact

138. There is no apparent adverse economic impact that is likely to result within the locality due to the construction of the proposed dwelling housing development. The proposal is not considered to result in an unreasonable material economic impact.

Suitability of the Site

139. The site is zoned R2 Low Density Residential. The proposal is a permissible form of development within the zone and has been designed to fit predominantly within the footprint of the existing building. It is considered that the proposal will have no unreasonable impacts on the adjoining properties, the waterway or the streetscape in its current form.

SUBMISSIONS, REFERRALS AND THE PUBLIC INTEREST

Submissions

140. 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. No submissions were received during the neighbour notification period.

REFERRALS

Council Referrals

Development Engineer

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

Drainage Engineer - Flood

142. The proposal was referred to Council's Drainage engineer in relation to any potential flood concerns. Concern was raised in relation to overland flooding and riverine flooding and coastal hazard. Georges River Development Control Plan 2021 includes controls with respect to Coastal hazards and risks including sea level rise, whilst KDCP 2013 is the Development Control Plan relevant to this proposal, it is considered in the best interests of the applicant to consider designing taking into consideration these matters. A meeting

was held to discuss these matters and the applicant was provided with the following options:

1. The applicant engages a specialised flood consultant to provide analysis to determine an estimate for the expected 1% AEP riverine flood level **at the site of the development** in the year 2100 assuming a 0.9 metre sea level increase in accordance with the RCP 8.5 scenario as detailed in the Georges River Tidal Inundation Study. It is noted that the effect sea level rise has on riverine flood levels in the Georges River will diminish the further upstream the river that a site is located. Council does not have a study that has analysed or mapped the combined effects of riverine flooding and sea level rise. Council recommends the applicant's consultant review's other publicly available reports associated with the Georges River including the *Salt Pan Creek Catchments Floodplain Risk Management Study and Plan Final Report 2013* by Bewsher to assist in their investigations.

Subject to a suitable analysis as detailed above being undertaken the consultant could provide discussion and recommendations (if appropriate) as to alternate finished levels for the proposal that includes allowance for the expected 1% AEP riverine flood level at Merriman Street with allowance for 0.9m increase in sea level and 500mm freeboard. The flood report submitted for the development proposal has not addressed the above, being the combined effects of riverine flooding and sea level rise.

2. To meet the levels stated in the draft Development Control Plan that allow for both sea level rise and a freeboard for riverine flooding it would be required that:
 - the habitable floor levels are 1.4m above the 1% AEP riverine flood level i.e.. at or above RL 3.1m AHD;
 - non-habitable floor levels are 0.7m above the 1% AEP riverine flood level i.e.. at or above RL 2.4m AHD; and
 - garages are 1.2m above the 1% AEP riverine flood level i.e.. at or above RL 2.9m AHD.
3. The finished floor levels as are currently proposed may alternatively be considered acceptable with respect to riverine flooding and sea level rise subject to the development being built completely in flood proof materials up to RL 3.1m AHD with electrical and mechanical equipment being installed in accordance with Appendix A10 of Council's Stormwater Management Policy.

Following on from the meeting on 13 September 2021, the applicant indicated that they would be utilising the finished floor levels (FFL's) as proposed with flood proof measures employed to RL 3.1m AHD in accordance with option 3 as follows:

- The Ground floor FFL will be RL 2.8m AHD.
- The Garage floor FFL will be RL 2.3m AHD.
- You will also need to ensure that development will be built completely in flood proof materials up to RL 3.1m AHD with electrical and mechanical equipment being installed in accordance with Appendix A10 of Councils Stormwater Management Policy.

No objections were raised, specific conditions of consent have been recommended as referenced at the end of this report.

Environmental Health Officer

143. The Acid Sulfate Soils Management Plan and Preliminary Site Investigation Report were reviewed by Council's Environmental Health Officer. No objection raised subject to suitable conditions of development consent.

Consultant Arborist

144. No objections were raised, specific conditions of consent have been recommended as referenced at the end of this report including planting of trees.

External Referrals

Ausgrid

145. The application was referred to Ausgrid as per Clause 45(2) of the State Environmental Planning Policy (Infrastructure) 2007 on 17 December 2020. 19 January 2021. A response was received on 19 January 2021 raising no objection to the proposal.

CONCLUSION

146. The proposal seeks consent for partial demolition works, alterations and additions to the existing dwelling and first floor addition, removal of existing swimming pool and construction of a new inground swimming pool, landscaping and site works at Lot 1, DP508492 and known as 22 Merriman Street, Kyle Bay.
147. The proposal has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979. The proposal is considered to be a reasonable redevelopment of the site and the proposed scale, bulk and height is considered to be an acceptable planning and design outcome for this site and will be consistent with the existing and desired future character of development in the R2 zoned land in this location and the immediate locality.
148. The proposal has been assessed against the provisions of the relevant State Environmental Planning Policies, the Kogarah Local Environmental Plan 2012 and Kogarah Development Control Plan 2013.
149. The proposal satisfies the key planning controls in the Kogarah Local Environmental Plan apart from Clause 6.4 Limited Development in the foreshore area development standard. A Clause 4.6 Statement has been submitted with the application justifying the variation in this case is considered to be unreasonable and unnecessary in the circumstances of this case and sufficient environmental planning grounds have been demonstrated to contravene the control in this instance.
150. The proposed development design satisfies the objectives of both Clause 6.4 Limited Development on foreshore area and the zone objectives for the site and the Clause 4.6 Statement and is considered to be well founded and in the public interest as there will not be any direct or adverse environmental impacts generated by the variation sought. The proposal satisfies the requirements of Clause 6.4 of the Kogarah Local Environmental Plan 2012.
151. The application is recommended for approval subject to conditions.

DETERMINATION AND STATEMENT OF REASONS

Statement of Reasons

152. The reasons for this recommendation are:

- The proposed development complies with the requirements of the relevant environmental planning instruments except for the limited development in foreshore area development standard. A Clause 4.6 variation has been submitted in support of the application which is considered acceptable having regard to the justification provided in the report above.
- The proposed development satisfies the objectives of the R2 Low Density Residential zone of Kogarah Local Environmental Plan 2012 in 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 alterations and additions have been incorporated largely within the existing building footprint and will not unreasonably affect the amenity of any immediately adjoining properties in terms of unreasonable overlooking, overshadowing or view loss.
- The proposal has effective façade modulation and wall articulation that will serve to provide visual interest and reduce the bulk of the building.
- The proposal is not inconsistent with the provisions of the Georges River Local Environmental Plan 2021.
- The proposal aims to replace the existing dwelling located partially within the foreshore area with a high-quality dwelling house that largely maintains the same footprint.

Determination

153. THAT the Georges River Local Planning Panel, as the consent authority, support the request for variation pursuant to Clause 4.6 of Kogarah Local Environmental Plan 2012, in relation to the Limited Development on Foreshore Area (Clause 6.4) as the variation sought is considered to be well founded and in the public interest as there will not be any direct or adverse environmental impacts generated by the variation sought.
154. 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 DA2020/0475 partial demolition works, alterations and additions to the existing dwelling and first floor addition, removal of existing swimming pool and construction of a new inground swimming pool, landscaping and site works at Lot 1, DP508492 and known as 22 Merriman Street, Kyle Bay, subject to the following conditions:

Development Details

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

Description	Reference No.	Date	Revision	Prepared by
Schedule of drawings	-	21/10/2021	B	voarc
Notes & Legends & BASIX Commitments	DA 001	21/10/2021	B	voarc
Context Analysis	DA 100	21/10/2021	B	voarac
Site Analysis	DA 101	21/10/2021	B	voarc

Plan				
Site Plan	DA102	21/10/2021	B	voarc
Existing Ground Floor Plans	DA 111	21/10/2021	B	voarc
Proposed Ground Floor Plan	DA 112	21/10/2021	B	voarc
Proposed First Floor Plan	DA 113	21/10/2021	B	voarc
Proposed Roof Plan	DA 114	21/10/2021	B	voarc
GFA Calculation Plan	DA 131	21/10/2021	B	voarc
Landscape Calculation Plan	DA 140	21/10/2021	B	voarc
Existing ground floor Plan	DA 201	21/10/2021	B	voarc
Existing rear yard plan	DA 202	21/10/2021	B	voarc
Proposed Ground floor plan	DA 203	21/10/2021	B	voarc
Proposed Rear yard Plan	DA 204	21/10/2021	B	voarc
Proposed First floor plan	DA 205	21/10/2021	B	voarc
Proposed Roof Plan	DA 206	21/10/2021	B	voarc
Site Elevations	DA 300	21/10/2021	B	voarc
Site Elevations	DA 301	21/10/2021	B	voarc
North Elevation	DA 311	21/10/2021	B	voarc
East Elevation	DA 312	21/10/2021	B	voarc
South Elevation	DA 313	21/10/2021	B	voarc
West Elevation	DA 314	21/10/2021	B	voarc
Long Section	DA 401	21/10/2021	B	voarc
Sections	DA 411	21/10/2021	B	voarc
Sections	DA 412	21/10/2021	B	voarc
Sections	DA 413	21/10/2021	B	voarc
Sections	DA 414	21/10/2021	B	voarc
Sections	DA 415	21/10/2021	B	voarc
Aerial View	DA501	21/10/2021	B	voarc
Entry View	DA 502	21/10/2021	B	voarc
Rear View - SW	DA 503	21/10/2021	B	voarc
Rear View - SE	DA 504	21/10/2021	B	voarc
Window Schedule	DA 701	21/10/2021	B	voarc
Door Schedule	DA 702	21/10/2021	B	voarc

Separate Approval Required Under Other Legislation

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

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

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

Requirements of other Concurrence, Integrated & other Government Authorities

4. **Sydney Water – Tap in™** - The approved plans must be submitted to a Sydney Water Tap in™ to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately endorsed. For details please refer to 'Plumbing, building and developing' section of Sydney Water's web site at www.sydneywater.com.au 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.
5. **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.

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).

Please contact council prior to the payment of S94 Contributions to determine whether the amounts have been indexed from that indicated below in this consent and the form of payment that will be accepted by Council.

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

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

Fee Type	Fee
GENERAL FEES	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See https://portal.longservice.nsw.gov.au/bci/levy/	
Builders Damage Deposit	\$1,900.00
Inspection Fee for Refund of Damage Deposit	\$168.00
DEVELOPMENT CONTRIBUTIONS	
Georges River Council Local Infrastructure Contributions Plan 2021	\$9,980.00

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 Local Infrastructure Contributions Plan 2021 (Section 7.12).

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 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 – 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: **\$1900.00.**

- (b) Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee to enable assessment of any damage and repairs where required: **\$168.00.**
- (c) Submit to Council, before the commencement of work, a photographic record of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal.

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

- 8. **Site Management Plan** - A Site Management Plan detailing all weather access control points, sedimentation controls, fencing, builders site sheds office, amenities, materials storage and unloading arrangements must be submitted with the application for a 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.

- 9. **BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No. 1149299S, dated 12 November 2020 must be implemented on the plans lodged with the application for the Construction Certificate.
- 10. **Low Reflectivity roof** - Roofing materials must be low glare and reflectivity. Details of finished external materials including colours and texture must be provided to the Certifying Authority.
- 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.

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

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

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

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

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

- 13. 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.

- 14. Stormwater System – Gravity to Natural Creek or Water Body** - All stormwater shall drain by gravity to the natural water body at the rear of the development site in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).

- 15. Overland Flow Assessment – Site Specific** - An overland flow assessment is to be undertaken in accordance Council's Stormwater Management Policy. The assessment is to include modelling of all overland flows through the site for storms up to and including the 1% AEP flood event. The assessment is to be accompanied by a plan of the site that includes all design measures and details to allow for all required overland flow conveyance including along both the eastern and western setbacks. The plan is to include all required design details including but not limited to finished spot levels, ground surface types, design requirements for any proposed modifications to boundary fencing, any proposed gates, and any required kerbing to allow for the design capacity of the

overland flow paths. Design details that allow for the conveyance of the overland flow under the stairs and landing on the eastern side of the dwelling are also to be included.

The assessment is to be accompanied by certification by the consulting engineer that:

- (i) the development will be protected for storms up to and including the 1% AEP flood event; and
- (ii) the development will not cause an increase or aggravation of flooding of neighbouring properties for storms up to and including the 1% AEP flood event

- 16. Compliance with Overland Flow assessment – Site Specific** - The development shall be designed to conform to the recommendations and conclusions of the overland flow assessment prepared with the submission of the Construction Certificate.

This shall include, but not be limited to, any recommendations for the following:

- a) Minimum floor levels
- b) Fencing
- c) Design finished surface levels surrounding the dwelling and along the designed overland flow paths
- d) Overland flow path construction
- e) Protection of the dwelling and garage from inundation of surface waters.
- f) Protection of adjoining properties from any increase or aggravation of existing flood conditions.

Evidence from professional engineer who specialises in hydraulic engineering that all design requirements have been adhered to shall be submitted with the Construction Certificate application.

- 17. Compliance with Swimming Pool Act 1992** - The alterations and additions to the dwelling house and/or the construction of the new dwelling house subject of this consent must not generate any non-compliances with the Swimming Pools Act 1992, Swimming Pools Regulation 2018, Building Code of Australia and/or AS 1926.1-2012 - Swimming Pool Safety. Details of compliance to be illustrated on the plans lodged with the application for the Construction Certificate.

- 18. Swimming Pools - Use and Maintenance** - The following apply to the construction, use and maintenance of swimming pools and spas:

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

- 19. Structural details** - Engineer's details prepared by a practising Structural Engineer being used to construct all reinforced concrete work, structural beams, columns and other structural members. The details are to be submitted to the Principal Certifying Authority for approval prior to construction of the specified works. A copy shall be forwarded to Council where Council is not the PCA.

- 20. Geotechnical Report** - Geotechnical Reports: The applicant must submit a Geotechnical Report, prepared by a professional engineer specialising in geotechnical engineering who holds the relevant Certificate of accreditation as required under the *Building and Development Certifiers Regulation 2020* and/or *Design and Building Practitioners Act 2020* 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.
- 21. Engineers Certificate** - A certificate from a professional Engineer specialising in structural engineering certifying the structural adequacy of the existing structure, to support all proposed additional superimposed loads shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate.
- 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) The planting of three (3) Australian native trees, be of minimum 45 litre pot/ bag size with tree species selection from – Georges River Councils, Tree Management Policy, April 2019, Appendix 1 – Tree Planting.
 - b) Location of existing and proposed structures, services and existing trees to be retained and /or removed

- c) Details of earthworks including mounding and retaining walls, Reduced Levels and planter boxes;
- d) 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.
- e) A higher proportionate mix of natives than exotics plantings, with all trees proposed, able to reach a height at maturity of nine (9) metres.
- f) Details of planting specifications, procedures and a maintenance schedule for twelve (12) months;
- g) Landscape ratios – pervious to impervious surfaces / deep soil zones
- h) Details of drainage and watering systems;
- i) Details of garden edging and turf; and
- j) Any required fencing, retaining walls and other structures not shown on other approved architectural and engineering plans.
- k) The contact details and website of the landscape architect or AQF Level 5 landscape designer, as well as qualifications.
- l) Associations and / or Memberships of Affiliation within the landscape industry.

25. Tree Protection and Retention - The following trees shall be retained and protected.

Tree Species	Location of Tree / Tree No.	Tree Protection Zone (metres) TPZ as per AS4970 - 2009 Fencing distance from trunk
<i>Callistemon viminalis</i>	22A Merriman Street, back fence	2.5 metres
<i>Leptospermum petersonii</i>	24B Merriman St side fence	2.0 metres

- a) In accordance with AS 4970-2009 *Protection of trees on development sites*, a protective fence consisting of 2.4 x 1.8 metres high, fully supported chainmesh fence shall be used. The distance of the fence out from the base of each tree is to be in accordance with the TPZ listed in the table above. A layer of organic mulch 100 millimetres thick shall be placed over the protected area and no soil or fill should be placed within the protection area.
- b) 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.
- c) The Tree Protection Zone of each tree, to be protected, shall be watered thoroughly and regularly to minimise the effects of construction works.
- d) 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

- e) Excavations around the trees to be retained on site or the adjoining properties shall be supervised by the AQF 5 Project Arborist to ensure that the root system will not

adversely be affected.

- f) 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.
- g) 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.

26. NBN Connection - Prior to the issue of the Construction Certificate in connection with a development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:

- (i) the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose; and
- (ii) the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

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

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

27. 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.

- 28. 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.
- 29. 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](#).
- 30. Dial before your dig** - The applicant shall contact “Dial Before You Dig on 1100” to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from “Dial Before You Dig” shall be forwarded to Council’s Engineers for their records.
- 31. Registered Surveyors Report - During Development Work** - A report must be submitted to the PCA at each of the following applicable stages of construction:
- (a) Set out before commencing excavation.
 - (b) Floor slabs or foundation wall, before formwork or commencing brickwork.
 - (c) Completion of Floor Slab Formwork - Before pouring of concrete/walls construction, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans. In multi-storey buildings a further survey must be provided at each subsequent storey.
 - (d) Completion of any Pool Formwork - Before concreting of pool shell, detailing the location of the pool relative to the adjacent boundaries and its height relative to the datum shown on the approved plans.
 - (e) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries.
 - (f) Completion of all Work - Detailing the location of the structure (including eaves/gutters) relative to adjacent boundaries and its height relative to the datum shown on the approved plans. A final Check Survey must indicate the reduced level of the main ridge.

Work must not proceed beyond each stage until the PCA is satisfied that the height and

location of the building is proceeding in accordance with the approved plans.

- 32. 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

- 33. Site sign - Soil & Erosion Control Measures** - Prior to the commencement of works (including demolition and excavation), a durable site sign, issued by Council in conjunction with this consent, must be erected in a prominent location on site. The site sign warns of the penalties which apply to pollution, storing materials on road or footpath and breaches of the conditions relating to erosion and sediment controls. The sign must remain in a prominent location on site up until the completion of all site and building works.
- 34. 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.

- 35. 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.
- 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. Cost of work to be borne by the applicant** - The applicant shall bear the cost of all works associated with the construction of the development that occurs on Council property. Care must be taken to protect Council's roads, including the made footway, kerbs, etc., and, where plant and vehicles enter the site, the footway shall be protected against damage by deep-sectioned timber members laid crosswise, held together by hoop iron straps and chamfered at their ends. This construction shall be maintained in a state of good repair and condition throughout the course of construction.
- 38. Obstruction of Road or Footpath** - The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste or skip bins, or any other matter is not permitted unless separately approved by Council under Section 138 of the Roads Act 1993 and/or under Section 68 of the Local Government Act 1993. Penalty infringement Notices may be issued for any offences and severe penalties apply.
- 39. Building Materials – Flood Prone Lane – Site Specific** - All building materials used to

construct the **dwelling and garage** must be flood proof materials up to RL **3.1m** AHD and this must be specified by the manufacturer. All electrical services must also be located above this level. The applicant should refer to the NSW Government Public [Reducing Vulnerability of Buildings to Flood Damage – Guidance on Building in Flood Prone Areas](#), Chapter 4.3’.

40. Removal & Filling of Swimming Pools

- (a) The site of the swimming pool must be filled (if necessary) so as to restore the site to the ground levels (existing) adjacent to the pool, and
- (b) The swimming pool must not be filled with building demolition waste of any kind and if constructed as a concrete shell must be demolished so as to allow ground water to escape or drain to groundwater and
- (c) The fill must be certified clean imported soil or virgin excavated material (VENM) and compacted, and
- (d) Any piping or similar material must be removed from the site before the site is filled.

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

42. 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.

43. Acid Sulfate Soil Management Plan Supervision - Prior to the commencement of any work (including demolition and excavation) the applicant must engage an appropriately qualified Land Contamination Consultant, certified under the consultant certification schemes recognised by the NSW EPA, to supervise and manage on site works and remediation in accordance the Acid Sulfate Soil Management Plan submitted and approved as part of the construction certificate.

44. Acid Sulfate Soils or other contaminants found during demolition or construction - Any new information identified during demolition, excavation or construction which has the potential to alter previous conclusions about AASS or PASS and subsequent treatment, must be notified to the Principal Certifying Authority (and Council if Council is not the principal certifying authority) immediately.

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

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

45. Imported Fill - Any fill imported to the site must be certified clean imported soil or virgin excavated material (VENM) and compacted.

- 46. Certification of acid sulfate soils prior to disposal** - Prior to the disposal of any excavated acid sulfate soils, testing to be carried out by a suitably qualified person to confirm that it has been treated to an acceptable pH level in accordance with the Waste Classification Guidelines (NSW EPA, 2014) and a copy of the certification report must be submitted to the Principal Certifying Authority (and Council, if Council is not the PCA)

Acid sulfate soil must be disposed of at a waste facility licensed by the EPA to receive that type of waste.

Prior to the issue of the Occupation Certificate

- 47. BASIX Certificate** - All energy efficiency measures as detailed in the approved BASIX Certificate in the plans approved with the Development Consent must be implemented before issue of any Occupation Certificate.
- 48. 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.
- 49. Swimming Pools - Resuscitation Notice** - An expired air resuscitation warning notice complying with the Swimming Pools Act 1992 must be affixed in a prominent position adjacent to the pool.
- 50. Completion of Landscape Works** -
- a) All landscape works and the planting of a minimum three (3) trees must be completed before the issue of the Final Occupation Certificate and to the satisfaction of Councils Tree Management Officers. These are to be in accordance with the landscape plans.
 - b) A certificate of compliance for the planting of all trees and shrubs proposed for the site. An AQF 5 Horticulturist shall be engaged and in writing certify that all trees have been planted as per landscape plan and specifications and forwarded to the PCA – Principal Certifying Authority.
- 51. Tree Protection Measures** – Prior to the issue of the Final Occupation Certificate, the following is required:
- a) A final certificate of compliance letter, once all building 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.
 - b) 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.
- 52. Post Construction Dilapidation Report – Private Land** - At the completion of the construction works, a suitably qualified person is to be engaged to prepare a post-construction dilapidation report. This report is to ascertain whether the construction works associated with the subject development created any structural damage to the following adjoining premises:

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

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

53. **Minor Development** - Internal driveways and parking spaces are to be adequately paved with concrete or bitumen, or interlocking pavers to provide a dust-free surface.
54. **Building - Structural Certificates** - The proposed structure must be constructed in accordance with details designed and certified by the practising qualified structural engineer. In addition, Compliance or Structural Certificates, to the effect that the building works have been carried out in accordance with the structural design, must be submitted to the Principal Certifying Authority prior issue of the Occupation Certificate.
55. **Requirements prior to the issue of the Occupation Certificate** – The following shall be completed and or submitted to the PCA prior to the issue of the Occupation Certificate:
 - (a) All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
56. **Land Contamination Consultant Report** - Prior to the issue of any Occupation Certificate, a report prepared by a suitably qualified Land Contamination Consultant must be submitted to the PCA (and Council if Council is not the principal certifying authority) certifying that the construction has incorporated the recommendations in the Acid Sulfate Soils Management Plan prepared by Aargus dated 20 September 2020.
57. **Documentation** - Documentation must be kept by the occupier of the landfill for each truckload of potential ASS received, indicating that the soil's excavation, transport and handling have been in accordance with the *Acid Sulfate Soil Manual*, thus preventing the generation of acid.
58. **Flood Prone Land – Survey of levels and overland flow paths – Site Specific** - A registered surveyor shall verify the levels and details of the design runoff overland flow path and finished floor levels to Australian Height Datum.

A professional engineer preferably the original flood consultant in conjunction with the registered surveyor is to verify that the flow paths and finished floor levels have been built to the design levels, dimensions and surface finishes as specified in the approved plans.

59. **Development Engineering – Restriction on use of land for overland flow – Site Specific** - A Restriction of Use of the Land is to be created using Section 88E of the Conveyancing Act 1919 over the subject property on which this development is to be carried out. This Restriction shall ensure that the stormwater overland flow path, as determined by an Overland Flow Assessment commissioned by Council or as required

from the Applicant, be maintained free from obstructions at all times and shall be worded as follows:

*In relation to the stormwater overland flow paths as defined in the Overland Flow Assessment required to be undertaken with the submission of the Construction Certificate for Development Application **DA2020/0475**, the following Restrictions on The Use of The Land will apply”:*

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

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

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

Operational Conditions (Ongoing)

- 60. 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.
- 61. 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).
- 62. Outdoor Lighting** - To avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads, outdoor lighting must comply with AS 4282-1997: Control of the obtrusive effects of outdoor lighting.
- 63. 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.

- 64. 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.

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

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

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

- 66. 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.

Operational Requirements under the Environmental Planning And Assessment Act 1979

- 67. Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued by the consent authority, the Council (if the Council is not the consent authority) or an accredited certifier.

An application form for a **Construction Certificate** is attached for your convenience.

- 68. Appointment of a Principal Certifying Authority** - The erection of a building must not commence until the beneficiary of the development consent has:

- (a) appointed a Principal Certifying Authority (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, then the beneficiary of the consent 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 Principal Certifying Authority for your development.

- 69. Notification of Critical Stage Inspections** - No later than two (2) days before the building work commences, the PCA must notify:

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

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

A **Notice of Commencement Form** is attached for your convenience.

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

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

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

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

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

An **Occupation Certificate** Application Form is attached for your convenience.

Prescribed Conditions

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

75. 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.

76. Clause 98A – Erection of Signs - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the Principal Certifying Authority and the Principal Contractor.

77. 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.

- 78. 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.
- 79. 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 (PRE16.8)

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

- 80. 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.

- 81. 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.
- 82. 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.
- 83. Access to NSW Legislations (Acts, Regulations and Planning Instruments)** - NSW legislation can be accessed free of charge at www.legislation.nsw.gov.au
- 84. 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.

85. **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.
86. **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.
 - a. 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.
 - b. 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.
 - c. 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.
87. **Stormwater & Ancillary Works – Applications under Section 138 Roads Act and/or Section 68 Local Government Act 1993** - To apply for approval under Section 138 of the [Roads Act 1993](#) and/or Section 68 Local Government Act 1993:
 - (a) Complete the 'Stormwater Drainage Application Form' which can be downloaded from Georges River Council's website at www.georgesriver.nsw.gov.au.
 - (b) In the Application Form, quote the Development Consent No. (eg. DA2018/****) 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.

88. **Riverine flood levels and Projected Sea Level Rise – Site Specific** - At the time of this consent Council did not have access to a flood study that assesses the effect that projected sea level rise will have on riverine flood levels along the Georges River. The development has been approved at a level considered to be as high as is practical due to factors including the levels of adjacent adjoining properties. The approved finished ground floor level of the dwelling is RL 2.8m AHD in comparison to the existing floor level of RL 2.11m AHD. The consent also require that the development is built in flood proof materials up to RL 3.1m AHD.
89. **Register your Swimming Pool** - All swimming pools in NSW are required to be registered. Fines apply for pools that are not registered. To register please visit: swimmingpoolregister.nsw.gov.au.
90. **Council as PCA – Deemed to Satisfy Provisions of BCA** - Should the Council be appointed as the PCA in determining the Construction Certificate, the building must comply with all the applicable deemed to satisfy provision of the BCA. However, if an alternative fire solution is proposed it must comply with the performance requirements of the BCA, in which case, the alternative solution, prepared by an appropriately qualified fire consultant, accredited and having specialist qualifications in fire engineering, must justify the non-compliances with a detailed report, suitable evidence and expert judgement.

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

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

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

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 an/or a high risk work licence may be required from SafeWork NSW (see www.Safework.nsw.gov.au).

92. **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>) published 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).
93. **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)

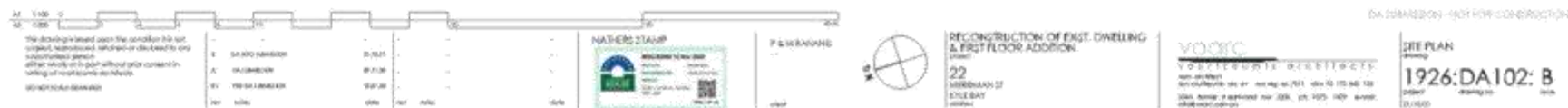
ATTACHMENTS

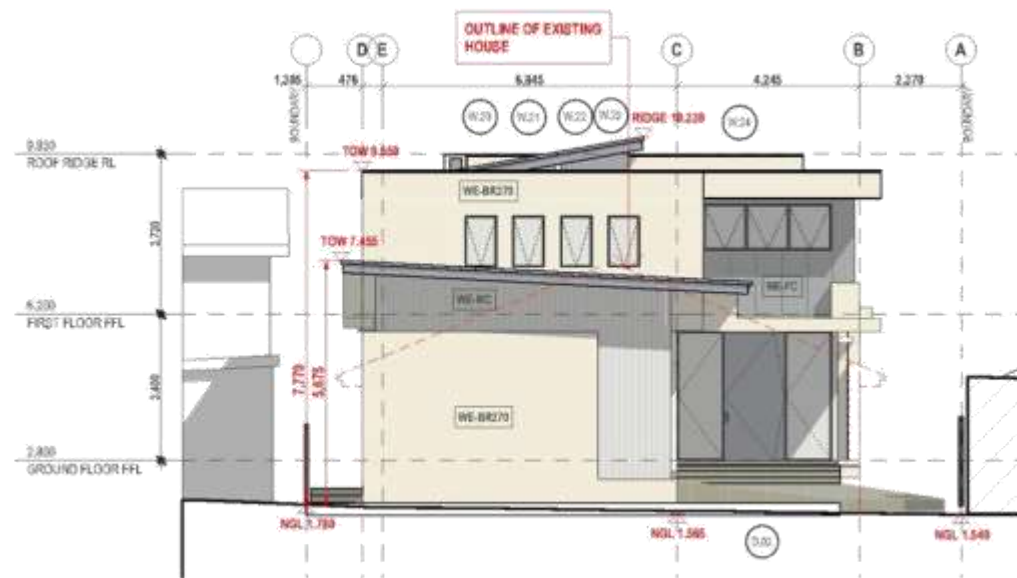
Attachment SITE PLAN - 22 MERRIMAN ST KYLE BAY-B-211021_PAN-52055

[1](#) 

Attachment BUILDING ELEVATIONS - 22 MERRIMAN ST KYLE BAY-B-211021_PAN-52055

[2](#) 





1 NORTH ELEVATION
Scale 1:100

[illegible][illegible][illegible]

<p>RECONSTRUCTION OF EAST DWELLING & FIRST FLOOR ADDITION (owner)</p> <p>22 MIDNIGHT ST SUNNYVALE, CA 94086</p>	<p>VOIC VOIC YOURS IS QUALITY new architect 10000 Wilshire Blvd. Suite 1000 Los Angeles, CA 90024 Tel: (310) 471-1111 Fax: (310) 471-1112 www.voic.com info@voic.com</p>	<p>NORTH ELEVATION drawing</p> <p>1926:DA311: B sheet drawing by DA/DA</p>
---	---	--



0.000	NEW TOP LEVEL FRAMED SECOND WITH STONE CURRENT LEVEL
0.000	NEW TOP LEVEL FRAMED SECOND WITH PLASTERED LINDS
0.000	NEW GLAZED DOOR CONSTRUCTION - TO EXISTENCE
0.000	NEW EXTERIOR DOOR SCAM CORE CONSTRUCTION
0.000	TIMBER EXTERIOR DOOR SCAM CORE & TIMBER PANEL CONSTRUCTION
0.000	VEHICULAR DOOR CONSTRUCTION - TO SCHEDULE
00	NEW SHAM CIRCULAR COULDINGS CORNER
000.0	NEW DRAWING CHASSIS
0.00	EXTERIOR PANEL COULDINGS

144-21
 144-22
 144-24
 144-25
 144-26
 144-28
 144-30
 144-32
 144-33A
 144-34

	WOMEN
	FLOOR
	APPROX.
	80% OF
	SOME
	LIFE
	TIME
	SPENT
	BATHING
	FLORIDA
	TOWN
	SOME
	STAGE
	NEW
	AND
	NEW
	HOUSE

[illegible]

Concrete

[illegible][illegible]

METAL FIVE
METAL FIVE
METAL FIVE
LIGHTWEIGHT
NEW PHOTO
PNEUMATIC
ELECTRIC 3
P2 (HARD)
NEW TIRE
NEW TIRE
NEW TIRE
MONITOR
MONITOR
MONITOR

NO-REUSE -
NO-REUSE -
WALL TO B
C-TIME STA
SPACE GIVE
STOP FOC
A-SUBJECT
FORMED ST
LEVEL TIME
TILED FINI
SAL, TERN
(19).

E TAIL RAILWAY
 EIGHTY-FOUR
 TAIL BOOTS
 (CAMPED)
 AGED TO BE
 ALTHOUGH
 OF
 STRAIGHT TO
 TO OR MET
 ON NEW IS

007 -
00460
2
002
001

90
91
92
93
94
95
96
97

[illegible]

ETERNAL AND R
LEVEL CONCRE
ETERNAL AND R
LAP-ON CONCRE
CONSTRUCTORS
ETERNAL AND R
LEVEL, THROUGH
CONCRETE-CH
DISTRICTS.
CONCRETE - FOR
KITCHEN AND
BETTER BOX.
ETERNAL AND R

PURCHASED
 DE ALCOHOL
 PURCHASED
 DE BAL CON
 4-10-1984
 PURCHASED
 FRAMED FLU
 1-10-1984
 15, CUPROSE
 1-10-1984
 1-10-1984
 1-10-1984

THE GROUP
WALL / TWO

THE UPPER
TERFACE OF
UNIT 100

THE GROUP
A

UNIT 100 -
B AND 100C

UNIT 100

Figure 6

100
 100.01
 100.01.1
 100.01.2
 100.01.3
 100.01.4
 100.01.5
 100.01.6
 100.01.7
 100.01.8
 100.01.9
 100.02
 100.03
 100.04
 100.05
 100.06
 100.07
 100.08
 100.09
 100.10
 100.11
 100.12
 100.13
 100.14
 100.15
 100.16
 100.17
 100.18
 100.19
 100.20
 100.21
 100.22
 100.23
 100.24
 100.25
 100.26
 100.27
 100.28
 100.29
 100.30
 100.31
 100.32
 100.33
 100.34
 100.35
 100.36
 100.37
 100.38
 100.39
 100.40
 100.41
 100.42
 100.43
 100.44
 100.45
 100.46
 100.47
 100.48
 100.49
 100.50
 100.51
 100.52
 100.53
 100.54
 100.55
 100.56
 100.57
 100.58
 100.59
 100.60
 100.61
 100.62
 100.63
 100.64
 100.65
 100.66
 100.67
 100.68
 100.69
 100.70
 100.71
 100.72
 100.73
 100.74
 100.75
 100.76
 100.77
 100.78
 100.79
 100.80
 100.81
 100.82
 100.83
 100.84
 100.85
 100.86
 100.87
 100.88
 100.89
 100.90
 100.91
 100.92
 100.93
 100.94
 100.95
 100.96
 100.97
 100.98
 100.99
 101
 101.01
 101.02
 101.03
 101.04
 101.05
 101.06
 101.07
 101.08
 101.09
 101.10
 101.11
 101.12
 101.13
 101.14
 101.15
 101.16
 101.17
 101.18
 101.19
 101.20
 101.21
 101.22
 101.23
 101.24
 101.25
 101.26
 101.27
 101.28
 101.29
 101.30
 101.31
 101.32
 101.33
 101.34
 101.35
 101.36
 101.37
 101.38
 101.39
 101.40
 101.41
 101.42
 101.43
 101.44
 101.45
 101.46
 101.47
 101.48
 101.49
 101.50
 101.51
 101.52
 101.53
 101.54
 101.55
 101.56
 101.57
 101.58
 101.59
 101.60
 101.61
 101.62
 101.63
 101.64
 101.65
 101.66
 101.67
 101.68
 101.69
 101.70
 101.71
 101.72
 101.73
 101.74
 101.75
 101.76
 101.77
 101.78
 101.79
 101.80
 101.81
 101.82
 101.83
 101.84
 101.85
 101.86
 101.87
 101.88
 101.89
 101.90
 101.91
 101.92
 101.93
 101.94
 101.95
 101.96
 101.97
 101.98
 101.99
 102
 102.01
 102.02
 102.03
 102.04
 102.05
 102.06
 102.07
 102.08
 102.09
 102.10
 102.11
 102.12
 102.13
 102.14
 102.15
 102.16
 102.17
 102.18
 102.19
 102.20
 102.21
 102.22
 102.23
 102.24
 102.25
 102.26
 102.27
 102.28
 102.29
 102.30
 102.31
 102.32
 102.33
 102.34
 102.35
 102.36
 102.37
 102.38
 102.39
 102.40
 102.41
 102.42
 102.43
 102.44
 102.45
 102.46
 102.47
 102.48
 102.49
 102.50
 102.51
 102.52
 102.53
 102.54
 102.55
 102.56
 102.57
 102.58
 102.59
 102.60
 102.61
 102.62
 102.63
 102.64
 102.65
 102.66
 102.67
 102.68
 102.69
 102.70
 102.71
 102.72
 102.73
 102.74
 102.75
 102.76
 102.77
 102.78
 102.79
 102.80
 102.81
 102.82
 102.83
 102.84
 102.85
 102.86
 102.87
 102.88
 102.89
 102.90
 102.91
 102.92
 102.93
 102.94
 102.95
 102.96
 102.97
 102.98
 102.99
 103
 103.01
 103.02
 103.03
 103.04
 103.05
 103.06
 103.07
 103.08
 103.09
 103.10
 103.11
 103.12
 103.13
 103.14
 103.15
 103.16
 103.17
 103.18
 103.19
 103.20
 103.21
 103.22
 103.23
 103.24
 103.25
 103.26
 103.27
 103.28
 103.29
 103.30
 103.31
 103.32
 103.33
 103.34
 103.35
 103.36
 103.37
 103.38
 103.39
 103.40
 103.41
 103.42
 103.43
 103.44
 103.45
 103.46
 103.47
 103.48
 103.49
 103.50
 103.51
 103.52
 103.53
 103.54
 103.55
 103.56
 103.57
 103.58
 103.59
 103.60
 103.61
 103.

	POOL
HE	POOL
	POOL
	POOL
	POOL
A	TIMED
	TIMED
	TIMED
	TIMED

1. **SCREEN-A-SECTOR**
 2. **SCREEN-A-SECTOR**
 3. **SCREEN-A-SECTOR**
 4. **SCREEN-A-SECTOR**
 5. **SCREEN-A-SECTOR**
 6. **SCREEN-A-SECTOR**
 7. **SCREEN-A-SECTOR**
 8. **SCREEN-A-SECTOR**
 9. **SCREEN-A-SECTOR**
 10. **SCREEN-A-SECTOR**
 11. **SCREEN-A-SECTOR**
 12. **SCREEN-A-SECTOR**
 13. **SCREEN-A-SECTOR**
 14. **SCREEN-A-SECTOR**
 15. **SCREEN-A-SECTOR**
 16. **SCREEN-A-SECTOR**
 17. **SCREEN-A-SECTOR**
 18. **SCREEN-A-SECTOR**
 19. **SCREEN-A-SECTOR**
 20. **SCREEN-A-SECTOR**
 21. **SCREEN-A-SECTOR**
 22. **SCREEN-A-SECTOR**
 23. **SCREEN-A-SECTOR**
 24. **SCREEN-A-SECTOR**
 25. **SCREEN-A-SECTOR**
 26. **SCREEN-A-SECTOR**
 27. **SCREEN-A-SECTOR**
 28. **SCREEN-A-SECTOR**
 29. **SCREEN-A-SECTOR**
 30. **SCREEN-A-SECTOR**
 31. **SCREEN-A-SECTOR**
 32. **SCREEN-A-SECTOR**
 33. **SCREEN-A-SECTOR**
 34. **SCREEN-A-SECTOR**
 35. **SCREEN-A-SECTOR**
 36. **SCREEN-A-SECTOR**
 37. **SCREEN-A-SECTOR**
 38. **SCREEN-A-SECTOR**
 39. **SCREEN-A-SECTOR**
 40. **SCREEN-A-SECTOR**
 41. **SCREEN-A-SECTOR**
 42. **SCREEN-A-SECTOR**
 43. **SCREEN-A-SECTOR**
 44. **SCREEN-A-SECTOR**
 45. **SCREEN-A-SECTOR**
 46. **SCREEN-A-SECTOR**
 47. **SCREEN-A-SECTOR**
 48. **SCREEN-A-SECTOR**
 49. **SCREEN-A-SECTOR**
 50. **SCREEN-A-SECTOR**
 51. **SCREEN-A-SECTOR**
 52. **SCREEN-A-SECTOR**
 53. **SCREEN-A-SECTOR**
 54. **SCREEN-A-SECTOR**
 55. **SCREEN-A-SECTOR**
 56. **SCREEN-A-SECTOR**
 57. **SCREEN-A-SECTOR**
 58. **SCREEN-A-SECTOR**
 59. **SCREEN-A-SECTOR**
 60. **SCREEN-A-SECTOR**
 61. **SCREEN-A-SECTOR**
 62. **SCREEN-A-SECTOR**
 63. **SCREEN-A-SECTOR**
 64. **SCREEN-A-SECTOR**
 65. **SCREEN-A-SECTOR**
 66. **SCREEN-A-SECTOR**
 67. **SCREEN-A-SECTOR**
 68. **SCREEN-A-SECTOR**
 69. **SCREEN-A-SECTOR**
 70. **SCREEN-A-SECTOR**
 71. **SCREEN-A-SECTOR**
 72. **SCREEN-A-SECTOR**
 73. **SCREEN-A-SECTOR**
 74. **SCREEN-A-SECTOR**
 75. **SCREEN-A-SECTOR**
 76. **SCREEN-A-SECTOR**
 77. **SCREEN-A-SECTOR**
 78. **SCREEN-A-SECTOR**
 79. **SCREEN-A-SECTOR**
 80. **SCREEN-A-SECTOR**
 81. **SCREEN-A-SECTOR**
 82. **SCREEN-A-SECTOR**
 83. **SCREEN-A-SECTOR**
 84. **SCREEN-A-SECTOR**
 85. **SCREEN-A-SECTOR**
 86. **SCREEN-A-SECTOR**
 87. **SCREEN-A-SECTOR**
 88. **SCREEN-A-SECTOR**
 89. **SCREEN-A-SECTOR**
 90. **SCREEN-A-SECTOR**
 91. **SCREEN-A-SECTOR**
 92. **SCREEN-A-SECTOR**
 93. **SCREEN-A-SECTOR**
 94. **SCREEN-A-SECTOR**
 95. **SCREEN-A-SECTOR**
 96. **SCREEN-A-SECTOR**
 97. **SCREEN-A-SECTOR**
 98. **SCREEN-A-SECTOR**
 99. **SCREEN-A-SECTOR**
 100. **SCREEN-A-SECTOR**

FUNCTION
UNIQUE
GOOD WITH
ACCEPTS DET
STRADE

for
LS.

100-2
100-3
100-4
100-5
100-6
100-7
100-8
100-9
100-10
100-11

[illegible][illegible][illegible]

BRICK WALL
 BRICK WALL
 BRICK WALL
 RED BRICK
 F.C. CLADDING
 WALL - CONCRETE
 2-DEVELOPMENT
 BRICK WALL TO
 RETAIN ROADS



EAST ELEVATION
drawing
1926:DA312: B
object drawing no. rev.





**REPORT TO GEORGES RIVER COUNCIL
LPP MEETING OF THURSDAY, 09 DECEMBER 2021**

LPP074-21

LPP Report No	LPP074-21	Development Application No	MOD2021/0137
Site Address & Ward Locality	33-35 Treacy Street, Hurstville Hurstville Ward		
Proposed Development	Modification of an approval for the construction of a thirteen storey (13) mixed use development comprising of two (2) retail tenancies on the ground floor, forty one (41) apartments, rooftop terrace and three levels of basement car parking. The modification application is for additions to the building to satisfy the BCA and NCC provisions.		
Owners	Wynn Constructions		
Applicant	Wynn Constructions		
Planner/Architect	Daintry Associates/Stanisic Architects		
Date Of Lodgement	17/08/2021		
Submissions	Nil		
Cost of Works	No change – modifications are within the original cost of works \$15,465,619		
Local Planning Panel Criteria	The proposal is referred to the Local Planning Panel for determination as the original application was determined by the LPP and		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy No.55 – Remediation of Land State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy – Infrastructure State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development Draft Environment State Environmental Planning Policy Draft Remediation of Land State Environmental Planning Policy Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment Hurstville LEP 2012, Hurstville DCP, Georges River LEP 2021, Georges River DCP 2021		
List all documents submitted with this report for the Panel's consideration	Landscape Plans Architectural Plans Planning Statement/report, Traffic Impact Assessment BASIX Certificate, Access Report		
Report prepared by	Senior Development Assessment Planner		

Recommendation	Approval
-----------------------	----------

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	Yes
--	------------

assessment report?	
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?	Conditions have been amended in accordance with S4.55 of the EP and A Act and can be reviewed when the report is published.

Site Plan



Aerial photo – the site is outlined in blue

Report in Full

Background

1. The subject application (MOD2021/0137) is a modification application lodged pursuant to Section 4.55(1A) of the Environmental Planning and Assessment Act 1979, and proposes modifications to Development Consent No. DA2018/0366. Development Application No. DA2018/0366 was approved by the Georges River Local Planning Panel (GRLPP) on 23 February 2021.
2. Development consent DA2018/0366 was issued and involved the demolition of existing structures and the construction of a thirteen (13) storey mixed use development comprising of two (2) retail tenancies on the ground floor, forty-one (41) apartments, rooftop terrace and three levels of basement car parking.
3. Pre-lodgement application (Pre2020/003) was lodged in December 2020 which sought advice on a series of internal and external changes to the building.
4. The planning advice and feedback that was provided was positive and raised no objection to the proposed design changes as they improved the internal amenity and functionality of the building. The same proposed changes were then applied for in modification MOD2021/0045 which was approved on 4 June 2021.
5. The current changes are considered to be minor and aesthetic in nature and have resulted from the detailed design phase and preparation of the construction certificate which has required changes to occur i.e. additional fire stairs, ventilation systems on the roof and subsequent internal changes to accommodate these elements in order to satisfy the BCA and National Construction Code requirements. The changes are considered relatively minor and will not adversely affect the character of the development or amenity to adjoining properties. There is no change proposed to the overall height, FSR and building envelope as approved. The modifications are outlined in greater detail below.

Proposal

6. In accordance with Section 4.55 of the Environmental Planning and Assessment Act, 1979 (as amended) the Applicant is seeking to modify Development Consent No. DA2018/0366 to alter the internal layout and slight changes to the design of the approved development. The following changes are requested to be made:

Basement B2A and B2B

- Second fire stair added to basement carpark so that two exits are located in the subject building and pedestrian egress through the adjoining "Imperial" building is not required.
- Total car spaces increased from 24 to 25.
- Residential storage cages decreased from 24 to 19.
- Bicycle spaces increased from 2 to 6.
- Residential adaptable space relocated to B1A.

Basement B1A and B1B

- Second fire stair added to basement carpark so that two exits are located in the subject building and pedestrian egress through the adjoining "Imperial" building is not required.
- Total car spaces reduced from 23 to 22.
- Residential storage cages increased from 13 to 17.
- Bicycle spaces decreased from 8 to 6.
- Residential adaptable space relocated from B2A to B1A.
- Car wash bay added and doubled up as visitor space.

Basement B1C and B1D

- Second fire stair added to basement carpark so that two exits are located in the subject building and pedestrian egress through the adjoining “Imperial” building is not required.
- Car space relocated from B1D to B1C.
- A visitor accessible car space provided on B1D.
- Residential storage cages increased from 17 to 24.
- Retail storage cages increased from 3 to 4.
- Bicycle spaces decreased from 8 to 4.

Basement B1E

- Fire stair access only provided to plant area, no lift access.
- Switch room, fire hydrant and sprinkler tanks and pump room reconfigured.

Ground Floor

- Second fire stair from basement carpark egress to ground level Treacy Street.
- Retail 01 split level removed and level tenancy provided.
- Accessible WC added to Retail 01.
- Enclosed glazed lobby area provided to letterboxes.
- Fire booster valves, cold water meters and gas meter room volume boundary regulator shown to north-east corner Treacy Street.
- Sewer service access corridor provided for Sydney Water.
- Back of house and waste area reconfigured.
- A louvred shade structure shown to Treacy Street above the retail and residential entry. The shade structure is within the site boundary.
- Retail GFA of 206sqm redistributed.
- Residential GFA increased from 155.6sqm to 169sqm.

Level 1 Plan

- Units 101 and 102 layouts updated to accommodate the new structure.
- Void area above to retail 01 increased.
- Solid infill panels to glazing added to north and south façade.
- Line of lobby glazing relocated and fire extinguisher, water meters and services added and adjacent to the lift core.
- Residential floor space increased from 234.3sqm to 238.1sqm.
- Deep soil depth reduced to 1.2m.
- Screen to level 1 communal courtyard removed to accommodate service risers from the basement.
- RL of Level 1 raised from RL67.00 to RL67.35.

Level 2, 4, 6 and 8 Plans

- L2 Residential GFA decreased from 430.6sqm to 427.8sqm.
- Line of the lobby glazing moved to the south and services included adjacent to the lobby (for all levels).
- L2 adaptable apartment reconfigured to accommodate the updated stair core.
- Solid infill panels to the glazing added along the northern façade (for all levels) to hide the air conditioners.
- L4 GFA for residential reduced from 430.6sqm to 427.8sqm.
- L4 adaptable unit reconfigured due to change in the stair core location.
- L6 GFA reduced from 430.6sqm to 428.5sqm.
- L6 adaptable unit reconfiguration due to the stair core relocation.
- L8 GFA reduced 430.6sqm to 428.5sqm.

- L8 adaptable unit reconfigured due to the stair core relocation.

Level 3, 5, 9 Plans

- GFA reduced 415.7sqm to 414.4sqm on all 3 levels.

Level 10 and 12 Plans

- GFA reduced from 423sqm to 421.5sqm.
- Adaptable units on these levels reconfigured due to the change in the stair core.

Level 11 Plan

- GFA reduced from 420sqm to 419.9sqm.

Level 13 Roof Plan

- Planter beds relocated.
- Plant area increased to accommodate the plant and condenser units.
- Shade structure and columns adjusted to accommodate roof plant.

Changes to specific conditions

It is also requested by way of this application to amend and/or delete a series of conditions, namely:

- Modify Condition 17 to reflect updated landscaping details.
- Delete Condition 33 – regarding BASIX commitments.
- Delete Condition 104 – Bollards to the Community space.
- Delete Condition 120 – regarding a Green Travel Plan.
- Delete Condition 115 – regarding artwork on the western façade.

The changes will all be discussed and assessed in greater detail later in the report.



Figure 1: 3D Montage of the approved development (courtesy: Stanisic Architects)

Site characteristics

7. The subject site is known as 33-35 Treacy Street with a legal description of Lot 100 DP1269474 (previously known as Lots 5 and Lot 6 in DP11931), refer to Figure 2 below which is an aerial view of the property. Number 33 Treacy Street included a single storey

commercial building that extends the whole length of the site and 35 Treacy Street contained a two-storey commercial building that extends across the whole of the Site. Currently the property is a construction site with building works that have commenced in accordance with DA2018/0366 (refer to Photo 1 below)



Photo 1: Current construction work occurring at the site (photo taken 29 November 2021).

8. The site has a frontage width of 24.42m to Treacy Street, irregular rear boundary length of 24.5 and depth of 36m with a total site area of 887.2sqm. The site has been consolidated (refer to Figure 2). The site area of the whole development known as 21-35 Treacy Street Hurstville which forms the whole of the concept approval (staged development site) is 4,199sqm.

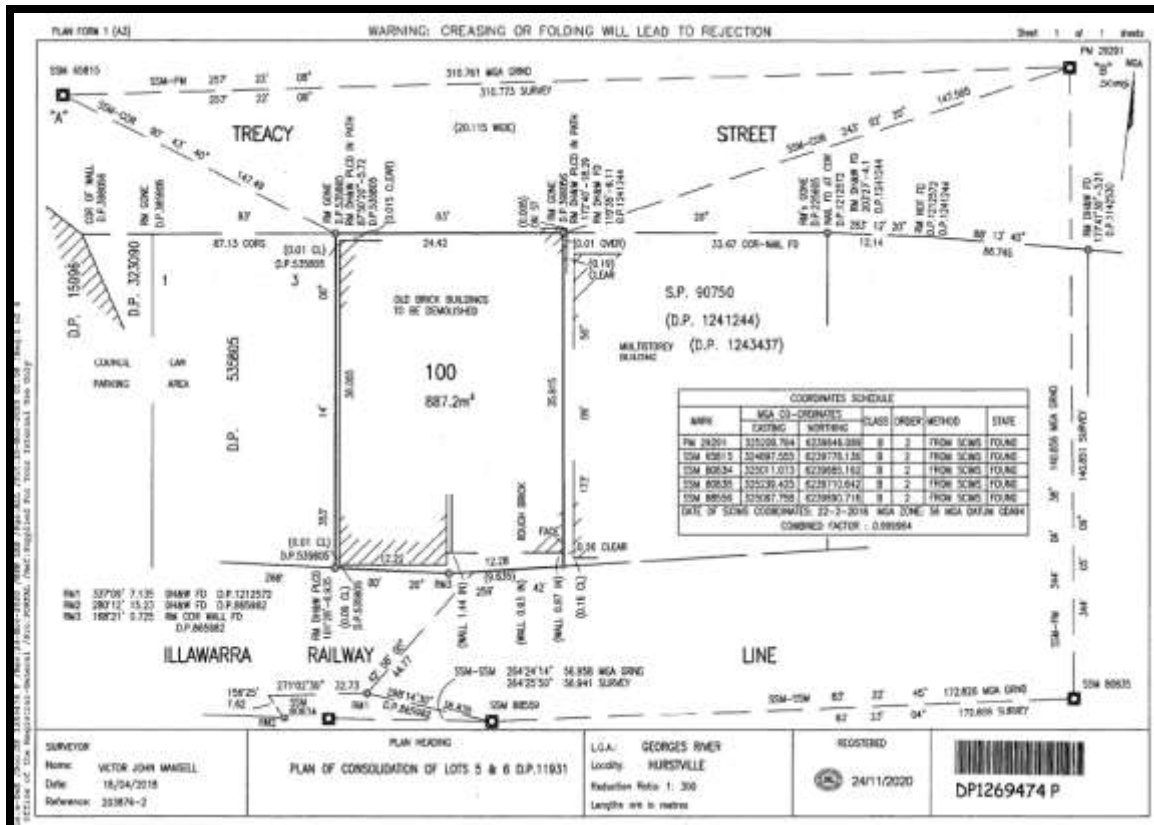


Figure 2: Deposited plan for the site.

9. To the north of the site are a series of mixed-use developments of varying forms and scales adjoining the Hurstville Commercial Centre. No.18 Treacy Street opposite the subject site is known as “Fretus House” which is a designated local Heritage Item being a two (2) storey commercial building. To the south of the Railway Line are low to medium scale residential properties. Immediately to the west is a large scale on-grade Council car park.
10. To the east is the Central Stage development which comprises of a sixteen (16) storey mixed use (shop top housing) development known as the “Imperial Hurstville” building. The development is visually distinctive in the area given its unique building finishes and materials.
11. The subject site is accessible given it is located within 400m of Hurstville Railway Station and within the Hurstville Commercial Centre. The site is also well serviced by public buses with the Hurstville bus exchange located approximately 450m west of the site.



Figure 2: Aerial site view (courtesy Intramaps)

Relevant Matters for Consideration:

12. In consideration of the proposed changes sought under the subject application, the following assessment is provided:

Assessment Question:	Response (Yes / No / N/A)
Is the subject Modification Application associated with an Operative (i.e. not lapsed or surrendered) Development Consent?	Yes Original development consent DA No. DA2018/0366 which was approved on 23 February 2021 remains active and valid.
Are you satisfied that the application is well founded, and relates to modifications involving minimal environmental impact and the development is substantially the same in nature?	Yes
Is Council the relevant Consent Authority to determine the subject application?	Yes The proposed changes fall within the category of Section 4.55(1A) (Modifications involving minimal environmental impact) Council has been granted delegation from the Panel to determine these applications.
Pursuant to Council's Notification & Advertising provision of its Development Control Plan, is the subject application required to be Notified or Advertised?	Yes, notified in accordance with the provisions of Section 2.2 of the Hurstville DCP No.1. A sign was also erected on site.
Are the proposed modifications to the Development Consent appropriate and justified?	Yes
Are you satisfied that the modifications proposed	Yes

would not be “granting development consent” for the purposes of s4.55(4) of the EPA Act 1979	
Any other matter:	Yes
Section 4.15(1) of the EP and A Act (addressed in more detail below).	

LPP074-21

Section 4.55 consideration

13. The modification application has been submitted in accordance with Section 4.55(1A) of the EP and A Act which relates to amendments of a minor nature. The following provisions of Section 4.55 of the Act need to be considered in the assessment of the application.

(1A) Modifications involving minimal environmental impact

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

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and*
14. Comment: The proposed changes to the development consent as issued are considered to be minor and not material in nature. The changes aim to address the BCA and National Construction Code requirements. The changes do not compromise or adversely affect the internal amenity of apartments and ensure the design and functionality of the development is still compliant and relevant.
15. The changes are material and aesthetic and do not affect or alter the height, building envelope or floor space ratio of the development.
16. The changes fall within the correct category of works being within S4.55(1A) works.
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (c) it has notified the application in accordance with—*
- (i) the regulations, if the regulations so require, or*
- (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*
17. Comment: The proposed amendments are “substantially the same” as the approved development and were notified in accordance with Section 2.2 of the Hurstville DCP. The proposal therefore satisfies the provisions of Section 4.55(b), (c) and (d).
18. No submissions were received as a result of the notification process.
- (3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the*

application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

19. Comment: A detailed Assessment against the provisions of S4.15(1) of the EP & A Act is provided below.

(4) *The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.*

20. Comment: The proposed development satisfies this provision as the modifications are not granting consent to a DA but rather modifying DA2018/0366.

Section 4.15 Evaluation

21. In determining a Section 4.55 (1A) modifications the provisions of Section 4.15(1) of the Environmental Planning and Assessment Act, 1979 (EP and A Act) need to be considered (where relevant) as part of the assessment process. The following considers the proposal in respect to these requirements.

(1) Matters for consideration general. In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

(i) any environmental planning instrument, and

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

State Environmental Planning Policy	Complies
State Environmental Planning Policy No.55 – Remediation of Land	Yes
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Yes
State Environmental Planning Policy – Infrastructure	Yes
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017	Yes
State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development	Yes
Draft Environment State Environmental Planning Policy	Yes
Draft Remediation of Land State Environmental Planning Policy	Yes
Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment	Yes

- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and**

23. The assessment below considers the impact of all draft planning instruments and policies.

(iii) any development control plan, and

24. The Hurstville DCP is applicable to the development and Council's newly endorsed Georges River Development Control Plan 2021. Compliance with these planning instruments is discussed in greater detail later in the report.

(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,

25. The proposal seeks to comply with the planning and building regulations that are applicable. Many of the proposed changes are in response to compliance with the building and construction provisions dictated by the BCA and National Construction Code. The proposed changes are consistent with the development approval DA2018/0366.

(v) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

Natural Environment

26. The site currently has no vegetation, the proposed development will include a communal open space area at the ground/first floor level and an additional street tree which will improve the current site conditions. It is therefore considered unlikely that the proposal will have adverse impacts on the natural environment.

Built Environment

27. The proposed amendments will not adversely affect the built environment. The proposed development as amended is generally consistent with the original development approval (DA2018/0366) granted for the site which determined the building envelope and configuration of the development (which was consistent with the original Part 3A application and concept approval).

Social Impacts

28. The proposed development has no perceived adverse social impacts.

Economic Impacts

29. The proposed development will provide positive economic impacts in the short term through the investment and injection to the construction industry. Through the estimated 15 month construction period a total of approximately 350 people will be employed in respect to this project.

(vi) the suitability of the site for the development,

30. There is no change proposed to the approved nature of the development. The land use as approved (shop top housing, mixed use development) and is permissible and the site is suitable for the proposed development given its zoning, location and general context.

(vii) any submissions made in accordance with this Act or the regulations,

31. The application was formally notified in accordance with the Council's HDCP provisions for notification. No submissions were received.

(viii) the public interest.

32. The proposed changes are in the public interest as they will not alter the height, scale, building footprint or bulk of the development (as approved). The changes are consistent and substantially the same as the original development approval. The proposal is considered to be in the public interest as it will not generate any adverse amenity or environmental impacts as there will be no additional overlooking, overshadowing or view loss.

SECTION 4.15 ASSESSMENT

State Environmental Planning Policy No 55 - Remediation of Land

33. 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.
34. Clause 7 of the Policy requires contamination and remediation to be considered in the determination of a development application. The consent authority must not approve of the carrying out of development on land unless it has considered whether or not the land is contaminated. If there is any trace of contamination, the determining authority needs to be satisfied that the site can be appropriately remediated and will be suitable for the proposed land use. This needs to occur prior to the determination being made.
35. The original development approval considered potential site contamination. A Stage 1 Environmental Site Assessment report dated 22 November 2010 was prepared by Environmental Investigations. This report recommended that a detailed stage 2 (phase 2) report be prepared. A Phase 2 Detailed Site Investigation (DSI) was conducted by EI Australia dated 1 April 2020 which found that parts of the site contained what seemed to be low levels of contaminants it recommended that a Remediation Action Plan (RAP) be prepared due to the limitations in testing and given the historical uses of the site for commercial and industrial purposes, there is a greater likelihood and risk of contaminated areas of the site. A RAP was prepared by EI Australia, dated 23 April 2020. The report suggested a series of remediation actions and measures to be undertaken. Specific conditions of consent were included in the DA determination and these will not change as a result of this modification application.

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

36. The State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 aims to ensure consistency in the implementation of a scheme to encourage sustainable residential development throughout New South Wales (also referred to as the 'BASIX scheme').
37. An updated BASIX certificate is not required as the layout and design of the units remains unaltered and consistent with the most recent modification application.
38. The Applicant, however, seeks to delete condition No.33 which reads;

33. Building Sustainability – *The recommendations of the Building Sustainability report prepared by Floth Consultants and dated 20 April 2012 shall be incorporated into the development and compliance shown at the Construction Certificate stage to ensure a minimum 4 Star Rating against the Green Star Scheme can be achieved.*

39. This condition is outdated considering the report was prepared nearly ten years ago and formed part of the approval for the Central Stage. The condition was imposed to ensure consistency with the previous two (2) consents for the other stages (East and Central stages) (although it is unclear it formed part of the consent for the East stage). The Applicant argues that the BASIX Certificate and its compliance achieves the minimum sustainability requirements for contemporary residential developments and the development complies with Condition 29 in relation to satisfying the BASIX certificate provisions.
40. Given that the report was prepared some time ago, is a generic report (not site specific) and given that the development complies with SEPP BASIX it is reasonable for this condition to be deleted.
41. An updated BASIX certificate has been prepared and accompanies the application. The certificate No. is 945605M_04 dated 5 August 2021. Condition No.29 will need to be amended to reflect the updated BASIX references.

Integrated Development

42. In accordance with Section 4.46 of the Environmental Planning and Assessment Act, 1979 (as amended) the proposal could be classified as “*Integrated Development*” as a water use approval, water management work approval or activity approval may be required pursuant to Part 3 Chapter 3 of the Water Management Act, 2000. The proposed works potentially fall within the requirements of Clauses 89 (water use approvals) and 91 (activity approvals) of the Water Management Act, 2000.
43. The original Geotechnical report prepared by Asset Geotechnical which accompanied the application (DA2018/0366) found that:

“groundwater is anticipated to be present within fractures in the bedrock, at deeper than about 6m to 10m” and in respect to dewatering the report stated that “some ground water seepage is anticipated through the bedrock. It is expected that this could be controlled by sump-and-pump techniques and should not adversely affect adjoining developments”.
44. The original development application was referred to Water NSW (Natural Resource Access Regulator) for their formal concurrence. On 2 November 2020, NRAR issued General Terms of Approval (GTA’s) for this proposal as it may rely on the use of an 80mm submersible pump and dewatering may be required. The GTA’s form part of the consent. The GTA’s were based on the original design which relied on five (5) levels of basement parking and associated services.
45. The basement design has been modified simply by car spaces and some services being relocated and moved given that two sets of fire stairs are required to be integrated. There is no additional excavation, earthworks or changes to levels etc within the basement and therefore the application is not required to be renotified to NRAR.

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

46. The State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (‘Vegetation SEPP’) regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.
47. No issues arise in terms of satisfying the provisions of the Vegetation SEPP, as there is no vegetation on the site, considering existing structures cover the full extent of the Site.

48. The modifications do alter the landscape plan for the communal areas at the rear on the ground floor and within the rooftop. Council's Landscape Officer has reviewed the amended landscape plan and has not raised any concerns regarding the design. The issue of landscaping and the associated changes are discussed later in the report. The updated Landscape Plan is detailed and satisfies Council's requirements and provides appropriate green, shaded spaces and includes a series of trees on the ground floor.

Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment

49. The site is within the area affected by the Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment and until the Draft Environmental SEPP is gazetted then this SEPP is still relevant and needs to be considered in the assessment of the application.
50. The policy aims 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.
51. 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 aforementioned deemed SEPP. The proposed development is considered to be small scale in nature and will not affect or alter the approved stormwater and drainage arrangement. The application was referred to Council's Development Engineer who did not object to the proposed development.
52. The proposal satisfies the provisions, aims and objectives of the Plan.

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

53. The State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (SEPP 65) aims to improve the design quality of residential apartment development in New South Wales.
54. The proposed development meets the pre-requisites for the application of the SEPP 65 in that it constitutes development for the purpose of 'shop top housing' in a proposed building of more than three (3) storeys and having more than four (4) dwellings. Therefore, it must be considered against the provisions of SEPP 65 and the Apartment Design Guide (ADG).
55. The changes proposed are minor in scope and nature however the proposal was referred to Council's Urban Design Consultant who provided a response on 10 October 2021 and raised a series of concerns regarding the scheme. The critique of the proposal was based largely to do with the design of the original development which has been approved.
56. The proposed development is consistent with the original Concept Approval which was quite detailed and conditioned all three (3) stages of the development to be designed by Frank Stenosis Architects and that his architectural practice is to oversee the design and all verification for all three buildings (the concept plan conditioned this requirement). Also, the concept approval broadly approved the number and type of units and the gross floor area and height for the development. Despite the design being directed and implemented

early on in the planning phase the urban design comments are discussed in greater detail below.

57. It should also be noted that the urban design comments were forwarded to the Applicant for consideration and they have told Council that not only are the comments related to the original scheme that has already been approved, 70% of the development has been sold and given the new provisions in respect selling off the plan, the Commissioner for Building Compliance has included strict provisions around designs of approved developments not being able to be altered once units have been sold unless certain provisions and requirements are met.
58. Many of the issues raised are not considered to be relevant to the changes that are proposed and before Council for assessment. The following points were made as part of the urban design response and were supported by a more detailed discussion further in the report and a response to each point is also provided below:

“Observations / Recommendations

1. *The proposal should have addressed the existing topography. The steps within the undercroft area along Tracey Street should have been accommodated within the buildings. The circulation area as well as building entries and ground floor should have been located generally at footpath level with gentle gradients provided in the public domain instead of steps to provide an unobstructed pedestrian flow especially for people to disability. Working with the topography would also have created interesting built form with buildings at different FFLs that would have broken the monotonous façade and minimised perceived bulk and scale.*

Council response: The undercroft area creates an arcade feature and allows for outdoor dining and provides opportunities for future uses. The steps within the undercroft area are considered to be a better solution than stairs within the retail tenancies. Stairs within some retail tenancies can not be avoided since those properties are flush with the front boundary and are forced to internalise these features. Stairs, ramps and accessible lifts internally within a retail/commercial tenancy severely restricts the functionality, presentation, visual appearance of the space and also it fails to maximise the use of the space. The undercroft includes stairs which are wide and allows for level access into these spaces. The design is consistent with the adjoining finalised stages.

2. *The proposed undercroft is not an appropriate building typology for the location given the context and emerging built form. In addition, the undercroft space will not be a safe or a pleasant pedestrian environment given the design where it has very low ceiling height and is cluttered by louvers and steps.*

Council response: Although the building typology may not be the preferred design solution for mixed-use developments in the B2 zone, this site is on the periphery of the B2 commercial zone and the concept approval established the preferred built form for the site back in 2010/2011. That approval believed the undercroft, arcade arrangement was acceptable and I believe could have been to initiate more pedestrian activity and activate the frontages by providing this outdoor space. The undercroft addresses the area in front of the adjoining Imperial Building and there is a consistent transition. **Figure 3** below shows the changes proposed to the front entry to the building which include relocating the fire hydrant and associated services in accordance with the Fire authority's requirements, relocating the lifts, and redesigning the spaces at the rear of the retail shops by improving accessibility including WC, bulk store and providing for the additional fire stairs and exits. **Figure 4** below shows the approved ground floor plan and whilst this

plan is better and provides for a larger retail frontage it didn't cater for all the services that are required for a development of this scale (2 sets of fire stairs, hydrants etc).

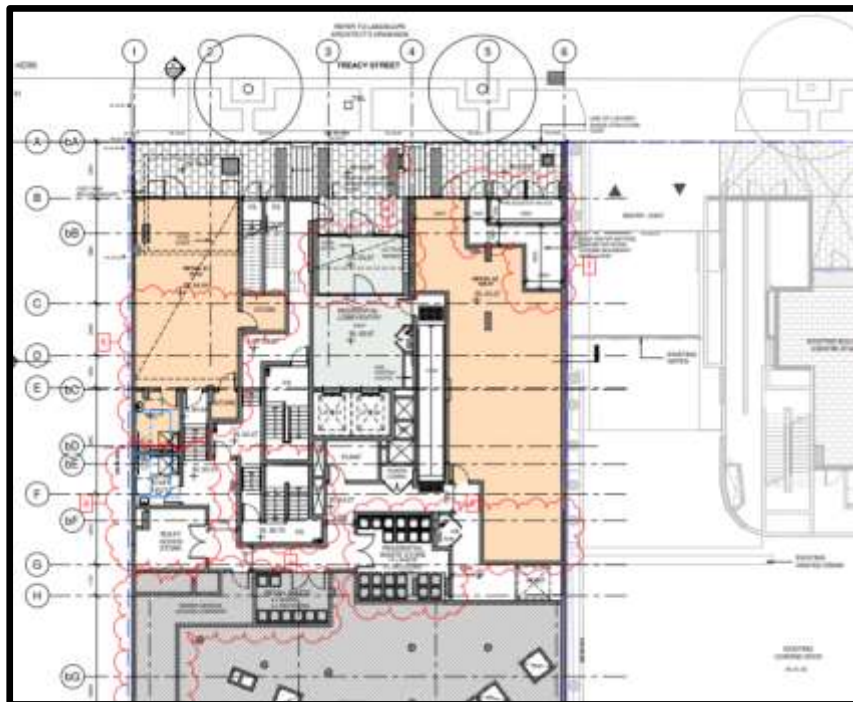


Figure 3: Proposed changes to the ground floor and associated entry (Stanisic Architects 2021)



Figure 4: Section of the approved ground floor plan (MOD2021/0045)

3. The proposed and approved 13 storey street wall height contradict the SJB Strategy and the adopted masterplan recommendation of maintaining the existing human scale by restricting the street wall height to maximum 2-3 storeys. In addition, the 13 storey street wall height is not a good urban design outcome. With no upper level setback, the 13 storey street wall height will not provide pedestrian comfort as it will

generate a wind tunnel effect and it also contradicts the desired future character vision.

Council response: The concept plan approval (MP10_0101) approved the building envelope for all three stages of the development and the approved design was considered an acceptable design response. Stage 3 is consistent with the previous 2 stages which have been constructed and completed.

After the approval of the concept plan the site was noted as a “deferred matter” in the SJB Strategy (2017) given its concept approval status as such it was not considered in the same light as other undeveloped sites in the Hurstville Town Centre.

4. *It is recommended that the design should be amended for the residential entry to be clearly identifiable and distinguishable.*

Council response: The residential entry has been redesigned and the modified scheme is better as it relocates the lifts to be centralised and more visible from the street so there will be better surveillance for residents and visitors entering and leaving the development. The residential entry and lobby are recessed but will be centralised and the design outcome is considered better than the originally approved scheme. The modified scheme also improves safety as the lobby includes an open lobby that visitors can come into but is secure before you enter the lobby which has the lifts.

5. *Except for Retail 01; none of the floor to floor heights approved / proposed comply with the ADG. To future proof as well as enhance the streetscape character of Hurstville and the broader Georges River LGA, non-compliances with ADG requirements, even if minor should not be approved. Page 3 of 8*

Council response: The ADG requires minimum residential floor to ceiling heights to be 2.7m and suggest that in order to achieve this a floor to floor level should be 3.1m. Council has approved floor to floor heights of 3.05m as this still achieves the required minimum 2.7m floor to ceiling height. The development will achieve the minimum 2.7m internal heights for the residential components in accordance with the ADG requirement.

The retail floor heights exceed the minimum heights and will be consistent with the character of the retail components constructed at 21-33 Treacy Street and this design approach has been maintained so there is uniformity in the built form for this larger scaled integrated development.

6. *It is recommended that the design should be amended to relocate the booster cabinet, water, and gas meter room such that it does not have an impact on street activation and does not dominate the street frontage.*

Council response: The Applicant has advised that he can not achieve this. Originally the booster cabinet and gas meter was located along the western side of the ground floor adjoining the larger retail tenancy. However, whilst detailing the design and obtaining relevant authority approvals, the fire authority required a larger service room which needed to adjoin the main loading dock for easier accessibility. This is far from an ideal design response however Council cannot override this decision.

7. *The proposal needed thoughtful design process to provide a design and façade that provided interest as well continuity to the streetscape and achieved design excellence rather than what is going to be a mediocre outcome."*

Council response: The completed development at 21-33 Treacy Street is a very unique built form outcome in terms of its materiality and finishes. One could say it is an iconic building as everyone recognises it. The treatment of the façade and associated architectural features are subjective and like all architecture can be easily criticised and scrutinised. Although, not my preferred design response it is far from a poor design outcome it is an iconic building that stands out. The Applicant has confirmed that already 70% of the apartments have been sold off the plan and therefore the design is popular and desirable for many. It will also have amazing views and outlook to the north and south which is evident in the completed Imperial Building. The apartments within the Imperial Building are spacious and offer good amenity with generous areas of communal open space and a wonderful outlook to the north and south.



Figure 3: The approved front elevation (DA2018/0366)

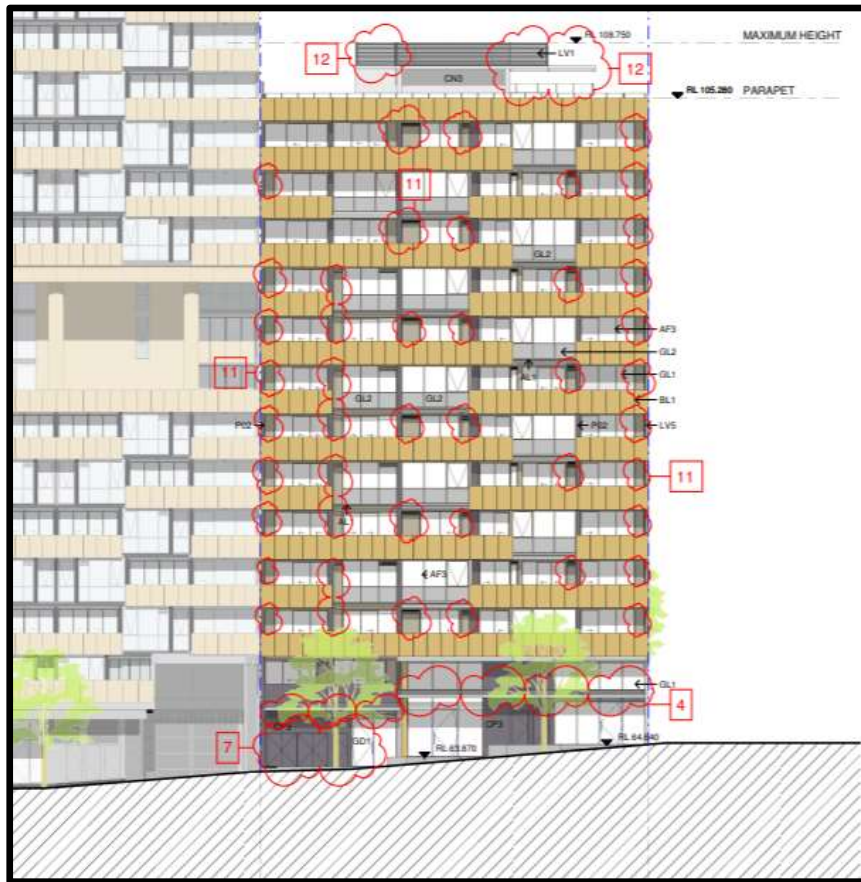


Figure 4: Proposed front elevation as amended (MOD2021/0137)

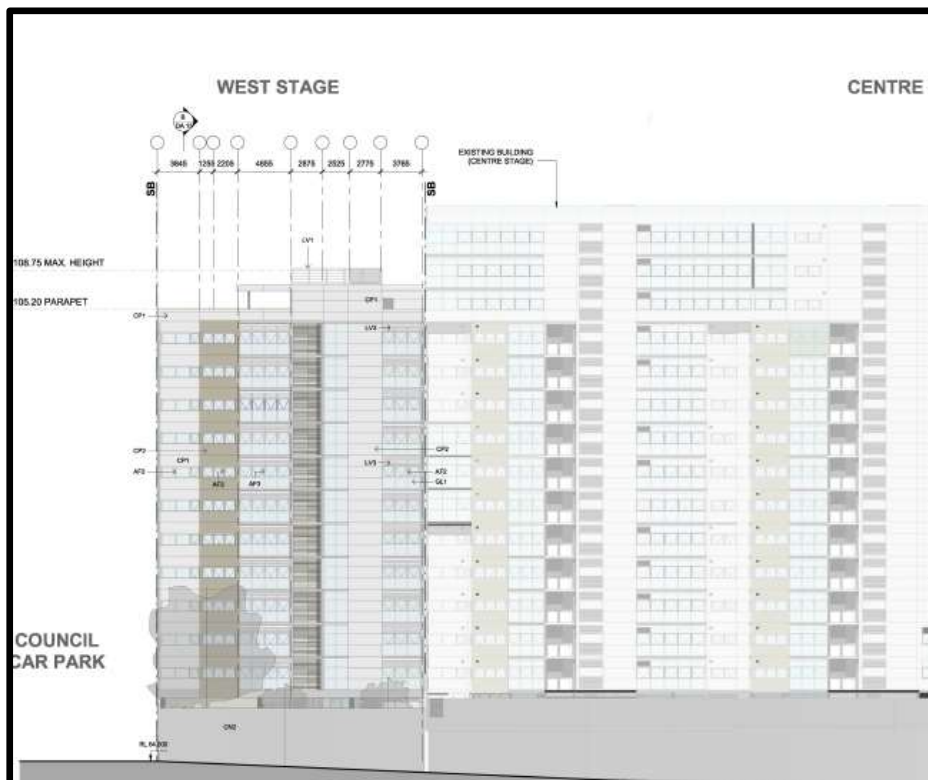


Figure 5: Approved rear (south) elevation (DA2018/0366)



Figure 6: Proposed rear elevation as amended (MOD2021/0137)

59. Clause 28 of SEPP 65 requires the consent authority to take into consideration the provisions of the Apartment Design Guide. An assessment of the proposed development against the relevant design criteria of the Apartment Design Guide (ADG) is detailed in the compliance table below (comments in italix reflect the current changes proposed).

Table 1: Compliance with Parts 3 and 4 of the Apartment Design Guide

Part 3 - Siting of the development			
Section	Design Criteria	Proposed	Comply
3D - Communal and public open space	<p>Communal open space has a minimum area equal to 25% of the site.</p> <p>Where it cannot be provided on ground level it should be provided on a podium or roof</p> <p>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)</p>	<p><i>The courtyard on the ground floor has altered slightly. It will have an area of 89sqm and the rooftop area of COS is 358sqm so the total area is 447sqm comprising of 50% of the site area which exceeds the minimum requirement of 25%</i></p> <p><i>The design changes around this space are considered generally satisfactory and although more apartments face this space, this is likely to improve their internal amenity and provide natural surveillance and</i></p>	Yes

		<p><i>greater security of this space.</i></p> <p><i>The rooftop area of COS will achieve over 50% direct sunlight as it is north facing.</i></p>	
3E – Deep soil zones	<p>Deep soil zones are required at a sliding scale in this clause.</p> <p>For a site area of 650sqm – 1500sqm, the deep soil zone requirement is 7% with minimum 3m dimensions.</p>	<p>The development as approved did not comply with the minimum deep soil area as the site had no soft landscaped area or permeable area. The approved and amended scheme will significantly improve the landscaping at the site.</p> <p><i>The rear area of communal open space at Level 1 originally had an area of deep soil greater than 3m however the need to cater for sewer works and services and providing an access corridor below this space will reduce the amount of deep soil to 1.2m in depth. While this is not ideal and limits the planting and growth of taller trees these are essential services and can not be relocated elsewhere. The trees dedicated at the rear as part of the landscape plan includes Tuckeroos and Eumundi trees which grow to a height of 8-10m.</i></p>	Yes – minimal change but acceptable
3F – Visual privacy	<p>Separation between windows and balconies is provided to ensure visual privacy is achieved.</p> <p>Minimum required</p>	<p><i>The amended plans do not alter the approved setbacks and separation distances which are consistent with the adjoining building to the east.</i></p> <p>Given the site is within</p>	Acceptable and no change proposed

	<p>separation distances from buildings to the side and rear boundaries are as follows:</p> <p><u>Up to 12m (4 storeys)</u> Habitable - 6m Non-habitable – 3m</p> <p><u>Up to 25m (5-8 storeys)</u> Habitable – 9m Non-habitable – 4.5m</p> <p>Over 25m (9 storeys and over) Habitable – 12m Non-habitable – 6m</p>	the B4 zone the design response is consistent and appropriate for development in this zone.	
3G – Pedestrian Access and Entries	<p>Building entries and pedestrian access connects to and addresses the public domain</p> <p>Multiple entries (including communal building entries and individual ground floor entries) should be provided to activate the street edge</p>	<p><i>There is a slight reconfiguration of the entry and access points on the ground floor to accommodate for 2 sets of fire stairs, fire booster valves and water meters. These services which need to be easily accessed always adversely affect the façade treatment and front public domain space however are required by other public authorities and both the Applicant and Council would prefer their location to be more discrete. However this is the location deemed most appropriate by the servicing authorities.</i></p>	Yes
3H – Vehicle Access	<p>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes</p>	<p><i>The basement parking design and arrangements are similar to that approved but have redesigned some spaces as a second fire stair will need to be accommodated which has relocated spaces and storage areas. The following outlines the</i></p>	Yes

		<p><i>changes and compares in red to the approved parking no.s.</i></p> <p><u>Level B2A, B2B</u> Proposed 25 car parking spaces 19 Storage spaces 6 Bicycle spaces 2 motorbike spaces Approved 24 car parking spaces 24 storage spaces 2 bicycle spaces 2 motorbike spaces</p> <p><u>Level B1B, B1A</u> Proposed 22 car spaces 17 storage spaces 6 bicycle spaces 2 motorbike space Approved 23 car parking spaces 13 storage spaces 8 bicycle spaces 2 motorbike spaces</p> <p><u>Level B1C, B1D</u> Proposed 18 car parking spaces 28 storage spaces 4 bicycle spaces Approved 18 car spaces 21 storage spaces 1 bicycle space Total car parking spaces as approved is 65 car spaces, proposed is also 65 car parking</p> <p>Approved storage spaces amounted to 58 whilst an additional 6 are proposed (total of 64 storage spaces)</p> <p>Bicycle spaces approved total of 11 and 16 are proposed which is a net benefit.</p>	
--	--	--	--

		<i>No change is proposed to the motorbike parking.</i>	
3J – Bicycle and car parking	<p>For development in the following locations:</p> <ul style="list-style-type: none"> • on sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area; or • on land zoned, and sites within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre, <p>the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>The car parking needs for a development must be provided off street</p>	<p>The site is within 800m of the Hurstville Railway Station and located within the B4 Mixed Use (commercial) zone.</p> <p>The parking provisions within the ADG are now applicable to this development.</p> <p><i>This development falls in the high density RFB category as the building contains more than 20 dwellings. The site is classified as a “Metropolitan Sub-Regional Centre” and the following parking rates apply:</i></p> <p>Residential standards 0.4 spaces per 1 bedroom unit 0.7 spaces per 2 bedroom unit 1.2 spaces per 3 bedroom unit 1 space per 7 units (visitor parking)</p> <p>Residential (required) 0.4 x 6 = 3 spaces 0.7 x 42 = 30 spaces 1.2 x 3 = 4spaces 51/7 = 8 visitor spaces Total = 45 spaces required for the residential component</p> <p>Residential (Provided) Total of 65 spaces broken down into the following;</p>	<p>Yes, however condition on the Concept Plan (as amended by MOD 1) regulates the calculation of retail parking across this Site and requires parking rates to be calculated in accordance with the Hurstville DCP No.2 parking rates.</p>

		<p>7 x visitor spaces 4 x retail spaces 54 x resident parking spaces</p> <p><i>The configuration of the retail tenancies has changed slightly. Retail 01 is no longer split level which will improve the functionality and internal amenity of this space and Retail 02 has been extended further to the rear to compensate for the services required at the front. The HDCP requires 1 space per 50sqm which amounts to 4 spaces. The parking provided complies with the numerical provisions and requirements of the ADG and HDCP for the retail.</i></p>	
Part 4 – Designing the Building			
4A – Solar and daylight access	<p>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas</p> <p>A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid-winter</p>	<p><i>The modifications as part of MOD2021/0045 have altered the apartment layout and design such that the apartments are better orientated and fewer units rely on the southern orientation.</i></p> <p><i>The proposed changes as part of this application provide for minor changes to the internal layout of units. However, the development still fails to comply with the amount of southern facing apartments which make up 27% rather than 15%. The remaining 73% of apartments face north and will comply with the minimum</i></p>	<p>Yes, for solar access but non-compliant when it comes to the south facing apartments.</p>

		<p><i>requirements. See further discussion below.</i></p> <p><i>The current changes are minor and do not alter the number or design of most apartments and the solar access provisions and compliance remains the same.</i></p>	
4B – Natural ventilation	<p>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</p> <p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p>	<p><i>A minimum of 31 apartments need to be cross-ventilated to achieve the 60% minimum requirement.</i></p> <p><i>62.9% of the development is cross ventilated which satisfies the requirement.</i></p> <p><i>The currently proposed changes do not alter or affect the approved cross ventilation requirements.</i></p>	Yes
4C – Ceiling heights	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <ul style="list-style-type: none"> Habitable rooms 2.7m Non-habitable rooms 2.4m For 2 storey apartments: 2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area If located in mixed use areas - 3.3m for ground and first floor to promote future flexibility of use <p>These minimums do not preclude higher ceilings if</p>	<p><i>No change is proposed to the overall height or floor to ceiling heights they remain as approved, so the design as amended is satisfactory and generally compliant.</i></p> <p><i>Council's Urban Designer raised concern that the floor to ceiling heights did not comply with the 3.1m minimum (floor to floor heights) required by the ADG however this is a guide and if the minimum floor to ceiling heights of 2.7m (residential) and 3.3m (ground floor) can be achieved. The floor</i></p>	Yes

	desired.	<i>to ceiling heights are compliant.</i>	
4D – Apartment size and layout	<p>Apartments are required to have the following minimum internal areas:</p> <p>Studio – 35sqm 1 bedroom – 50sqm 2 bedroom – 70sqm 3 bedroom – 90sqm 4 bedroom – 102sqm</p> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12sqm each.</p>	<p>The internal apartment sizes comply with the minimum requirements of the ADG.</p> <p><i>There are no changes proposed under this application to modify the size of apartments as approved.</i></p>	Yes
	Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	<p>Satisfactory and compliant. The double loaded apartments have a bedroom with no actual operable windows, but they are north facing and adjoin the large void space. Although they may rely on mechanical ventilation.</p> <p><i>No change proposed</i></p>	Yes
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	<p>Within prescribed standards with the open plan layouts having maximum living/dining room depth of 8m.</p> <p><i>No change proposed.</i></p>	Yes
	Master bedrooms have a minimum area of 10sqm and other bedrooms 9sqm (excluding wardrobe space)	<p>All master bedrooms comply. Amended plans satisfy the minimum sizes.</p> <p><i>No change proposed</i></p>	Yes
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	<p>All bedrooms comply.</p> <p><i>No changes proposed.</i></p>	Yes

	<p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments 	<p>All living rooms comply with minimum widths.</p> <p><i>No changes proposed.</i></p>	Yes
	<p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.</p>	<p>All of the proposed units are in excess of 4m in width internally with the minimum width of 4.2m for the north-western apartments.</p> <p><i>Remain the same as approved, no changes to the layout and size of most apartments.</i></p>	Yes
4E – Private open space and balconies	<p>All apartments are required to have primary balconies as follows:</p> <ul style="list-style-type: none"> • Studio apartments require 4sqm with no min depth • 1 bedroom apartments require 8sqm with min depth 2m • 2 bedroom apartments require 10sqm with min depth 2m • 3+ bedroom apartments require 12sqm with minimum 2.4m depth <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m.</p> <p>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15sqm and a minimum depth of 3m.</p>	<p>The balconies in the modified proposal are larger than those originally proposed which is considered an improvement.</p> <p><i>No changes to the balcony sizes at the upper floor levels.</i></p> <p><i>The rear ground floor apartments which adjoin the communal courtyard have had their private terrace areas reduced. Unit 101 had an outdoor terrace area of 35sqm and will now be 20sqm. Unit 102 had an area of 27sqm which is now reduced to 25sqm and Unit 103 had an area of</i></p>	Yes

		<i>34sqm which remains unchanged. The ground floor terrace areas still comply with the minimum of 15sqm and have a depth of 3m. Unit 101 has been redesigned and is setback less from the rear boundary and aligned with unit 102. The realignment of the unit's rear boundary will not be seen from the rear as the wall and landscaping will screen these spaces.</i>	
4F – Common circulation and spaces	The maximum number of apartments off a circulation core on a single level is eight.	A maximum of four (4) apartments access the main lift core. No change proposed by the modifications. <i>No change proposed.</i>	Yes
	For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	The total number of apartments is 55 and there are 2 lifts proposed which is compliant. <i>No changes proposed to density, height, scale and built form.</i>	Yes
4G - Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <ul style="list-style-type: none"> • Studio apartments 4m³ • 1 bed apartments 6m³ • 2 bed apartments 8m³ • 3+ bed apartments 10m³ <p>At least 50% of the required storage is to be located within the apartment.</p>	<p>The originally approved development provided a substantial amount of storage, largely within the basement in the form of individual storage cages and units. The modified design has altered the amount of storage as part of the development.</p> <p>The modified design includes storage cages above parking spaces in the basement and there are larger designated spaces (basement B2B includes 24 storage cages, B1B includes 13</p>	Yes – subject to a condition requiring the inclusion of an additional storage cage in the basement.

		<p>cages and B1C includes 17 storage cages). Total of 58.</p> <p><i>The proposed changes provide for an additional 6 storage cages to bring the total to 64 which is considered acceptable and more than originally approved.</i></p>	
4H – Acoustic Privacy	<p>Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses.</p> <p>Window and door openings are generally orientated away from noise sources</p> <p>Noisy areas within buildings including building entries and corridors should be located next to or above each other and quieter areas next to or above quieter areas</p> <p>Storage, circulation areas and non-habitable rooms should be located to buffer noise from external sources</p>	<p>An assessment in respect to the acoustic compliance of the scheme has been discussed in detail above.</p> <p>Conditions have been imposed to ensure that all the findings and recommendations of the acoustic assessment will be implemented during construction and that validation be provided post construction.</p> <p><i>No change is proposed in respect to the location of any potential noise sources and their treatment.</i></p>	Yes
4J – Noise and Pollution	<p>To minimise impacts the following design solutions may be used:</p> <ul style="list-style-type: none"> • physical separation between buildings and the noise or pollution source • residential uses are located perpendicular to the noise source and where possible buffered by other uses • buildings should respond to both solar access and noise. Where solar access is away from the noise source, non-habitable rooms can provide a buffer • landscape design 	<p>The design solution within the ADG which seeks to minimise noise and acoustic impacts have been considered through the design and layout of apartments.</p> <p>If the application was to be supported a condition for compliance with the acoustic criterion will be imposed.</p> <p>The site is located within the Hurstville Commercial Town</p>	Yes

	reduces the perception of noise and acts as a filter for air pollution generated by traffic and industry	Centre and adjacent to the railway line and as such it is expected that there are several existing noise sources that will provide some environmental impact but the design seeks to manage and minimise these impacts in the best possible manner. <i>No change proposed.</i>	
4K- Apartment Mix	<p>A range of unit types and sizes is provided to cater for different household types now and into the future</p> <p>The unit mix is distributed to suitable locations within the building</p>	<p>The apartment mix is proposed to change because the approved 4-bedroom apartments are not considered to be saleable and there is little demand for this type and size of accommodation in the area. It is proposed through the modification to improve the internal functionality of units and their layout. The proposed mix is:</p> <p>3 x 3 bedroom apartments (6%) 42 x 2 bedroom apartments (82%) 6 x 1 bedroom apartments (12%)</p> <p><i>No change to the approved mix of apartments in accordance with MOD2021/0045</i></p>	Yes
4L – Ground floor apartments	<p>Street frontage activity is maximised where ground floor units are located.</p> <p>Design of ground floor units delivers amenity and safety for residents</p>	<p>No ground floor units propose access to Treacy Street.</p> <p>The ground floor is taken up by two (2) retail tenancies which is more appropriate given the site is located within a mixed -use zone and setting and is defined as</p>	N/A

		shop top housing. <i>No change proposed to the approved layout and arrangement.</i>	
4M- Facades	Facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale.	<p>The building façade provides articulation along the street frontages at an appropriate scale. The design is consistent with the Concept Approval and aligns with the design and visual appearance of the other two (2) stages of the development which have been completed and it is a requirement of the concept approval that the development as a whole be consistent in design and composition.</p> <p>The existing buildings include aluminium composite cladding in a gold colour. This is a predominant feature of the development; however Council has requested on several occasions to justify that this cladding is not combustible. The Applicant has provided Council with evidence that any newly proposed cladding will comply with the new National Standards for combustible building materials. A condition will ensure this is satisfied.</p> <p><i>The style, form and proportion of the front and rear facades are consistent with the approved plans there are some changes to</i></p>	Yes

		<i>the location of balconies and different recessive and protruding elements i.e. where living room walls and bedrooms are located etc. There are a few slight changes to the front and rear façades which include solid acoustic infill panels adjacent to the window/door openings.</i>	
4N- Roof Design	Roof treatments are integrated into the building design and positively respond to the street. Opportunities to use roof space for residential accommodation and open space are maximised. Incorporates sustainability features.	<p>The roof design is a standard flat roof form with an area of communal open space that will be accessible for the occupants of the adjoining development "The Imperial". Level access from the thirteenth (13) level through to the roof top area of open space is a requirement and design feature of the original approval. New occupants of this development will in turn be able to access and utilise the community room located on the thirteenth floor in the Imperial development.</p> <p><i>The changes to the roof level are considered to be minor and include moving the planter boxes around and including condenser units.</i></p>	Yes
4O – Landscape Design	Landscape design is viable and sustainable, contributes to the streetscape and amenity	<p>Suitable landscaping has been proposed which complies with minimum requirements.</p> <p>The Landscape Plan has been amended slightly and is more detailed and provides greater certainty in</p>	Yes

		respect to the build. It improves the layout and design of the roof top area and details the soft landscaped area on the ground floor rear courtyard. The proposed landscaping and open space are very well considered and treated.	
4P – Planting on structures	Planting on structures – appropriate soil profiles are provided, plant growth is optimised with appropriate selection and maintenance, contributes to the quality and amenity of communal and public open spaces	Suitable landscaping is proposed as part of the formal Landscape Plan. <i>The plan includes planter boxes that will include a variety of plants and will enhance the areas of open space especially on the roof.</i>	Yes
4Q – Universal Design	Universal design – design of units allow for flexible housing, adaptable designs, accommodate a range of lifestyle needs	Satisfactory, originally 6 apartments were dedicated as adaptable. <i>No change proposed</i>	Yes
4R – Adaptive reuse	Adaptive reuse as unit of existing buildings- new additions are contemporary and complementary, provide residential amenity while not precluding future adaptive reuse.	N/A as the development is new.	N/A
4S Mixed Use	Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents.	<i>There is minimal change proposed to the ground floor retail areas apart from some change to the layout and size. Otherwise, the spaces are considered to be satisfactory and what is envisaged for this area.</i> The residential component is separated from the retail component to a large degree with a main formal entry to the residential levels above maximising safety for occupants and visitors.	Yes

		<i>Safety and amenity are maintained by the amended plans.</i>	
4U – Energy Efficiency.	Development incorporates passive environmental design, passive solar design to optimise heat storage in winter and reduce heat transfer in summer, natural ventilation minimises need for mechanical ventilation	The proposal is BASIX compliant <i>An updated BASIX certificate accompanies the amended plans and is compliant. The condition will be updated to reflect the updated plan.</i>	Yes
4V – Water management and conservation	Water management and conservation – potable water use is minimised, stormwater is treated on site before being discharged, flood management systems are integrated into the site design	Satisfactory. Council's Engineers have reviewed the stormwater and drainage design, these are considered acceptable subject to the imposition of conditions. <i>No change proposed.</i>	Yes
4W – Waste Management	Waste management – storage facilities are appropriately designed, domestic waste is minimised by convenient source separation and recycling	<i>Minimal change proposed to the waste storage areas, they have been separated with a room for residential waste and a separate room for retail waste plus a new bulky goods waste room has been integrated.</i>	Yes
4X – Building Maintenance	Building design provides protection from weathering Enables ease of maintenance, material selection reduces ongoing maintenance cost	Satisfactory. It is in line with the materials, colour palette and finishes that are consistent with the adjoining buildings. <i>There is minimal change to the proposed colours, materials and finishes which are consistent with the adjoining development at 21-31 Treacy Street.</i>	Yes

Hurstville Local Environmental Plan 2012

60. The extent to which the modified development complies with the Hurstville Local Environmental Plan 2012 (LEP 2012) is detailed and discussed in the **Table 2** below.

Table 2: Compliance with the provisions of HLEP 2012

Clause	Standard	Proposed	Complies
1.2 Aims of the Plan	In accordance with Clause 1.2 (2)	The development is consistent with the aims of the plan.	Yes – <i>no change proposed</i>
1.4 Definitions	Mixed use development defined as “ <i>Shop top housing</i> ” which “ <i>means one or more dwellings located above ground floor retail premises or business premises</i> ”.	The proposed development meets these definitions. The proposal remains permissible there is no change proposed to the type and form of land use as approved.	Yes – <i>no change to the mixed use development as defined.</i>
2.3 Zone objectives and Land Use Table	Zoned B4 Mixed Use The objectives of the zone are; <i>To provide a mixture of compatible land uses. To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling. To allow for residential development in the Hurstville City Centre while maintaining active retail, business or other non-residential uses at street level.</i>	The development, as amended satisfies the zone objectives and is permissible with development consent.	Yes
2.7 Demolition	Demolition is permissible with consent	Demolition was originally approved and there are no changes to this arrangement proposed.	Yes
4.3 Height of Buildings	15m as identified on Height of Buildings Map	No change is proposed to the originally approved height.	N/A
4.4 Floor Space Ratio	3:1 as identified on Floor Space Ratio Map	The amendment to the Concept Approval (MP 10_0101 MOD 3) allowed for some additional floor space	Yes, see discussion below

		<p>which amounted to a total of 29,274sqm of floor space across the whole site 21-35 Treacy Street.</p> <p>Stage 1 (central stage) makes up 22,209sqm Stage 2 (East Stage) makes up 1,818sqm of floor space and Stage 3 (west stage) which is the current development has a maximum floor space of 5,247sqm.</p> <p>The proposed modified scheme alters the floor space designation however maintains compliance with the 5,247sqm permitted across the site.</p>	
5.10 (5) Heritage Conservation	<p>The consent authority may, before granting consent to any development:</p> <p>(a) on land on which a heritage item is located, or</p> <p>(b) on land that is within a heritage conservation area, or</p> <p>(c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</p>	<p>The subject site is within the vicinity of a series of local heritage items including 18 Treacy Street (item I163). This two (2) storey building is remnant of the Inter-War development boom, complete with art deco façade in fair condition. Also 127-137 Forest Road (Item I120) the façade being the main historic feature of this property and 167-169 Forest Road (Item I125). The subject site is not within a heritage conservation area.</p> <p><i>The proposed changes are of a minor and material nature and will not affect the integrity and significance of the adjoining items.</i></p>	Yes – no change
6.6 Active Street Frontage	<p>The objective of this provision is “to promote uses that attract pedestrian traffic along certain ground floor street frontages in zone B2, B3 and B4”.</p>	<p>The subject site is identified on the Active Frontages Map. The proposed development includes two (2) ground floor retail tenancies which satisfy the LEP provision which intend on activating the street frontage after construction.</p>	Yes – no change with two (2) retail tenancies retained on the ground floor.

	The consent authority must be satisfied that the proposed development will have an active frontage.		
6.7 Essential Services	<p>The following services that are essential for the development shall be available or that adequate arrangements must be made available when required:</p> <ul style="list-style-type: none"> -Supply of water, electricity and disposal and management of sewerage -Stormwater drainage or on-site conservation -Suitable vehicular access 	Council's Engineers have requested some changes to the stormwater drainage arrangement however compliance can be achieved through conditions.	No change required to the conditions as imposed.

Gross Floor Area (GFA)

61. The Concept Application (MP 10_0101) approved a total of 29,274sqm of floor space across the whole site 21-35 Treacy Street. Once detailed designs and development applications were prepared for stages 1 and 2 (Central and East stages) a greater amount of floor space was utilised by these developments than originally envisaged leaving a smaller amount for the final stage (west). In order to fill up the approved building envelope at the subject site, a greater amount of floor space was required. The Applicant modified the Concept Approval (MP 10_0101 Mod 3) to allow for some additional floor space. This application was approved by DPIE and permitted a total GFA at the site of 5,247sqm.
62. The current modification redistributes some spaces given that two sets of fires stairs are required and the provision of hydrant boosters at the front alters the visual appearance of the retail space the floor space which has been slightly redistributed and this mainly occurs on the ground floor level.
63. The definition of **Gross floor area** as defined in the HLEP means *“the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:*
- (a) *the area of a mezzanine, and*
 - (b) *habitable rooms in a basement or an attic, and*
 - (c) *any shop, auditorium, cinema, and the like, in a basement or attic,*

but excludes:

- (d) any area for common vertical circulation, such as lifts and stairs, and
- (e) any basement:
 - (i) storage, and
 - (ii) vehicular access, loading areas, garbage and services, and
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
- (h) any space used for the loading or unloading of goods (including access to it), and
- (i) terraces and balconies with outer walls less than 1.4 metres high, and (j) voids above a floor at the level of a storey or storey above

64. The application is accompanied by GFA calculations which show the distribution of floor space across all levels of the building and show compliance with the maximum permitted of 5,247sqm. The main changes occur on the ground floor. Figures 7 and 8 below show the changes within these levels. The submitted GFA plans are compliant with the FSR and satisfy the definition of GFA.

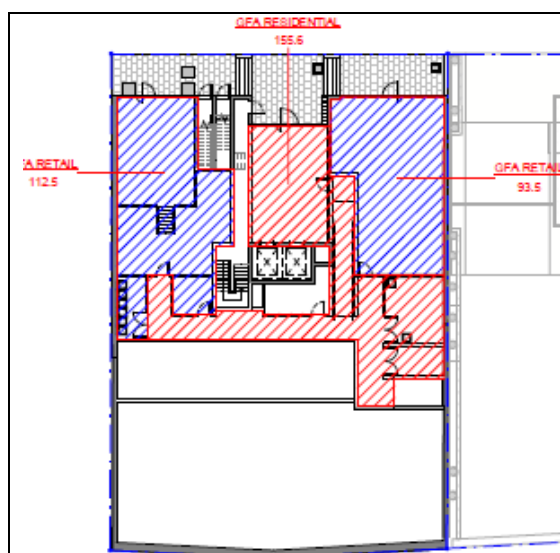


Figure 7: Approved GFA on the ground floor (Mod2021/0045)

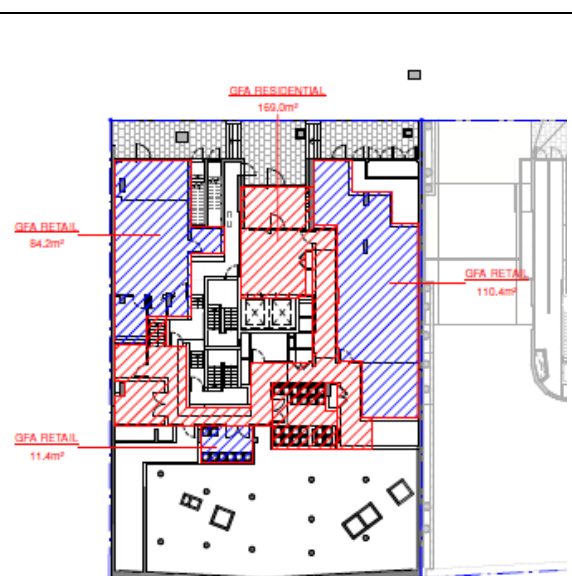


Figure 8: Proposed GFA on the ground floor (Mod2021/0137)

Georges River Local Environmental Plan 2021 (GRLEP)

65. Consideration is given to the provisions of the recently gazetted Georges River Local Environmental Plan 2021 in the assessment this application.
66. Clause 1.8A (Savings provisions relating to development applications) of the GRLEP 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.”*
67. There are no changes proposed to the zoning and main planning controls relating to the subject site. The only immediate change is that the adjoining Council owned site to the west (35-49 Treacy Street) has been rezoned from a “Deferred matter” on the zoning plan to reflect a B4 zone as per the adjoining sites.

68. The proposed modifications are in line and consistent with the new Georges River LEP provisions.

Draft Environment SEPP

69. The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018.
70. 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.
71. The proposal modifications are generally consistent with the provisions of this Draft Instrument.

Draft Remediation of Land SEPP

72. The Department of Planning and Environment has announced a Draft Remediation of Land SEPP, which will repeal and replace the current State Environmental Planning Policy No 55—Remediation of Land.
73. 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.*
74. The main changes proposed include the expansion of categories of remediation work which requires development consent, a greater involvement of principal certifying authorities particularly in relation to remediation works that can be carried out without development consent, more comprehensive guidelines for Councils and certifiers and the clarification of the contamination information to be included on Section 10.7 Planning Certificates.
75. Whilst the proposed SEPP will retain the key operational framework of SEPP 55, it will adopt a more modern approach to the management of contaminated land.
76. With additional information being provided at the initial DA stage in relation to contamination and the Detailed Environmental Assessment and RAP being extended to

include the subject sites it is considered that the information provided in respect to contamination is acceptable and complies with the Draft SEPP provisions. The modified proposal does not impact on this SEPP as there are no changes that will affect the original environmental assessments and findings.

Development Control Plans

77. Hurstville Development Control Plan No 2 (DCP 2) applies to the proposed development. The site is located within the City Centre East Precinct. The proposed development forms Stage 3 (West Stage) of the Concept Plan Approval granted by the IPC (former PAC {Planning Assessment Commission}) which has determined the building envelope and configuration of the development. This consent was granted prior to DCP 2 (Amendment 9) coming into effect. As such many of the provisions of DCP 2 are not particularly relevant to the application. An assessment however has been undertaken against the main provisions which are of relevance to the application and provided in Table 3 below.
78. Since the modifications are minor and have come about through the more detailed design phase and to ensure compliance with the BCA and National Construction Code. There is no change to the built form (floor space, height, approved building envelope and the like) the proposal will satisfy the planning provisions in the DCP in line with the approved proposal.

Table 3: Compliance against the provisions of HDCP No.2 (Amendment 9)

DCP Standard	Control/Proposed	Complies
Section 4.6 City Centre East	This precinct is characterised by “ <i>the extension of the retail strip along Forest Road and under-utilised development along the railway line in Treacy Street</i> ”. The key land use principles for this area are to promote a mix of land uses, activation of the streetscapes and the exclusion of residential uses in the B3 commercial core area to only retail/commercial uses.	Yes – no change
Section 5.2 Building Form Character Principles	A series of principles that encourage and establish good architectural design and development that promotes a high urban form outcome and encourages pedestrian comfort, safety and sustainability.	Yes – no change proposed
Section 5.3 Built form Controls	<p><i>Site Amalgamation</i> General building floor plate of 900m - 1,000sqm Proposed floor plate of 630sqm Although not compliant, Stage 2 and 3 of the development have smaller floor plates whilst Stage 2 has over 1,000sqm floor plate. Considering the development will read as part of a much larger integrated development site the provision is satisfied by meeting the intent of the criterion. No change to this is proposed.</p> <p>Min 30m street frontage – frontage of 24.2m. Although short of the minimum this is part of a larger consolidated site and this frontage width in this instance is satisfactory as it will not be read as a separate/independent building.</p>	<p>No change proposed – in line with the Concept Approval even though this didn't comply with the DCP.</p> <p>No but acceptable as an infill development – no change.</p>

	<p>The redevelopment of this site will remove the “fine grain” character of this street and create a larger consolidated development which is in line with the objectives of the DCP for redevelopment in the commercial centre.</p> <p><i>Housing mix</i> Bed-sitters and one-bedroom apartments shall not exceed 25% and not less than 10% of the development – one bedroom comprise of 17% <i>The amended plans reduce the amount to 12%</i></p> <p>Two-bedroom apartments shall not exceed 75% of the development – two bedrooms comprise of 46%. <i>The amended plans increase the proportion to 82%</i></p> <p>Three-bedroom apartments shall not exceed 10% of the development – Three bedrooms comprise of 27%. <i>The amended design reduces the amount to 6%</i></p> <p>Adaptable dwellings 1 per 10 or there part of. Total of 51 dwellings so a minimum of 5 dwellings are to be adaptable. – two (2) dwellings are designated as adaptable. Although this is less than required it is considered acceptable.</p> <p>Unit sizes in accordance with the NSW Residential Flat Design Code (2002) (RFDC) – the proposal has been designed to generally comply with the ADG which supersedes the RFDC.</p> <p><i>Floor to ceiling heights</i> Non-residential – min 3.6m – Minimum 3.7m</p> <p>Residential – 2.7m (3m floor to floor) – minimum 2.7m with floor to floor heights of 3.05m</p> <p><i>Setbacks</i> Development within 25m of rail corridors; Min 1.5m from rail corridor – setback of the building between 10.6m-13.9m</p> <p>Basements may adjoin subject to geotechnical reports and State Rail concurrence – State Rail has accepted location of the basement.</p>	<p>Partial non-compliance but acceptable – no change.</p> <p>No change proposed to the approved mix of apartments.</p> <p>Yes – no change.</p> <p>As approved – no change.</p> <p>No change.</p> <p>Yes – no change.</p> <p>No change to rear boundary setback. Referred to Sydney Trains for review to see if GTA's require changing.</p>
--	--	--

	<p>Balconies within 20m of the rail corridor need to be enclosed – all rear balconies have been designed as winter gardens and are enclosed with associated glazing and louvered features to the satisfaction of State Rail requirements.</p> <p>Building separation is consistent with SEPP 65 requirements for mixed use developments.</p> <p><i>Solar Access</i> Demonstrate access to sunlight is to be substantially maintained so that existing private and public open spaces, first and second order street footpaths and the existing windows of all habitable rooms in adjoining buildings receive at least 3 hours of sunlight between 9am and 3pm on 21 June (winter solstice) – Shadow diagrams show compliance with Council’s provisions. Properties to the south along Railway Parade are affected by the development during the winter solstice. There is no affectation to properties to the north along Treacy Street or to the apartments in the Central Stage (Imperial Hurstville). The area of communal open space (sky terrace) within the Imperial Hurstville development is located on Level 8 and Level 9 will be unaffected by any overshadowing until 3pm in midwinter. From about 11am to 1pm in the afternoon the shadow cast will not directly impact on any property and affect the street and rail corridor.</p> <p><i>Visual amenity</i> Privacy and overlooking is minimised by offsetting windows and including privacy screens – the building has been designed so that there are no adverse overlooking created by the apartment location, design and orientation. Also the sides have blank walls.</p> <p><i>Acoustic and vibration amenity</i> Layout of apartments needs to consider noise transmission and a Noise and Vibration Assessment may be required. – An assessment report has been prepared and suggests ways to reduce noise transmission (discussed earlier in this report)</p> <p><i>Entrances and lobbies</i> Need to be clearly visible, identifiable – the entry lobby is centrally located and is highly visible</p>	<p>No change proposed – Wintergardens are enclosed abutting the rail corridor.</p> <p>Yes – no change.</p> <p>Satisfactory.</p> <p>Yes – no change.</p> <p>No change.</p> <p>Yes – satisfactory and no change</p>
--	---	---

	<p>and easy to identify and large and formal.</p> <p><i>Balconies</i> Each dwelling have a minimum of one balcony with a depth of 2.5m – every unit includes a balcony with minimum width of 2m and the larger apartments have the primary balcony width of 2.5m in accordance with the ADG requirements which override these controls.</p> <p><i>Awnings</i> Awnings must be cantilevered and have a minimum height of 3.2m – this can be satisfied however the awning needs to be consistent with the awnings included along the Central and East Stage buildings. A condition will ensure compliance with Council's specifications and consistency with the awning to the adjoining developments.</p> <p><i>Active street frontages</i> Active land uses included at the ground floor level – two retail tenancies are proposed at the ground floor which is compliant.</p> <p><i>Crime Prevention through Environmental Design (CPTED)</i> The proposal is designed to minimise any potential for criminal behaviour. Natural and causal surveillance is encouraged through the design and camera surveillance and security measures will be implemented including sensitive lighting to ensure safety and security is maintained.</p> <p><i>Landscaping</i> Prepare a detailed Landscape Plan and utilise species which are hardy and indigenous to the area. – Landscape plan provides suitable planting and vegetation across the site.</p> <p><i>Planting on structures</i> Minimum 1000mm depth for tree planting and 500mm depth for shrub planting – The deep soil area at the rear includes over 2m of soil so it can cater for the planting of larger trees and shrubs particularly along the boundary to create screening.</p> <p><i>Site Servicing</i> Ensure all key services (air conditioning units, drying areas, storage areas are all appropriately</p>	<p>Yes – balcony design unchanged and satisfies ADG.</p> <p>Awning included to provide protection above the retail tenancies and are within the site boundary.</p> <p>Yes – no change to approved.</p> <p>Yes – no change to approved.</p> <p>Yes – Landscape plan updated to detail the COS.</p> <p>Yes – satisfactory.</p> <p>Yes laundries have been</p>
--	--	---

	<p>screened). – most services have been sensitively designed and well located. Conditions will ensure these services are appropriately screened.</p> <p>Every apartment should have individual or communal drying areas – every apartment has a separate laundry</p> <p>Provide minimum of 10sqm per dwelling for storage – this is quite a large room and is not feasible in most contemporary developments. The development provides for dedicated internal storage spaces within the apartments which are compliant with SEPP 65 provisions as individual storage cages are also provided in the basement.</p> <p><i>Electrical substation</i> Cater for the requirements of these services – the proposal relies on the existing substation which services the larger development and located as part of the central site.</p>	<p>provided in most apartments some with individual areas.</p> <p>Yes.</p> <p>Complies with ADG – some additional storage provided as part of this application.</p> <p>Will be considered at the CC stage.</p>
5.4 Transport, Traffic, Parking and Access	<p>Parking demand has changed as there is a greater amount of apartments. The amount of parking proposed in relation to the proposed unit numbers and layout is compliant and satisfies the ADG. This was discussed above. It is unlikely that the development as modified will generate more parking as less parking spaces has been provided. Originally there were 5 basement parking levels catering for many more spaces as parking demand and the need for off street parking was in line with HDCC No.2. With Mod 3 to the Concept Approval this has altered the amount of parking to be provided (less required) and therefore traffic generation by the development will be decreased as there will be less traffic and cars accessing the basement, which now comprises of only 3 split levels as opposed to 5.</p> <p><u>Construction Management Plan</u> – A condition will require the preparation of this document prior to issuing the Construction Certificate.</p> <p><u>A Travel Plan</u> is required if the development exceeds 50 dwellings – N/A for the density proposed.</p>	<p>Yes – satisfactory with minimal change. Parking complies with the ADG.</p> <p>Minimal changes but numerically compliant.</p> <p>Yes, subject to conditions – CMP already submitted as CC approved.</p> <p>N/A</p>

	<p><i>Bicycle storage</i> – 1 space per 300sqm of retail space and 1 space for every 3 units. A total of 15 bicycle spaces are required. 17 spaces are catered for within the basement levels.</p> <p>Car parking rates ADG rates are applicable in accordance with MOD 3 to the Concept Approval.</p> <p>Minimum of 1 accessible space per adaptable dwelling. Seven (7) accessible spaces are provided which is one more than was approved.</p> <p>Car wash bay – One (1) car wash bay is required and can be doubled up as a visitor space. A condition will ensure a space is designated for this purpose and appropriately sign posted.</p> <p><i>Vehicular Access</i> This is proposed through the Central stage (Imperial Hurstville building) eastern side of the site and this has always been the intention and purpose of access through to this site as envisaged by the Concept Approval. A detailed discussion on this issue is addressed in the original assessment report.</p> <p>The reduction in the amount of basement levels results in the reduction in openings between the two buildings. This is an overall benefit.</p> <p><i>Loading/Unloading</i> New developments must cater for and design an area for loading and unloading. The proposal will share the existing loading bay within the Central Stage which provides easy and convenient access to the building. Easements already exist in this regard.</p>	<p>Yes, bicycle spaces are provided in the modified proposal.</p> <p>Yes.</p> <p>Yes.</p> <p>Yes, car wash bay shown on amended plans</p> <p>Yes, satisfactory and no change proposed.</p> <p>Yes, satisfactory and no change proposed.</p>
6.1 Public Domain	<p><i>Street trees</i> Select trees with a mature height and spread which is appropriate to the scale of the street. – A condition will require the retention and protection of the existing street tree and the provision of a new tree adjoining it and planting shall be in keeping with the Hurstville City Centre Public Domain Plan 2007.</p> <p><i>Street furniture</i> A condition will require the Applicant to prepare a detailed Public Domain Plan which looks at paving, planting and street furniture treatment</p>	<p>Yes, additional street tree provided in accordance with conditions and included on the Landscape plan.</p> <p>Yes.</p>

	<p>that is consistent with the adjoining integrated development.</p> <p><i>Paving, Culture and Public Art</i> The design of public art to be in accordance with the Hurstville City Centre Public Domain Plan – A condition will require the provision of public art across the western elevation of the building adjoining the public car park for the ground and first floor level. The Applicant shall liaise with Council as to the type of street art to be adopted and implemented and shall borne the cost of this works. This will break up the bulk and scale of the wall and will improve the visual appearance of this element when viewed from the street and key public spaces.</p> <p><i>Signage</i> No advertising signage is proposed just a standard identification signage at the front that will denote the name and number of the building assisting visitors.</p> <p><i>Waste Management</i> The proposal provides a dedicated residential and retail waste room along the ground floor behind the retail areas. A Hoist has been included which allows for bins to be moved down the Basement 1E where they can be collected from the garbage collection area in the Central Stage (easements for this already exist). The calculation of the number of bins that is required is discussed later in the report and is supported by a condition if consent is issued.</p> <p><i>Wind Mitigation</i> A wind effects report is required. This report has been submitted and assessed earlier in this report to be acceptable.</p>	<p>Yes, subject to a condition. The Applicant seeks to remove the condition relating to public art. It is not justified and a detailed discussion provided below.</p> <p>N/A.</p> <p>Yes.</p> <p>Satisfactory.</p>
6.3 Development of a Heritage Item or in the vicinity of a Heritage Item	The proposal needs to satisfy Clause 5.10 of the HLEP. This issue has been addressed earlier in more detail and the impact of the proposal is considered satisfactory and reasonable from a planning and heritage perspective.	Yes.

Georges River Development Control Plan 2021

79. This GRDCP has become effective in alignment with the GRLEP which has been adopted and is now implemented. The DCP establishes a series of new planning controls however these are to be used in conjunction with the GRLEP. As the new LEP is not relevant in this case due to the savings provisions, the provisions in the DCP are equally not relevant. Part 3 (General Planning Considerations), Part 4 (General Land

Use), Part 6.3 (High Density Residential Controls). The proposed development and changes are not considered to be inconsistent with the overall purpose and intent of the plan.

Georges River Interim Policy

80. This Policy is not relevant in this case as it relates to residential developments not mixed-use land uses.

Changes to conditions

81. Apart from the small-scale design changes within the building, the Applicant has requested some changes to conditions. They are seeking the following conditions to be modified or deleted.

i. Condition No.17 – Design changes

82. It is requested to delete Condition No. 17(f) as new landscape plans have been prepared and supersede this condition and condition 17(i) in respect to the awning. The condition reads as follows:

17. Required Design Changes – *The following amendments are to be made to the plans and details provided with the Construction Certificate to the satisfaction of the Principal Certifying Authority;*

- ~~(a) The winter gardens shall have the lower pane of glass from the finished floor level constructed of obscure glazing.~~
- ~~(b) An entry door shall be included to Unit 603 on Level 6 in the Construction Certificate Plans.~~
- (c) The basement finished floor levels shall be consistent with the finished floor levels within the Central Stage (Imperial Hurstville) building. The lobby area in the basement/s shall also be designed to reflect these levels.
- ~~(d) The rooms with a snorkel window shall have this window relocated and extended 1m to the north and the windows to this elevation shall be full height operable windows to increase the amount of light and ventilation into these spaces.~~
- ~~(e) Full height, louvred privacy screens shall be implemented along the western sides of balconies to Units 1201, 1101, 1001, 901, 801, 701, 601, 501, 401, 301 and 201.~~
- (f) The Landscape Plan shall be updated to cater for the following details;
 - Planter boxes shall be included around the periphery of the roof terrace especially along the western side and shall be designed to include a self-irrigation system and include a minimum of 5 medium sized trees/shrubs.
 - ~~— The roof top terrace area shall include some benches and seating that can be built into the planter boxes.~~
 - ~~— The roof top landscaped area shall be redesigned to be similar and consistent with the original landscape plans that were lodged with the Concept Approval prepared by Habitation, plan No.s 10_081 L02 dated 26 November 2010 (Rev A).~~
 - The rear ground floor communal area shall be softly landscaped and shall be consistent with the original landscape plans that were lodged with the Concept Approval prepared by Habitation, plan No.s 10_081 L06 dated 26 November 2010 (Rev A). The water feature may not be necessary and could be replaced with planting.

- ~~— A minimum of four (4) new trees with heights of 8m at maturity to be planted along the rear boundary to provide additional screening shall be included.~~
- ~~— A WC is to be included adjoining the Lobby on L13.~~

- (g) Details of the proposed treatment of the western elevation wall (when completed) shall be designed by Stanasic architects.
- (h) An area with minimum dimensions of 9m wide (equivalent to two panels CN1 wide as shown on the western elevation plan DA 14) and up to the finished floor level of Level 2 shall be dedicated as a public art space.
- (i) The awning design shall be consistent with the existing awning adjoining the site along the front of 21-33 Treacy Street and shall comply with Council's specifications and requirements in respect to awnings. Cut outs may be required to accommodate street trees.
- (j) The floor to ceiling height of the retail tenancy No.1 shall be a minimum of 3.3m.

83. The modification application is accompanied by updated Landscape Plans prepared by Ground Ink Issue G dated 15 July 2021. The plans update the public domain treatment at the front and the courtyard and roof space and include planter boxes in the roof terrace which satisfies this condition No.17(f).
84. It is reasonable to delete condition 17(i) which relates to the front awning above the retail component. The plans show a louvred shade structure which is satisfactory.

ii. Condition No.33 – Building sustainability

85. The Applicant is seeking to delete this condition which relates to building sustainability. This has been discussed earlier in this report in the BASIX section. It is considered the report detailed as part of this condition is outdated and superseded by the BASIX certificate which has been updated and satisfies the general environmentally sustainable requirements for RFB's residential developments and mixed uses.

iii. Condition No.104

86. Condition 104 relates to the community car parking spaces located within the Centre Stage Imperial Development. The condition reads as follows:

104 Bollards to spaces associated with Community Room – *The Applicant shall liaise with the Body Corporate of 21-31 Treacy Street and Council to install bollards (if required) to the 5 designated car parking spaces related to the community room subject to the agreement of the Body Corporate and Council.*

87. This condition was imposed after a site inspection was conducted by the Planning Officer at the Centre Stage and an issue was raised that the community spaces which should not be used by the public are being used as visitor spaces and this is an issue. To help resolve this issue the condition was imposed to provide an opportunity (if required by Council and the Body Corporate of the Imperial Hurstville. The condition is an open ended one, which requires the imposition of bollards only if required (after consultation with both Council and the Body Corporate). Obviously if these authorities declined the need for the bollards then they don't need to be imposed, however if they believe they would assist in regulating their use then they are not considered a big imposition to installing them.

88. However, at the same time conditions should be imposed which are clear and valid. They need to be able to pass the Newbury test where the following needs to be satisfied:
1. *The condition must be for a planning purpose and not for any ulterior purpose.*
89. A planning purpose is one that is imposed with reference to the relevant legislation and town planning instruments. It does not include reference to preconceived general notions of what constitutes planning.
2. *The condition must reasonably and fairly relate to the development permitted.*
90. This is a question of power of the consent authority impose the condition – the condition must relate to the development for which consent is being sought.
3. *The condition must not be so unreasonable that no reasonable planning authority could have imposed it.*
91. The test being whether the decision to impose the condition was so unreasonable that no reasonable authority could ever have come to it.
92. In this case the condition is considered to be reasonable and valid however does not relate to the development for which consent is being sought and therefore legally could be challenged that it is imposed on adjoining land and owners consent is required. Although the condition is requiring owners consent prior to any works occurring it is not directly related to the development site and therefore its validity could be questioned. Given this condition and its intention aims to improve the use and functionality of the development as a whole (in accordance with the purpose and intention of the original concept approval), it isn't directly related to the development site and does lack some clarity. In this case its deletion is considered satisfactory.

iv. Condition No.115 – Art work

93. The Applicant states that they would like condition 115 deleted but they mean 114 relating to the public art condition. The condition reads as follows:
- 114 Art work** – *The public artwork to be located along the western elevation of the building (across the ground and first floor levels) shall be completed to the satisfaction of Council's delegate.*
94. This condition also relates to a series of other conditions in the consent, Condition 17(h) which specifies the area that is to be dedicated along the western wall for public art and also Condition No.128 which requires the applicant to liaise with Council's Cultural planner as to the type of artwork.
95. The proposed conditions were imposed by the Assessment Planner because at the time of determination there was no specific policy for public art but the HDGP did mention that this was encouraged and given the site adjoins a public carpark which at this stage is not earmarked for redevelopment, some ground floor art would improve the visual appearance of the western elevation, break up the mass and height of the wall and provide some ground floor activation and visual interest to this space.

96. Since the time of determination, Council has imposed a series of policies relating to public art. Section 3.15.2 (Public Art) of the GRDCP 2021 requires public art to be integrated into larger scaled developments and includes the following controls:
1. *Major developments (commercial, public administration, and retail development) and mixed-use developments with a capital investment value of \$5 million or more are to include an element of public art.*
 2. *A minimum of 1% of the total cost of the development is to be allocated to the public art budget*
97. Council has also endorsed a Public Arts Policy. The Applicant has not provided a convincing justification as to why public art can not be incorporated along the western side of the building and given Council's strong commitment for future development's similar to this one including public art then the conditions should be maintained in this instance.

v. Condition No.120 – Green Travel Plan

98. The Green Travel plan condition was imposed in line with the Concept Approval and is consistent with the consent for the Central stage. The condition reads as follows:

Green Travel Plan – The Green Travel Plan approved as part of the Centre Stage shall be implemented and communicated to residents and employees of the development. The car share scheme shall be operated by a registered car share company.

99. A Green Travel Plan is essentially a package of measures implemented by an employer or developer to encourage more sustainable travel for the journey to and from work/home and aims to limit the reliance on motor vehicles. It has become an important strategic mechanism for large scale developments and urban renewal projects which are not highly accessible. It seeks to reduce the use of cars particularly driving to and from work and/or for work related travel. Through a Green Travel Plan, workplaces can also demonstrate commitment to a more proactive approach in improving people's health and wellbeing and the environmental sustainability of its activities. The imposition of this condition and the provision of developing a Green Travel plan came into effect as part of the Concept Approval which is over 10 years old. This development at the time the concept approval was determined exceeded the heights and scale of development in the area. It was one of the largest integrated developments in the Hurstville Commercial centre and as such a green travel plan was considered to be a reasonable planning and transport response for the development.
100. In time, Council and the Regional planning panels have approved significantly larger integrated developments (ie along Forest Road) most with no Green Travel Plans accompanying the approvals given that developments are located within the Hurstville Commercial core and are well accessed by public transport. This stage of the development is not substantial in size and density given recent approvals for developments in the area. The on-site car parking provisions satisfy the controls and include bicycle and motorbike parking which are alternative and popular modes of transport. The site is within 400m of the Hurstville Railway station making it a very accessible development.
101. For these reasons it is considered satisfactory to delete this condition given it is outdated and not relevant to this scale of development.

Developer Contributions

102. The proposed development, as modified does not alter the density and mix of apartments and the GFA for the retail component remains largely the same and in actual fact the proposed changes reduce the retail component by some 11sqm – a minimal amount. No changes to the monetary contributions are contemplated as part of this application.

REFERRALS**Council Referrals*****Engineering***

103. The proposed changes do not alter the stormwater drainage arrangement that was approved however as a matter of courtesy, the application was referred to Council's Development Engineers for comment. No objection was raised in respect to the proposed changes. Council's Development Engineer stated that *"the mod application will remain substantially the same as the originally approved development and concluded that no engineering condition was required."*

Traffic and access

104. The application was referred to Council's Traffic Engineer for comment. On 11 October 2021, Council's Traffic Engineer raised no objection to the proposed changes subject to standard conditions. One additional condition that is requested to be implemented is *"that a visual aid (such as convex mirrors or warning lights) at each breakaway/connection opening between basements to ensure visibility is established for vehicles driving through the openings to oncoming vehicles"*.
105. The three basement car parking levels have been redesigned to accommodate a second stair access that is required. A Traffic and Parking assessment accompanies the application prepared by The Transport Planning Partnership and dated 22 July 2021, confirms that the development complies with the numerical requirements in respect to parking, bicycle, motor bike and disabled access parking. It also conducts a traffic impact assessment however given there is no change to the approved density and floor space the proposed changes will not generate additional demand for parking or increase traffic generated by the development.

Building Services

106. The application was referred to Council's Building services and on 6 October 2021 no objection was raised with the proposed changes.

Landscape Officer

107. The application was referred to Council's Landscape Officer for comment as the Landscape Plan has changed and been updated. On 16 September 2021 the Landscape Officer raised no objection to the proposed changes subject to the imposition of standard conditions. Given this is a modification application some of the conditions are not relevant and are already covered as part of the original consent.

External Referrals***Ausgrid***

108. In accordance with Clause 45 of the SEPP Infrastructure the application was referred to Ausgrid. Ausgrid provided a formal response on 12 October 2021 and raised no objection to the proposed changes.

Sydney Trains

109. In accordance with Clause 85 and 86 of the SEPP Infrastructure the application was referred to Sydney Trains for comment. Although the proposed changes are material and small-scale and it is unlikely that the changes will have any impact on the GTA's as issued by Sydney Trains it is imperative that Sydney Trains are satisfied with the extent of the amendments.

A response was required from Transport – Sydney Trains on 22 November raising no issue with the amendments proposed subject to the conditions of consent imposed on the DA remaining.

CONCLUSION

110. The application has been assessed having regard to Section 4.55(1A) and the Matters for Consideration under Section 4.15(1) of the Environmental Planning and Assessment Act 1979. Following the assessment of the Section 4.55(1A) (MOD2021/0137)) that the modifications proposed as part of this application be supported for the reasons outlined in this report.

DETERMINATION AND STATEMENT OF REASONS

Statement of Reasons

It is recommended for MOD2021/0137 be approved for the following reasons:

- The proposed modifications to the approved development are considered to be “substantially the same” and satisfy the provisions of Section 4.55 of the Act.
- The proposed changes are a result of the development of the detailed design and to ensure compliance with the BCA, NCC and associated building provisions.
- The proposed changes are minor and aesthetic in nature and will not adversely affect the approved built form, scale, height and visual appearance of the building.
- The proposed development will not result in unreasonable impacts on the natural and built environment.
- The proposed development will not result in unreasonable amenity impacts to the adjoining neighbours.
- The proposed development is in the public interest.

Determination

THAT Pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979 that the Georges River Local Planning Panel approve the Section 4.55(1A) application number MOD2021/0137 for the modification of an approval to DA2018/0366 for the construction of a thirteen storey (13) mixed use development comprising of two (2) retail tenancies on the ground floor, forty-one (41) apartments, rooftop terrace and three levels of basement car parking. The modification application is for additions to the building to satisfy the Building Code of Australian and National Construction Code provisions and the amendment and deletion of conditions of consent at Lot 100 DP1269474 (previously known as Lots 5 and 6 DP11931), 33-35 Treacy Street, Hurstville.

Development Details

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

The following architectural plans prepared by Stanisic Architects			
Description	Reference No.	Date	Revision
Cover Sheet	DA 001	16/07/2018	Issue 9
Location Plan	DA 01	15/06/2018	Issue 7
Context Analysis Plan	DA 02	15/06/2018	Issue 8
Site Analysis Plan	DA 03	15/06/2018	Issue 7
Site Plan	DA 04 DA005	15/06/2018 04/03/2021	Issue 8 A
Basement 3A/3B Basement B2A + B2B Plan	CD 05 DA 101	2/11/2020 04/03/2021 2/08/2021	Issue K A B
Basement 2A/2B Basement B1A + B1B Plan	CD 06 DA 102	6/08/2020 04/03/2021 2/08/2021	Issue J A B
Basement 1A/1B Basement B1C + B1D Plan	CD 07 DA 103	6/08/2020 2/08/2021	Issue J A B
Basement 1C/1D/1E Basement B1E Plan	CD 07/1 DA 104	6/08/2020 04/03/2021 2/08/2021	Issue J A B
Level 1 (Ground) Plan Level Ground Plan	DA 07 DA 105	30/07/2018 2/08/2021	Issue 9 A B
L1, L2 Plans Level 1 (Courtyard) Plan	DA 08 DA 106	1/08/2018 04/03/2021 2/08/2021	Issue 12 A B
L3, L4, L5, L6 Level 2,4,6,8 Plan	DA 09 DA 107	13/07/2018 04/03/2021 2/08/2021	Issue 9 A B
L7, L8, L9, L10 Level 3,5,9 Plan	DA 10 DA 108	15/06/2018 04/03/2021 2/08/2021	Issue 8 A B
L11, L12, L13, Roof Level 7 Plan	DA 11 DA 109	13/07/2018 04/03/2021 2/08/2021	Issue 10 A B
Level 10,12 Plan	DA 110	04/03/2021 2/08/2021	Issue A B
Level 11 Plan	DA 111	04/03/2021 2/08/2021	Issue A B
Level 13 (roof terrace) Plan	DA 112	04/03/2021 2/08/2021	Issue A B
Roof Plan	DA 113	04/03/2021 2/08/2021	Issue A B
North Elevation	DA 12-201	1/08/2018 04/03/2021 2/08/2021	Issue 10 A B
South Elevation	DA 13 202	1/08/2018 04/03/2021 2/08/2021	Issue 11 A B
West Elevation	DA 14 203	1/08/2018 04/03/2021 2/08/2021	Issue 10 A B
Section FF and GG-AA	CD 31/1 DA 205	2/11/2020 04/03/2021	Issue K A B

		2/08/2021	
Section BB	DA 206	04/03/2021 2/08/2021	Issue A B
Wintergarden details	DA 207	04/03/2021 2/08/2021	Issue A B
Cross-ventilation Diagrams	DA 19	16/07/2018	Issue 10
Common open space Diagram	DA 20	1/08/2018	Issue 7
Adaptable Unit – Pre and Post Adaptable Plan	DA 23 701	16/07/2018 04/03/2021 2/08/2021	Issue 9 A B
External materials, finishes and colour board	P 001	04/03/2021	Issue A
The following structural plans prepared by Australian Consulting Engineers			
General notes sheet 1 of 3	S0000	24/05/2018	B
General notes sheet 2 of 3	S0001	24/05/2018	A
General notes sheet 3 of 3	S0002	24/05/2018	A
Shoring Plan	S0100	28/05/2018	C
Shoring Elevations	S0101	28/05/2018	C
Shoring Details 1 of 2	S0102	28/05/2018	B
Shoring Details 2 of 2	S0103	28/05/2018	A
Railway Profile Sections	S0104	24/05/2018	A
Monitoring Plan	S0105	28/05/2018	A
Basement B3A and B3B Slab on Ground	S0300	24/05/2018	A
Basement B2A and B2B	S0400	24/05/2018	A
Basement B1A and B1B	S0500	24/05/2018	A
Basement B1C and B1D	S0600	24/05/2018	A
Basement B1E	S0700	24/05/2018	A
Ground Floor Slab Plan	S0800	24/05/2018	A

(This condition is amended as part of MOD2021/0045 and MOD2021/0137)

Also, the following plans and documentation:

Landscape Plans Drawing No.s 1-6 Rev E prepared by Distinctive Living Design, Drawing No.s 23-18.00-23-18.05 and dated 3 August 2018 prepared by Ground Ink Drawing No.s LA-00, LA-01, LA-02, LA-03, LA-04 Rev F G and dated 4/03/2021 15/07/2021
Statement of Heritage Impact prepared by Cracknell and Lonergan, dated 13 June 2018
Stormwater Drawings dated 23 September 2018 15/12/2020 or 18/1/2021 prepared by Australian Consulting Engineers Drawing No.s 000(Rev B), 101(Rev E), 102(Rev B), 103 (Rev E), 104 (Rev E), 105 (Rev E), 106 (Rev E), 106.1 (Rev A), 107 (Rev B), 108 (Rev A), 109 (Rev B).
Survey Plan dated 22 November 2010 and prepared by Danny Linker and Co and Survey Plan prepared by Lockley Land Titles Solutions, reference 34357DT and dated 28 August 2011
Architectural Design Statement prepared by Stanisic Architects and dated 27 January 2021
Traffic and Parking Assessment prepared by The Transport Planning Partnership and dated 22 July 2021

Access Report prepared by East Coast Accessibility Pty Ltd and dated 4 August 2021
--

(This condition is amended as part of MOD2021/0045 and MOD2021/0137)

SEPARATE APPROVALS REQUIRED BY OTHER LEGISLATION

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

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

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

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

These separate activity approvals must be obtained and evidence of the approval provided to the Certifying Authority prior to the issue of the Construction Certificate. The relevant Application Forms for these activities can be downloaded from Council’s website www.georgesriver.nsw.gov.au. For further information, please contact Council’s Customer Service Centre on (02) 9330 6400.

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

The following details must be submitted:

- (i) That cable anchors will be stressed released when the building extends above ground level to the satisfaction of Council;

- (ii) The applicant has indemnified council from all public liability claims arising from the proposed works, and provide adequate insurance cover to the satisfaction of Council.
- (iii) Documentary evidence of such insurance cover to the value of \$20 million;
- (iv) The applicant must register a non-terminating bank guarantee in favour of Council. An amount will be determined when the application is lodged;
- (v) The guarantee will be released when the cables are stress released. In this regard it will be necessary for a certificate to be submitted to Council from a structural engineer at that time verifying that the cables have been stress released.
- (vi) In the event of any works taking place on Council's roadways/footways adjoining the property while the anchors are still stressed, all costs associated with overcoming the difficulties caused by the presence of the 'live' anchors will be borne by the applicant.

4. Vehicular Crossing – Major Development – The following road frontage works shall be constructed in accordance with the specifications issued under the "Application for Driveway Crossing and Associated Works on Council Road Reserve" Approval issued by Council's Assets and Infrastructure Division.

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

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

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

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

REQUIREMENTS OF CONCURRENCE, INTEGRATED AND OTHER GOVERNMENT AUTHORITIES

6. Sydney Water – Tap in TM – The approved plans must be submitted to a Sydney Water Tap inTM to determine whether the development application will affect Sydney Water's

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

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

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

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

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

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

A1 Unless amendments are required in order to obtain approval/certification/compliance from Sydney Trains in relation to any of the Sydney Trains related conditions of consent, all excavation and construction works are to be undertaken in accordance with the details, methodology, advice, undertakings and recommendations as detailed in the following documents:

- Structural Report reference 150268.R4 revision 2.0 prepared by Australian Consulting Engineers Pty Ltd dated 4 June 2020.
- Geotechnical Opinion reference E24585.G20 prepared EI Australia dated 9 April 2020.
- Derailment Protection Report version 0.B prepared by Minciv Management Services Pty Ltd dated 10 March 2020.
- Monitoring Plan reference E24585.G10 prepared by EI Australia dated 4 June 2020.

- Structural Drawings prepared by Australian Consulting Engineers Pty Ltd as listed below:
 - Shoring Plan drawing S100 reference 150268 revision E dated 25 February 2020.
 - Shoring Elevations drawing S101 reference 150268 revision C dated 28 May 2018.
 - Shoring Details Sheet 1 of 2 drawing S102 reference 150268 revision B dated 28 May 2018.
 - Shoring Details Sheet 2 of 2 drawing S103 reference 150268 revision A dated 24 May 2018.
 - Railway Profile Sections drawing S104 reference 150268 revision C dated 25 February 2020.
 - Monitoring Plan drawing S105 reference 150268 revision C dated 25 February 2020.

The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming which of the documentation listed in this condition are to now apply or are superseded as a result of the compliance with the Sydney Trains related conditions of consent. The measures detailed in the documents approved/certified by Sydney Trains under this Condition are to be incorporated into the construction drawings and specifications prior to the issuing of the Construction Certificate. Prior to the commencement of works the Principal Certifying Authority is to provide verification to Sydney Trains that this condition has been complied with.

- A2.** Prior to the commencement of any works a Registered Surveyor shall peg-out the common property boundary between the development site and RailCorp's land and easements. A copy of the survey report indicating the location of pegs must be provided to Sydney Trains prior to the commencement of works.
- A3.** Prior to the issue of a Construction Certificate, the Applicant shall provide a final version detailed Survey Plan locating the development with respect to the rail boundary and rail infrastructure. This work is to be undertaken by a registered surveyor, to the satisfaction of Sydney Trains representative.
- A4.** Prior to the issue of a Construction Certificate, the Applicant shall undertake a services search to establish the existence and location of any rail services. Persons performing the service search shall use equipment that will not have any impact on rail services and signalling. Should rail services be identified within the subject development site, the Applicant must discuss with Sydney Trains as to whether these services are to be relocated or incorporated within the development site.
- A5.** Excess soil is not allowed to enter, be spread or stockpiled within the rail corridor (and its easements) and must be adequately managed/disposed of.
- A6.** During all stages of the development the Applicant must take extreme care to prevent any form of pollution entering the railway corridor. Any form of pollution that arises as a consequence of the development activities shall remain the full responsibility of the Applicant.
- A7.** No work is permitted within the rail corridor (including airspace), or any easements which benefit Sydney Trains/RailCorp, at any time, unless the prior approval of, or

an Agreement with, Sydney Trains/RailCorp has been obtained by the Applicant. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

- A8.** Given the possible likelihood of objects being dropped or thrown onto the rail corridor from balconies, windows and other external features (eg roof terraces and external fire escapes) that are within 20 metres of, and face, the rail corridor, the development must have measures installed, to the satisfaction of Sydney Trains (eg awning windows, louvres, enclosed balconies, window restrictors etc) which prevent the throwing of objects onto the rail corridor. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- A9.** The proposed development is to comply with the deemed-to-satisfy provisions in the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines".
- A10.** Prior to the issue of an Occupation Certificate (whether an interim or final Occupation Certificate), a report must be prepared and submitted to the Certifying Authority, Council and Sydney Trains certifying that the completed development meets the requirements of State Environmental Planning Policy (Infrastructure) 2007 and with the Department of Planning and Infrastructure's Development Assessment Guideline titled "Development Near Rail Corridors and Busy Roads – Interim Guidelines" as set down in the subject condition of this consent. Such a report must include external and internal noise levels to ensure that the external noise levels during the test are representative of the typical maximum levels that may occur at this development, and that internal noise levels meet the required dB(A) levels. Where it is found that internal noise levels are greater than the required dB(A) level, necessary corrective measures must be carried out to ensure that internal noise levels are compliant with the requirements of this consent.
- A11.** The design, installation and use of lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor must limit glare, reflectivity and illumination to the satisfaction of the light rail operator. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- A12.** The Applicant must ensure that all drainage from the development is adequately disposed of and managed and not allowed to be discharged into the railway corridor unless prior written approval has been obtained from Sydney Trains.
- A13.** No metal ladders, tapes, and plant, machinery, or conductive material are to be used within 6 horizontal metres of any live electrical equipment. This applies to the train pantographs and catenary, contact and pull-off wires of the adjacent tracks, and to any aerial power supplies within or adjacent to the rail corridor.
- A14.** The Applicant is to ensure that the development incorporates appropriate anti-graffiti measures, to the satisfaction of Sydney Trains.

- A15.** Sydney Trains advises there are High Voltage Aerial Transmission Lines in close proximity to the proposed works. All works within 6 metres of the nearest transmission line conductor must comply with:
- (a) ISSC 20 – Guideline for the Management of Activities within Electricity Easements and Close to Electricity Infrastructure.
 - ii. The Safe Approach Distances (SADs) in the Sydney Trains Document titled “SMS-06-GD-0268 – Working Around Electrical Equipment”.
 - iii. “WorkCover Code of Practice – Work near Overhead Power Lines (The Code)”.
- A16.** No rock anchors, rock bolts, ground anchors or rock ties, piles, foundations, rock pillars, transfer structures, basement walls, slabs, columns, beams, cut rock faces, are to be installed into RailCorp/Sydney Trains property or easements. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- A17.** Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate. The Principal Certifying Authority must ensure that the recommendations of the electrolysis report are incorporated in the construction drawings and documentation prior to the issuing of the relevant Construction Certificate.
- A18.** There is a need to ensure that the roots and foliage of trees being planted beside the rail corridor do not have an impact on the rail corridor or rail operations. A final landscaping and planting plan demonstrating measures to ensure compliance with this condition must be prepared to the satisfaction of Sydney Trains. No construction certificate can be issued until written confirmation has been received from Sydney Trains confirming that this condition has been complied with.
- A19.** Prior to the commencement of any works appropriate fencing must be in place along the rail corridor to prevent unauthorised access to the rail corridor during construction works. Details of the type of fencing and the method of erection are to be to the satisfaction of Sydney Trains prior to the fencing work being undertaken.
- A20.** The development shall have appropriate fencing fit for the future usage of the development site to prevent unauthorised access to the rail corridor by future occupants of the development. Prior to the issuing of an Occupation Certificate the Applicant shall liaise with Sydney Trains regarding the adequacy of any existing fencing along the rail corridor boundary or design and construction of new fencing. Details of the type of new fencing to be installed and the method of erection are to be to the satisfaction of Sydney Trains prior to the fencing work being undertaken.
- A21.** Prior to the issuing of any Occupation Certificate the Applicant must provide to Sydney Trains for review and endorsement a plan of how future maintenance of the development facing the rail corridor is to be undertaken. The Principal Certifying Authority is not to issue any Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

The maintenance plan must be implemented for the life of the approved development.

A22. Prior to the issuing of a Construction Certificate the Applicant must submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains requirements. If required by Sydney Trains, the Applicant must amend the plan showing all craneage and other aerial operations to comply with all Sydney Trains requirements. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from the Sydney Trains confirming that this condition has been satisfied.

A23 No scaffolding is to be used facing the rail corridor unless prior written approval has been obtained from Sydney Trains. To obtain approval the Applicant will be required to submit details of the scaffolding, the means of erecting and securing this scaffolding, the material to be used, and the type of screening to be installed to prevent objects falling onto the rail corridor. Unless agreed to by Sydney Trains in writing, scaffolding shall not be erected without isolation and protection panels.

A24. Prior to the issuing of a Construction Certificate, the following rail specific items are to be submitted to Sydney Trains for review and endorsement:

- i. Machinery to be used during demolition, excavation and construction.
- ii. Demolition, excavation and construction methodology.

The Principal Certifying Authority is not to issue the Construction Certificate until it has received written confirmation from Sydney Trains that this condition has been complied with.

A25. If required by Sydney Trains, prior to the issue of a Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on rail corridor. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

A26. If required by Sydney Trains, prior to the issue of a Construction Certificate, the Applicant shall provide a final/revised version Geotechnical Engineering report to Sydney Trains for review and written endorsement. The report shall demonstrate that the development has no negative impact on the rail corridor or the integrity of the infrastructure through its loading and ground deformation and shall contain structural design details/analysis for review by Sydney Trains. The report shall include the potential impact of demolition and excavation, and demolition- and excavation-induced vibration in rail facilities, and loadings imposed on Sydney Trains Facilities by the development. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

A27. The development must be designed and constructed so that supporting elements comply with the redundancy requirements or the minimum collision loads specified in Australian Standard AS5100. If required by Sydney Trains, prior to the issue of a Construction Certificate, the Applicant is to provide Sydney Trains with a final report from a qualified structural engineer demonstrating that the structural design of the

development satisfies the requirements of AS5100. The Principal Certifying Authority shall not issue the Construction Certificate until it has received written confirmation from Sydney Trains that it has received this report and the Principal Certifying Authority has also confirmed that the measures recommended in engineers report have been indicated on the Construction Drawings.

- A28.** If required by Sydney Trains, prior to the commencement of works or at any time during the excavation and construction period deemed necessary by Sydney Trains, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required within 10 days following the undertaking of the inspection, unless otherwise notified by Sydney Trains.
- A29.** If required by Sydney Trains, prior to the issue of the Occupation Certificate, or at any time during the excavation and construction period deemed necessary by Sydney Trains, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The Principal Certifying Authority is not to issue the final Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- A30.** Prior to the issuing of an Occupation Certificate the Applicant is to submit as-built drawings to Sydney Trains and Council. The as-built drawings are to be endorsed by a Registered Surveyor confirming that there has been no encroachment into RailCorp property or easements, unless agreed to be RailCorp. The Principal Certifying Authority is not to issue the final Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- A31.** Sydney Trains or Transport for NSW (TfNSW), and persons authorised by those entities for the purpose of this condition, must be permitted to inspect the site of the development and all structures to enable it to consider whether those structures have been or are being constructed and maintained in accordance with the approved plans and the requirements of this consent, on giving reasonable notice to the principal contractor for the development or the owner or occupier of the part of the site to which access is sought.
- A32.** If required, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains Engineering & Interface Management to determine the need for public liability insurance cover. If insurance cover is deemed necessary this insurance be for sum as determined by Sydney Trains and shall not contain any exclusion in relation to works on or near the rail corridor, rail infrastructure and must be maintained for the duration specified by Sydney Trains. The Applicant is to contact Sydney Trains Engineering & Interface Management to obtain the level of insurance required for this particular proposal. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written proof of this insurance in conjunction with Sydney Trains written advice to the Applicant on the level of insurance required.

- A33.** If required, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains Engineering & Interface Management to determine the need for the lodgement of a Bond or Bank Guarantee for the duration of the works. The Bond/Bank Guarantee shall be for the sum determined by Sydney Trains. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written advice from Sydney Trains confirming the lodgement of this Bond/Bank Guarantee.
- A34.** Copies of any certificates, drawings, approvals/certification or documents endorsed by, given to or issued by Sydney Trains or RailCorp must be submitted to Council for its records prior to the issuing of the applicable Construction Certificate or Occupation Certificate.
- A35.** The Applicant must ensure that at all times they have a representative (which has been notified to Sydney Trains in writing), who:
- oversees the carrying out of the Applicant's obligations under the conditions of this consent and in accordance with correspondence issued by Sydney Trains;
 - acts as the authorised representative of the Applicant; and
 - is available (or has a delegate notified in writing to Sydney Trains that is available) on a 7 day a week basis to liaise with the representative of Sydney Trains, as notified to the Applicant.
- A36.** Without in any way limiting the operation of any other condition of this consent, the Applicant must, during demolition, excavation and construction works, consult in good faith with Sydney Trains in relation to the carrying out of the development works and must respond or provide documentation as soon as practicable to any queries raised by Sydney Trains in relation to the works.
- A37.** Where a condition of consent requires consultation with Sydney Trains, the Applicant shall forward all requests and/or documentation to the relevant Sydney Trains external party interface team. In this instance the relevant interface team is Illawarra Interface and they can be contacted via email on Illawarra_Interface@transport.nsw.gov.au.

- 11. Sydney Water** – The following General Terms of Approval (GTA's) for dewatering shall be satisfied;
- Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application.
 - An authorisation under the relevant water legislation, such as a Water Access Licence (WAL) shall be obtained for the take of groundwater as part of the activity. For avoidance of doubt, these terms do not represent any authorisation for the take of groundwater, nor do they constitute the grant, or the indication of an intention to grant, any WAL.
 - An authorisation under the relevant water legislation, such as an Approval, is also required for the works involved in extracting the groundwater. For avoidance of doubt, these terms do not represent any authorisation for the construction or installation of such works.

- (iv) The relevant works must not be carried out. Installed or operated until a specialist hydrogeological assessment has been completed by the Department of Planning Industry and Environment which concludes that adequate arrangements are in force to ensure that no more than minimal harm will be done to any water source, or its dependent ecosystems as a consequence of the construction or use of the proposed water management work.
- (v) The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation.
- (vi) Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:
 - a. groundwater mounding at the edge of the structure shall be at a level not greater than 10% above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and
 - b. any elevated water table is more than 1.0m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
 - c. where the habitable part of the structure (not being the footings or foundations) is founded in bedrock or impermeable natural soil then the requirement to maintain ground water flows beneath the structure is not applicable.
- (vii) Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.
- (viii) The Applicant is bound by the above terms and any other terms and conditions of the subsequent authorisations required for the extraction of groundwater and the associated works under the relevant water legislation.
- (ix) Measurement and monitoring arrangements to the satisfaction of WaterNSW are to be implemented. Weekly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a completion report provided after dewatering has ceased. Records of groundwater levels are to be kept and a summary showing daily or weekly levels in all monitoring bores provided in the completion report.
- (x) Following cessation of the dewatering operations and prior to the surrender of any associated authorisation, the applicant shall submit to WaterNSW the completion report which shall include:
 - a. detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and
 - b. The location and construction of groundwater extraction works that are decommissioned
 - c. a water table map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions and
 - d. a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.

(note: these are standard Water NSW conditions which may need to be amended after concurrence is issued).

- 12. 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.
- 13. Ausgrid** – The following Ausgrid requirements are to be satisfied;
- a) Prior to any development being carried out, the approved plans must be submitted to Ausgrid's local customer service office for approval to determine whether the development will affect Ausgrid's network easements.
 - b) Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either the above scenarios, this relocation work is generally at the developer's expense. It is also the responsibility of the Developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected to be entering and leaving the site.
 - c) Ausgrid is to be consulted to determine if underground electricity conduits are to be installed in the footway. If so, the developer is to install the conduits within the footway across the frontage/s of the development site, to Ausgrid's specifications. Ausgrid will supply the conduits at no charge. The developer is responsible for compaction of the trench and restoration of the footway in accordance with Council direction. For details visit www.ausgrid.com.au or call 131365
- 14. 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.
- 15. Ausgrid – Undergrounding electricity mains (Hurstville CBD area)** – Arrangements are to be made with Ausgrid to install underground all low voltage street mains in that section of the street/s adjacent to the development and to provide conduits for the future undergrounding of high voltage mains. This shall include any associated services and the installation of underground supplied street lighting columns where necessary. These works to be carried out at the expense of the beneficiary of the consent. For details visit www.ausgrid.com.au or call 131365.
- 16. Sydney Airport** – The following requirement/s from Sydney Airport shall be satisfied;
- (i) Approval to operate construction equipment including cranes (Application for Approval of Crane Operation) should be obtained prior to commencing any construction work.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

- 17. Required Design Changes** – The following amendments are to be made to the plans and details provided with the Construction Certificate to the satisfaction of the Principal Certifying Authority;

- ~~(a) The winter gardens shall have the lower pane of glass from the finished floor level constructed of obscure glazing.~~
- ~~(b) An entry door shall be included to Unit 603 on Level 6 in the Construction Certificate Plans.~~
- ~~(c) The basement finished floor levels shall be consistent with the finished floor levels within the Central Stage (Imperial Hurstville) building. The lobby area in the basement/s shall also be designed to reflect these levels.~~
- ~~(d) The rooms with a snorkel window shall have this window relocated and extended 1m to the north and the windows to this elevation shall be full height operable windows to increase the amount of light and ventilation into these spaces.~~
- ~~(e) Full height, louvred privacy screens shall be implemented along the western sides of balconies to Units 1201, 1101, 1001, 901, 801, 701, 601, 501, 401, 301 and 201.~~
- ~~(f) The Landscape Plan shall be updated to cater for the following details;~~
 - ~~— Planter boxes shall be included around the periphery of the roof terrace especially along the western side and shall be designed to include a self-irrigation system and include a minimum of 5 medium sized trees/shrubs.~~
 - ~~— The roof top terrace area shall include some benches and seating that can be built into the planter boxes.~~
 - ~~— The roof top landscaped area shall be redesigned to be similar and consistent with the original landscape plans that were lodged with the Concept Approval prepared by Habitation, plan No.s 10_081 L02 dated 26 November 2010 (Rev A).~~
 - ~~— The rear ground floor communal area shall be softly landscaped and shall be consistent with the original landscape plans that were lodged with the Concept Approval prepared by Habitation, plan No.s 10_081 L06 dated 26 November 2010 (Rev A). The water feature may not be necessary and could be replaced with planting.~~
 - ~~— A minimum of four (4) new trees with heights of 8m at maturity to be planted along the rear boundary to provide additional screening shall be included.~~
 - ~~— A WC is to be included adjoining the Lobby on L13.~~
- ~~(g) Details of the proposed treatment of the western elevation wall (when completed) shall be designed by Stanisic architects.~~
- ~~(h) An area with minimum dimensions of 9m wide (equivalent to two panels CN1 wide as shown on the western elevation plan DA 14) and up to the finished floor level of Level 2 shall be dedicated as a public art space.~~
- ~~(i) The awning design shall be consistent with the existing awning adjoining the site along the front of 21-33 Treacy Street and shall comply with Council's specifications and requirements in respect to awnings. Cut outs may be required to accommodate street trees.~~
- ~~(j) The floor to ceiling height of the retail tenancy No.1 shall be a minimum of 3.3m.~~

(This condition is amended as part of MOD2021/0045 and MOD2021/0137)

18. Stormwater drainage design changes – The stormwater plans shall be revised and submitted to Council's Asset Engineer satisfying the following.

- A new 375 mm diameter RCP drainage line shall be designed and constructed along Tracey Street from the site to the nearest kerb inlet pit. This is to ensure Council's requirements are met.
- The proposed drainage along Treacy Street shall be documented on a detailed features survey plan that describes all existing structures, utility services, vegetation and other relevant information.

- The inlet pits shall be cast-in-situ and conforming to Council's standard drainage pit details.
- The minimum distance from the lintel to the near end of the splay of the driveway at kerb line shall be at least 500mm.
- A drainage system longitudinal section drawn at a scale of 1:100 or 1:200 horizontally and 1:10 or 1:20 vertically and showing crossing utility services, pipe size, class and type (minimum class 2), pipe support type in accordance with AS 3725 or AS 2032 as appropriate, pipeline chainages, pipeline grade, hydraulic grade line and any other information necessary for the design and construction of the drainage system.
- OSD Volume and orifice size calculations shall be revised up to 100 year ARI flood event and shown on the Stormwater Plan. Please note that DRAINS model results table in drawing D14, Rev B shows up to the 20 year ARI event which is not acceptable. It is noted Lane Cove Council On-Site Stormwater Detention System label is used on the drawing.

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

- (a) All stormwater shall drain by gravity to Council's drainage line 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.

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

These plans shall be prepared in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (2005 or 2016) and Council's drainage guidelines within the Georges River Stormwater Management Policy.

21. Structural stability – The construction certificate plans must be accompanied by a certification from a qualified structural engineer that the structural design of the basement walls and upper level walls will be structurally sound and stable to support the building as well as considering the siting and maintaining support to the adjoining building (21-33 Treacy Street).

22. Access through to adjoining building – The construction certificate plans must be accompanied by a certification from a qualified structural engineer that the structural design and construction method proposed to create the new openings for access through to No.21-33 Treacy Street (Imperial Hurstville building) will be structurally stable and will be able to support the new and existing building.

- 23. Building – Structural Engineers Details – Supporting excavations and adjoining land** – Prior to the commencement of work in connection with the excavation of the site associated with the basement car park, structural engineer's details relating to the method of supporting the excavation must be submitted.
- 24. Mechanical Plant** – the proposed design and location of the mechanical ventilation system, plant and equipment will need to be provided to the Certifier. All plant and equipment shall be appropriately treated and sound proofed. It is recommended that prior to the Construction Certificate (CC) being issued a detailed acoustic assessment be conducted once the exact location of the equipment is confirmed.
- 25. Development Assessment – Design Quality Excellence** – In order to ensure the design quality excellence of the development is retained:
- (b) The design architect – Frank Stanisic is to have direct involvement in the design documentation, contract documentation and construct stages of the project;
 - (vii) The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of the design issues throughout the life of the project;
 - (viii) Evidence of the design architect's commission is to be provided to the Council prior to release of the Construction Certificate.
 - (iv) The design architect of the project is not to be changed without prior notice and approval of the Council.
- 26. External Finishes (Colours and Textures)** – The development shall be constructed in accordance with the schedule of finishes, colours and materials as stipulated in the plan submitted with the application and prepared by Stanisic Architects.
- 27. BCA Compliance** – The recommendations in the BCA Compliance Assessment Report prepared by BCA Consulting and dated ~~4 July 2018~~ February 2021 shall be implemented as part of the Construction Certificate and the Certifier shall ensure compliance is achieved.

(This condition is amended as part of MOD2021/0045)

- 28. Remediation** – The recommendations of the Remediation Action Plan prepared by EI Australia and dated 19 May 2020 Remediation Works shall be implemented prior to any form of demolition and excavation occurring.

All remediation work must be carried out in accordance with: -

- The *State Environmental Planning Policy No 55–Remediation of Land* (SEPP 55); and
- Guidelines made or approved by the EPA include the National Environment Protection (Assessment of Site Contamination) Measure 1999 (April 2013) (ASC NEPM), Guidelines for consultants reporting on Contaminated Sites and Guidelines for the NSW Site Auditor; and in accordance with the *Remediation Action Plan, 33-35 Treacy St Hurstville. Version E24585.E06_Rev1* by Eiaustralia dated 19 May 2020.

29. **BASIX Commitments** – All energy efficiency measures as detailed in the BASIX Certificate No. 945605M_03 945605M_04 and dated 4 March 2021 28 August 2018 5 August 2021 must be implemented on the plans lodged with the application for the Construction Certificate.

(This condition is amended as part of MOD2021/0045 and MOD2021/0137)

30. **Acoustic requirements for timber flooring** – If timber flooring is installed within the development, then appropriate insulation between floors shall be implemented to exceed the minimum sound attenuation.
31. **Acoustic attenuation for apartments adjoining lift core** – Where bedrooms within apartments that adjoin the internal lift core; appropriate noise attenuation measures are to be applied to prevent transmission of noise in accordance with the Building Code of Australia (BCA)
32. **Wind mitigation** – The recommendations in the Addendum Report prepared by Wind Tech and dated 30 August 2018 21 January 2021 shall be included as part of the Construction Certificate Plans. Updated Landscape Plans shall include the recommendations included as part of this report.

(Condition amended by MOD2021/0045)

- ~~33. **Building Sustainability** – The recommendations of the Building Sustainability report prepared by Floth Consultants and dated 20 April 2012 shall be incorporated into the development and compliance shown at the Construction Certificate stage to ensure a minimum 4 Star Rating against the Green Star Scheme can be achieved.~~

(This condition is deleted as part of MOD2021/0137)

34. **Geotechnical** – The recommendations of the Geotechnical report prepared by Assetgeo and dated 25 May 2018 shall be implemented as part of the Construction Certificate details and plans.
35. **Street trees** – The existing street tree at the front of the site along Treacy Street shall be retained and an additional street tree installed to the east of the existing tree. The new tree shall be to Council's specifications having a min 100L pot size and will be consistent with the planting of street trees along the front of 21-31 Treacy Street.
36. **Dial before your dig** – The applicant shall contact "Dial Before You Dig on 1100" to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from "Dial Before You Dig" shall be forwarded to the Principal Certifying Authority (PCA) and provided to Council with the construction certificate plans and documents.
37. **Site Management Plan (Major Development)** – Site Management Plan must be submitted with the application for a Construction Certificate, and include the following:
- (a) location of protective site fencing;
 - (b) location of site storage areas/sheds/equipment;
 - (c) location of building materials for construction, e.g. stockpiles
 - (d) provisions for public safety;
 - (e) dust control measures;

- (f) method used to provide site access location and materials used;
- (g) details of methods of disposal of demolition materials;
- (h) method used to provide protective measures for tree preservation;
- (i) provisions for temporary sanitary facilities;
- (j) location and size of waste containers/skip bins;
- (k) details of proposed sediment and erosion control measures;
- (l) method used to provide construction noise and vibration management;
- (m) construction and demolition traffic management details.

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

38. Crime Prevention/Maintenance Conditions – The construction certificate plans shall show the following details:

- External boundary walls to be sealed and coated in anti-graffiti product that provides for long-term permanent protection.
- Lighting to the Treacy Street frontage and in the residential and commercial foyers

39. Development Engineering – Alignment Levels – An Application under Section 138 of the Roads Act 1993 shall be submitted to Council's Engineer for the issue of levels for the new kerb and gutter, footpath design and alignment levels for the full frontage of the site in Treacy Street. These kerb and alignment levels shall be issued **prior to the issue of the Construction Certificate**.

Constructing a vehicular crossing, kerb, gutter and/or footpath requires separate approval under Section 138 of the Roads Act 1993, **prior to the issue of the Construction Certificate**.

40. Health – Acoustic Certification – Rooftop Mechanical Equipment (CBD only) – The Construction Certificate plans must be accompanied by a certificate from a professional acoustic engineer certifying that noise from the operation of any roof top mechanical plant and equipment will not exceed the background noise level when measured at any boundary of the site. If sound attenuation is required, this must be detailed on the plans lodged with the Construction Certificate.

41. Public Domain works plan – Prior to issuing the Construction Certificate, a Public Domain Works Plan is to be prepared which shall provide details on how the public domain will be treated and landscaped. The following features are to be shown on the plan (but not limited to these);

- Footpath design and layout including materials and finishes (to be consistent with the adjoining footpath detailing and treatment at the front of 21-31 Treacy Street;
- Design and treatment of Council's front verge. This shall include the planting of mature trees in accordance with the Landscape conditions as part of this consent.
- Location of any infrastructure services although electricity lines are recommended to be relocated below ground where possible.
- Type and area of any grass to be replaced.
- New driveway cross-overs

A detailed plan shall be provided and approved by Council's Delegate prior to the issuing of the Construction Certificate.

- 42. 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.
- 43. NBN Connection** – Prior to the issue of the Subdivision or Construction Certificate in connection with a development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:
- (c) the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose; and
 - (ix) the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

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

- 44. Acoustic Requirements – Compliance with submitted Acoustic Report** – The Construction Certificate plans shall demonstrate compliance with the recommendations in the Acoustic Report, titled "*Environmental Noise Impact*" prepared by Day Design Koikas Acoustics and dated 21 August 2018 8 February 2021.

(This condition is amended as part of MOD2021/0045)

Written verification from a suitably qualified acoustic consultant must be submitted to Council validating that the acoustic objectives and recommendations contained within the aforementioned report will be met, must be submitted to Council prior to the issuing of the Construction Certificate.

- 45. Noise and vibration** – The Construction Certificate plans shall demonstrate compliance with the recommendations in the "*Noise and Vibration Intrusion Assessment*" report prepared by Day Design and dated 21 August 2018.

Written verification from a suitably qualified acoustic consultant must be submitted to Council validating that the acoustic objectives and recommendations contained within the aforementioned report will be met, must be submitted to Council prior to the issuing of the Construction Certificate.

- 46. Traffic management** – Mirrors are to be installed at each breakaway connection between the basement levels to ensure that vehicles moving between the two developments are visible to each other at all times.

- 47. Car Wash Bays** – Plans and specifications of the car washing system which has been approved by Sydney Water must be submitted with the application for the Construction Certificate.

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

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

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

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

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

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

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

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

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

Fee Type	Fee
GENERAL FEES	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See https://portal.longservice.nsw.gov.au/bci/levy/	
Builders Damage Deposit 24.42m frontage x \$1236.00 Treacy Street frontage	\$30,183.12
Inspection Fee for refund of Damage Deposit (x2)	\$742.00
DEVELOPMENT CONTRIBUTIONS	

Hurstville Section 94 Development Contributions Plan 2012 (Amendment No.2) City Centre Contributions	\$34,342.38
Hurstville Section 94 Development Contributions Plan 2012 (Amendment No.2) Community Facilities	\$77,404.97 \$96,622.07
Hurstville Section 94 Development Contributions Plan 2012 (Amendment No.2) Open Space	\$547,309.29 \$683,157.61
Total Development Contributions (this excludes General Fees – damage deposit and inspections)	\$659,056.64 \$779,779.68

(This condition is amended as part of MOD2021/0045)

General Fees

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

Development Contributions

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

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

Indexation

The above contributions will be adjusted after 1 May 2020, at the time of payment to reflect changes in the cost of delivering public amenities and public services, in accordance with the indices provided by the relevant Section 94 Development Contributions Plan.

Timing of Payment

The development contribution that is required to be paid in accordance with this condition of this consent must be paid before the issue of the first Occupation Certificate in respect of any building to which this consent relates, except as noted below in accordance with the Ministerial Direction issued 25 June 2020.

If no Construction Certificate in respect of the erection of any building to which the consent relates has been issued before or on 25 September 2022, the monetary contribution must be paid before the issue of the [first] Construction Certificate after that date for any such building.

Further Information

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

50. Damage Deposit – Major Works In order to insure against damage to Council property

the following is required:

- i. Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development: **\$30,183.12**
- ii. Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee (for two inspections) to enable assessment of any damage and repairs where required: **\$742.00**.

- 51. Landscape Plans** – All landscape works shall be carried out in accordance with the approved landscape plans and specifications, drawn by ~~Distinctive Living Design~~, Ground Ink drawing numbers – ~~23—18.01—05~~ LA-00 to LA-04 and dated ~~4/3/2021—15/07/2021~~.

(This condition is amended as part of MOD2021/0045 and MOD2021/0137)

The landscaping shall be maintained in accordance with the approved plans (apart from any landscape design changes specified in other conditions specified as part of this consent) in perpetuity, subject to the following:

- All proposed trees shall be minimum 75 litre trees.

- 52. General Landscape Requirements** – The proposed plant species, pot/ bag size and quantities of plants shall be in accordance with the proposed plant schedule upon the landscape plan. If plant species, pot/ bag size and quantities cannot be sourced, Council shall be contacted for alternatives.

All trees proposed upon the approved landscape plan shall comply with NATSPEC Specifying Trees: a guide to assessment of tree quality (2003), and be planted and maintained in accordance with Councils standard specification.

- 53. Tree Removal & Retention** – The following trees shall be retained and protected:

Tree Species	Location of Tree / Tree No.	Tree Protection Zone (metres) Fencing distance from trunk
<i>Robinia psuedoacacia</i>	Council's street tree	4.2 metres radially around tree

Details of the trees to be retained must be included on the Construction Certificate plans.

General Tree Protection Measures

- (a) All trees to be retained shall be protected before and maintained during demolition, excavation and construction of the site.
- (b) The tree protection measures must be undertaken in accordance *AS4970 -2009 Protection of trees on development sites*.
- (c) Details of the tree protection measures to be implemented must be provided with the application for a Construction Certificate by a suitably qualified Arborist (AQF Level 5 or above in Arboriculture).
- (d) The Project Arborist must be present on-site during the stages of excavation, demolition and construction when works are being undertaken that could impact on the tree canopy or root zone within the tree protection zone of each tree.
- (e) Unless otherwise specified in *AS 4970-2009 Protection of trees on development*

sites, a protective fence consisting of 1.8 metres high, fully supported chainmesh fence shall be erected around the base of the tree. The distance of the fence from the base of each tree is to be in accordance with the TPZ listed in the table above. A layer of organic mulch 100 millimetres thick shall be placed over the protected area and no soil or fill should be placed within the protection area.

- (f) The Tree Protection Zone of each tree, to be protected, shall be watered thoroughly and regularly to minimise the effects of construction works.
- (g) No building products/ materials or services shall be installed within the TPZ of the tree/s unless approved by Council. This fence shall be kept in place during demolition, construction and also have a sign displaying 'Tree Protection Zone – DO NOT ENTER' attached to the fence and must also include the name and contact details of the Project Arborist.

Excavation works near tree to be retained

- (h) Excavations around the trees to be retained on site or the adjoining properties shall be supervised by the Project Arborist to ensure that the root system will not adversely be affected.
- (i) Where the Tree Protection Zone (TPZ) of trees on site or adjoining sites become compromised by any excavation works, the Project arborist shall be consulted to establish the position of any major roots and determine the necessary measures to protect these roots. The recommendations of the Arborist shall be submitted to Council prior to any further demolition or construction works taking place.
- (j) Tree Protection Zone around the trees to be retained are not to have soil level changes, building product / materials stored or services installed in this area. Any structures proposed to be built in this area of the trees are to utilise pier and beam or cantilevered slab construction.

Details satisfying this condition shall be shown on the Construction Certificate plans.

Street Tree Removal / Replacement by Council –

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

Fee Type – Tree planting on public land	Number of trees	Amount per tree
Administration Fee, tree planting and maintenance	X1	\$452.00

Cost of tree removal	-	N/A
Cost of Stump Grinding	-	N/A

- 54. Use of Rooftop open space** – A Plan of Management (POM) for use of rooftop open space must be submitted to the satisfaction of the Principal Certifying Authority with a copy provided to Council prior to the issuing of the Construction Certificate. The POM must outline the following:
- (d) The hours of use of the rooftop deck which shall be restricted from 8am until 10pm;
 - (x) The maximum number of users at any one time shall be specified (for this development a maximum of 20 at any one time is recommended) given the size of the space;
 - (xi) Include provisions to maximise the safety (fire safety and general safety) for users of this area.
 - (iv) no amplified music is permitted;
 - (v) identify other measures to ensure that the amenity and safety of persons within the development and in nearby existing and future development is maintained.
 - (vi) Location and type of signage to be installed in the building to notify residents and visitors in respect to the use of this space.
 - (e) The approved POM shall be incorporated into the Owners Corporation by-laws in any future Strata subdivision and a sign in the front entry of the building shall be included to ensure the use of this space is monitored and understood by all occupants.
- 55. Parking and Layout** – The design of the development shall comply with the following requirements with details demonstrating this submitted to the satisfaction of the Principal Certifying Authority prior to the release of a Construction Certificate;
- The layout of the proposed car parking and loading areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) shall be in accordance with AS 2890.1-2004, AS2890.6-2009 and AS 2890.2-2002 for heavy vehicle usage.
 - Bicycle parking associated with the subject development shall be in accordance with AS 2890.3 (Bicycle Parking Facilities).
 - Driveway access is to comply with figure 3.3-Minimum Sight Lines for Pedestrian Safety as per AS 2890.1:2004 of the Australian Standard for off-street car parking. Figure 3.3 specifies the minimum sight lines for pedestrian safety along a circulation driveway or domestic driveway.
 - Any wall or fence or solid object on either side of the driveway/vehicular crossing where it meets the Council's road reserve at the boundary must comply with sight distance requirements stipulated in the *Australian Standards AS2890.1*.
 - All vehicles shall enter and exit the premises in a forward direction.
- 56. Construction materials** – Any proposed new cladding shall be constructed of fire-resistant materials which comply with the requirements of the National Construction Code (NCC) 2019 Volume (1) One Building Code of Australia (BCA). Details of the proposed materials and finishes shall be to the satisfaction of the Principal Certifier.
- 57. Railway corridor** – The wall to the railway corridor shall be finished or painted with anti-graffiti paint or similar materials.

- 58. Mechanical ventilation** – Any proposed mechanical ventilation system will need to satisfy Council's requirements and those stipulated by the National Construction Code and AS1668.2-2002. Details of the proposed Mechanical Ventilation system shall be provided to the Certifier and shall be sensitively located to minimise visual appearance of these ancillary structures and in a way to minimise any noise or visual impacts from adjoining properties.
- 59. Geotechnical Reports** – The applicant must submit a Geotechnical Report, prepared by a suitably qualified Geotechnical Engineer who holds the relevant Certificate of accreditation as required under the Building Professionals Act 2005 in relation to dilapidation reports, all site works and construction. This is to be submitted to the satisfaction of the Principal Certifying Authority **before the issue of the Construction Certificate** and is to include:
- (a) Investigations certifying the stability of the site and specifying the design constraints to be placed on the foundation, any earthworks/stabilization works and any excavations.
 - (b) Dilapidation Reports on the adjoining properties prior to any excavation of site works. The Dilapidation Report is to include assessments on, but not limited to, the dwellings at those addresses and any external paths, grounds etc. This must be submitted to the Certifying Authority and the adjoining residents as part of the application for the Construction Certificate. Adjoining residents are to be provided with the report five (5) working days prior to any works on the site.
 - (c) On-site guidance by a vibration specialist during the early part of excavation.
 - (d) Rock breaking techniques. Rock excavation is to be carried out with tools such as rock saws which reduce vibration to adjoining buildings and associated structures.
 - (e) Sides of the excavation are to be pierced prior to any excavation occurring to reinforce the walls of the excavation to prevent any subsidence to the required setbacks and neighbouring sites.
- 60. Vibration Damage** – To minimise vibration damage and loss of support to the buildings in close proximity to the development, any excavation is to be carried out by means of a rock saw and if available, in accordance with the guidelines of the Geotechnical Engineer's report.
- Alternatively, where a hydraulic hammer is to be used within 30 metres of any building (other than a path or a fence) a report from a qualified geotechnical engineer detailing the maximum size of hammer to be used is to be obtained and the recommendations in that report implemented during work on the site. **The report shall be submitted with the Construction Certificate application.**
- 61. Slip Resistance** – All pedestrian surfaces in areas such as foyers, public corridors/hallways, stairs and ramps as well as floor surfaces in the wet rooms in any residential unit must have slip resistance classifications, as determined using test methods in either wet or dry conditions, appropriate to their gradient and exposure to wetting. The classifications of the new pedestrian surface materials, in wet or dry conditions, must comply with AS/NZS4586:2004 – Slip Resistance Classifications of New Pedestrian Materials and must be detailed on the plans lodged with the application for the Construction Certificate.
- 62. 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).

- 63. Development Engineering – Driveway Construction Plan Details** – Engineer's details shall be submitted with the Construction Certificate application regarding the proposed construction of the driveway.

These details shall show longitudinal and cross sections, gradients, swept paths, type of construction materials and shall be designed in accordance with AS/NZS2890.1-2004.

The driveway shall be designed with a surface that shall be non-slip.

- 64. Construction Traffic Management Plan (CTMP)** – A Construction Traffic Management Plan is to be prepared detailing:

- (a) construction vehicle routes;
- (b) anticipated number of trucks per day;
- (c) hours of construction activity;
- (d) how construction works will be coordinated with the use of No.21-33 Treacy Street
- (e) Access arrangements; and
- (f) Proposed traffic measures to minimise impacts of construction vehicles must be submitted for the approval of Council's Engineers. Council's Engineers must specify in writing that they are satisfied with the Traffic Management Plan prior to the issue of the Construction Certificate.

The CTMP shall be sent to Georges River Council email to mail@georgesriver.nsw.gov.au Attention: Traffic Section – Construction Traffic Management Plan for DA2018/0366.

- 65. Community room** – The builder shall communicate and coordinate with the Strata Manager of the adjoining development (21-31 Treacy Street) the construction process which will provide a physical opening within this room through to the roof terrace on Level 13 for access for occupants within the Imperial Hurstville building.
- 66. Easements** – An easement for access may need to be created prior to the issuing of the Occupation Certificate that entitles the owners and occupants of No.21-31 Treacy Street to be able to use the roof top garden and the Plan of Management is provided to the Body Corporate of the neighbouring building for their information.
- 67. Waste Management Plan** – an updated/revised Waste Management Plan shall be prepared and lodged to the satisfaction of the Certifier prior to the issuing of the Construction Certificate and shall outlined waste management and removal during construction and ongoing occupation of the building. It shall also outline how waste removal will be coordinated with the existing waste removal arrangements at 21-31 Treacy Street. Measures shall be adopted to minimise any conflicts and the proposed arrangements shall comply with Council's requirements for waste disposal.
- 68. Waste Storage (Residential and Mixed-Use Developments)** – The plans shall include details of the waste storage area as below to the satisfaction of the Principal Certifying Authority prior to the release of a Construction Certificate. The waste storage area shall not be visible from the street. The waste storage area shall be located within the lot/building in accordance with the approved plans.

The waste storage area shall be large enough to accommodate the required number of bins for the development and located in an area to suitably facilitate servicing on waste collection day. The path to the bin room is to be at least 1.0metre wide and kept clear and unobstructed at all times. All garbage rooms must have double doors to allow the access of bins from the basement to kerbside.

Residential Waste

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

Putrescible Waste

- (a) A minimum of 13 x 240L garbage bins.

Recycling Waste

- (b) A minimum of 8 x 240L recycling bins.

Green Waste

- (c) A minimum of 1 x 240 litre mobile bins.

Retail Waste

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

Retail Putrescible Waste

- (a) A minimum of 4 x 240L or 1 x 1100L mobile bins for commercial waste, and

Retail Recycling

- (b) A minimum of 4 x 240L or 2 x 1100L mobile bins for commercial recycling

The number of bins and the removal of waste shall be once to a maximum of twice a week.

- 69. Garbage rooms** – The residential garbage/recycling rooms shall be separate to the commercial garbage/recycling areas. These rooms shall be clearly designated on the construction certificate plans and will need to accommodate the minimum number of bins as specified in Condition 49 to the satisfaction of the Principal Certifying Authority prior to the release of the Construction Certificate.
- 70. Removal of waste** – Garbage and recyclable waste shall be removed from the street or loading bay located at 21-31 Treacy Street. An arrangement for either a Private Contractor or Council to remove waste shall be organised and either arrangement shall ensure that waste removal will minimise noise and impact on the streetscape.
- 71. Bulky Goods Waste Room** – An area shall be enclosed and designated as a Bulky Goods Waste/Storage space. This room is to cater for larger goods such as furniture that is to be disposed of and can be stored in this space until collection occurs and is to be shown within the approved building envelope on the Construction Certificate Plans to the satisfaction of the principal certifying authority prior to the release of a Construction Certificate.

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

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

This information shall be reflected on construction drawings submitted to the certifying authority to the satisfaction of the Principal Certifying Authority.

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

74. Access for Persons with a Disability and Adaptable Housing – Access for persons with disabilities must be provided throughout the site, including to all communal spaces, lobby/entry areas and sanitary facilities in accordance with the requirements of the Premises Standards, the Building Code of Australia and AS 1428.1. Details of which must be submitted with the Construction Certificate Application.

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

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

75. Stormwater Systems with Basement – The underground basement car park must pump to and all other stormwater must drain by gravity to the drainage system within the site via a silt trap pit.

The design of the proposed drainage system must be prepared by a professional

engineer who specialises in hydraulic engineering and be submitted for approval with the Construction Certificate application.

- 76. Protection of basement from inundation of stormwater waters** – The underground basement shall be protected from possible inundation by surface waters from the street.

Evidence from a professional engineer who specialises in hydraulic engineering that this design requirement has been adhered to shall be submitted with the Construction Certificate application demonstrating compliance with this requirement to the satisfaction of the Principal Certifying Authority.

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

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

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

Full details shall accompany the application for the Construction Certificate.

- 78. Pump-Out System Design for Stormwater Disposal** – The design of the pump-out system for storm water disposal will be permitted for drainage of basement areas and the section of driveway that cannot drain from the site by gravity only, and must be designed in accordance with the following criteria:

- a) The pump system shall consist of two pumps, connected in parallel, with each pump being capable of emptying the holding tank at the rate equal to the rate of inflow for the one-hour duration storm. The holding tank shall be capable of holding one hour's runoff from a one-hour duration storm of the 1 in 20 year storm;
- b) The pump system shall be regularly maintained and serviced, every six (6) months; and
- c) Any drainage disposal to the street gutter from a pump system must have a stilling sump provided at the property line, connected to the street gutter by a suitable gravity line.

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

- 79. Council Property Shoring** – Prior to the issue of the Construction Certificate, plans and specifications prepared by a professional engineer specialising in practising structural engineering must detail how Council's property shall be supported at all times to the satisfaction of the Principal Certifying Authority.

Where any shoring is to be supporting, or located on Council's property, certified

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

- 80. Allocation of street addresses** – In order to comply with AS/NZS 4819:2011 Rural and Urban Addressing, the NSW Addressing User Manual (Geographical Names Board of NSW) and Georges River Council's requirements, the Applicant shall liaise with Council's Geographical Information System to confirm the primary street address.

Unit Addresses

- Please contact Council's GIS section in respect to the allocated units numbers for this development

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

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

PRIOR TO THE COMMENCEMENT OF WORK (INCLUDING DEMOLITION AND EXCAVATION)

- 82. 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).

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

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

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

- (g) Hoarding plan and details that are certified by an appropriately qualified engineer; and
- (h) The payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges (available on our website) before the commencement of work; and
- (i) A Public Risk Insurance Policy with a minimum cover of \$10 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained a copy provided to Council. The Policy is to note Council as an interested party; and
- (j) The application must be endorsement by the Roads & Maritime Services (RMS) as the hoarding is located within 100m of an intersection with traffic lights. For assistance you should contact the DA unit at RMS and speak to Hans on 88492076. Or email hans.pilly.mootanah@rms.nsw.gov.au to obtain concurrence for the hoarding structure.

84. Building – Structural Engineers Details – Supporting excavations and adjoining land – Prior to the commencement of work in connection with the excavation of the site associated with the basement car park, structural engineer's details relating to the method of supporting the excavation must be submitted.

85. Structural details – Engineer's details prepared by a practising Structural Engineer being used to construct all reinforced concrete work, structural beams, columns and other structural members. The details are to be submitted to the Certifier for approval prior to construction of the specified works. A copy shall be forwarded to Council where Council is not the Certifier.

86. Registered Surveyor's Report – During Development Work – A report will be submitted to the Certifier at each of the following applicable stages of construction:

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

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

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

- (1) Photographs showing the existing condition of the road pavement fronting the site

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

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

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

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

88. **Hazardous materials survey** – A hazardous materials survey shall be prepared prior to the commencement of works on site.
89. **Site Stormwater Discharge Pipe across the Footpath** – The stormwater connections to the street gutter are to discharge via a silt arrestor pit within the site and are to have a minimum 1% fall to the street gutter. The connections are to be made to Council's requirements and are to be spaced a minimum 100mm at the street gutter and shall not connect against the flow in the street.
90. **Pre-Construction Dilapidation Report (Private Land)** – A professional engineer specialising in structural or geotechnical engineering shall prepare a Pre-Construction Dilapidation Report detailing the current structural condition of adjoining premises including but not limited to:
 - (a) All neighbouring buildings likely to be affected by the excavation as determined by the consulting engineer.

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

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

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

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

requirements of the Standard. The work plans and the safety statement shall be submitted to the Principal Certifier prior to the commencement of works.

For demolition work which involves the removal of asbestos, the asbestos removal work must be carried out by a licensed asbestos removalist who is licensed to carry out the work in accordance with the NSW Work Health & Safety Act 2011 and the NSW Work Health & Safety Regulation 2011 unless specified in the Act and/or Regulation that a license is not required.

All demolition work including the removal of asbestos, shall be undertaken in accordance with the Demolition Code of Practice (NSW Work Cover July 2015).

Note: Copies of the Act, Regulation and Code of Practice can be downloaded free of charge from the SafeWork NSW website: www.SafeWork.nsw.gov.au.

- 92. 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.

- 93. Demolition Notification Requirements** – The developer/builder must notify adjoining residents five (5) working days prior to demolition. Such notification is to be a clearly written note giving the date demolition will commence, contact details of the developer/builder, licensed asbestos demolisher and the appropriate regulatory authority. Notification is to be placed in the letterbox of every premises (including every residential flat or unit, if any) either side and immediately at the rear of the demolition site.

Five (5) working days prior to demolition, the developer/builder is to provide written notification to Council advising of the demolition date, details of the SafeWork licensed asbestos demolisher and the list of residents advised of the demolition.

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

- 94. 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.
- 95. Erosion and Sedimentation Control** – Erosion and sediment controls must be provided to in accordance with the approved Site Management Plan.

Removal or disturbance of vegetation and top soil is confined to within 3 m of the approved building area (no trees to be removed without approval). All disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar.

All clean water run-off is diverted around cleared or exposed areas.

Silt fences, stabilised entry/exit points or other devices are installed to prevent sediment from entering drainage systems or waterways.

Controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadway. Compliance with [Managing Urban Stormwater – Soils and Construction \(Blue Book\) produced by Landcom 2004](#) is to be met.

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

- 96. 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.
- 97. Physical connection of stormwater to site** – No work is permitted to proceed above the ground floor slab level of the building until there is physical connection of the approved stormwater drainage system from the land the subject of this consent to Council's drainage system.
- 98. Utility Services** – The applicant shall undertake and bear all costs associated with the liaison, approval and relocation of any utility services. All correspondence and approvals between the Applicant and utility authorities shall be provided to the Council in conjunction with engineering documentation for the stormwater drainage works.
- 99. Drainage Works** – Construction inspections shall be required by Council's Asset Engineer for the Council stormwater drainage works on public roads at the following hold points:
- Upon excavation of trenches shown on the approved drainage drawings.
 - Upon installation of pipes and other drainage structures.
 - Upon backfilling of excavated areas and prior to the construction of the final pavement surface.

An inspection fee is applicable for each visit, and at least 24 hours' notice will be required for the inspections.

DURING CONSTRUCTION

- 100. Site Validation report** – A Validation report shall be prepared in accordance with the requirements of the EPA (2020) Guidelines for Consultants Reporting on Contaminated Sites and the EPA (2017) Guidelines for the NSW Site Auditor Scheme and will confirm that the site has been remediated to a suitable standard and in accordance with the process stipulated in the Remediation Action Plan prepared by EI Australia and dated 19 May 2020.

A fully qualified Auditor will be required to sign off on the remediation works and a copy of the Validation report shall be provided to Council at the completion of the remediation

works program.

- 101. Site Validation and monitoring Report** – After completion of all Remediation works, a Notice of completion of remediation work must be submitted to Council in accordance with clause 17(2) of the SEPP 55 and the Notice must address all requirements listed in Clause 18 of SEPP 55.

Where a full clean-up is not feasible, or on-site containment of contamination is proposed, the need for an ongoing monitoring program should be assessed. If a monitoring program is needed, it should detail the proposed monitoring strategy, parameters to be monitored, monitoring locations, frequency of monitoring, and reporting requirements.

This Report must be completed and submitted for approval by an EHO prior to the site being granted an OC.

- 102. 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.
- 103. Public Street Art** – The developer shall liaise with Council's Coordinator of Cultural Services and scope the works for a local artist/s to prepare an artwork along the designated section of the western elevation of the building. The artwork will be at the Applicants expense and the final artwork selected shall be to the satisfaction of Council's Coordinator of Cultural Services.
- ~~**104. Bollards to spaces associated with Community Room** – The Applicant shall liaise with the Body Corporate of 21-31 Treacy Street and Council to install bollards (if required) to the 5 designated car parking spaces related to the community room subject to the agreement of the Body Corporate and Council.~~

(This condition is deleted as part of MOD2021/0137)

- 105. Archaeology** – As required by the *National Parks and Wildlife Service Act 1974* and the *Heritage Act 1977*, in the event that Aboriginal cultural heritage or historical cultural fabric or deposits are encountered/discovered where they are not expected, works must cease immediately and Council and Heritage NSW must be notified of the discovery.

In the event that archaeological resources are encountered, further archaeological work may be required before work 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.

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

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

- 107. 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.
- 108. 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.
- 109. 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.
- 110. Waste Management Facility** – All materials removed from the site as a result of demolition, site clearing, site preparation and, or excavation shall be disposed of at a suitable Waste Management Facility. No vegetation, article, building material, waste or the like shall be ignited or burnt. Copies of all receipts for the disposal, or processing of all such materials shall be submitted to the Principal Certifier, and Council, where Council is not the Principal Certifier.
- 111. Site contamination – Discovery of Additional information** – If any new information is discovered during demolition or construction (unexpected finds) that has the potential to alter previous conclusions about site contamination, all works must cease the site made secure and the Council and the Principal Certifying Authority (if Council is not the PCA) must be notified as soon as practicable and appropriate action taken, reporting and approvals obtained.
- 112. 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.
- 113. Registered Surveyors Report – During Development Work** – A report must be submitted to the Principal Certifier at each of the following applicable stages of construction:
- (i) Set out before commencing excavation;

- (ii) Floor slabs or foundation wall, before formwork or commencing brickwork;
- (iii) Completion of Foundation Walls – Before any construction of flooring, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans;
- (iv) Completion of Floor Slab Formwork – Before pouring of concrete/walls construction, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans. In multi-storey buildings a further survey must be provided at each subsequent storey;
- (v) Completion of any Roof Framing – Before roof covered detailing eaves/gutter setback from boundaries;
- (vi) Completion of all Work – Detailing the location of the structure (including eaves/gutters) relative to adjacent boundaries and its height relative to the datum shown on the approved plans. A final Check Survey must indicate the reduced level of the main ridge of all structures.

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

PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

- 114a.** Prior to the issue of any occupation certificate, physical access through the provision of a wall opening is to be provided between the basements and upper levels of Lot 111 in DP1243437 (and all associated strata) known as 29-33 Treacy Street Hurstville (commonly known as Central Stage of the Concept Approval) and Lots 5 and 6 in DP 11931, known as 33-35 Treacy Street, Hurstville (commonly known as Western Stage of the Concept Approval) to enable vehicle and pedestrian movements, loading/unloading and waste collection to occur.

Physical Access is to be provided in accordance with this consent (DA2018/0366) and DA2014/1066 for 23-31 Treacy Street, Hurstville; consistent with existing easements on title Lot 111 DP1243437 and any requirements of a Development Consent to enable physical works to occur.

- 114. Art work** – The public artwork to be located along the western elevation of the building (across the ground and first floor levels) shall be completed to the satisfaction of Council's delegate.
- 115. Section 73 Compliance Certificate** – A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.
- 116. Completion of Landscape Work-** All landscape works must be completed before the issue of the Final Occupation Certificate in accordance with approved landscape plans and specifications, drawn by ~~Distinctive Living Design~~, Ground Ink drawing No.s LA-00, LA-01, LA-02, LA-03, LA-04. Revision G – ~~23-18.01-05~~ 15/07/2021. The landscaping shall be maintained in accordance with the approved plans in perpetuity, subject to the following –

All proposed trees shall be minimum 75 litre trees.

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.

(This condition is amended as part of MOD2021/0137)

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

118. 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 five adjoining premises.

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

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

119. Design Excellence Verification Statement – A certifying authority must not issue an Occupation Certificate for development unless the certifying authority has received a design verification from Frank Stanisic being a statement in which it is verified that the building as constructed meets the design excellence requirements of the PAC approval MP10_0101 in terms of design, materials and finishes.

~~**120. Green Travel Plan** – The Green Travel Plan approved as part of the Centre Stage shall be implemented and communicated to residents and employees of the development. The car share scheme shall be operated by a registered car share company.~~

(This condition is deleted as part of MOD2021/0137)

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

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

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

(This condition is deleted as part of MOD2021/0137)

123. Access for facilities - Prior to the issue of a strata certificate or occupation certificate over the subject site, (West Stage) easements relating to access, fire egress, support, common space and garbage shall be registered on the title of the subject land in favour of the adjoining stages 1 & 3 and consistent with the plans approved under MPI0-0101 granted by the Planning Assessment Commission, dated 1 July 2011 as modified on 4 Sept 2012 and this development consent.

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

Restrictions on Use of Land

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

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

Positive Covenants

The registered proprietor of the lot(s) hereby burdened will in respect of the system:

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

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

In the event that the registered proprietor fails to comply with the terms of any written notice issued by the Council as set out above the Council or its authorised agents may enter the land with all necessary materials and equipment and carry out any work which

the Council in its discretion considers reasonable to comply with the said notice referred to in part b) (iii) above.

The Council may recover from the registered proprietor in a Court of competent jurisdiction:

- i) any expense reasonably incurred by it in exercising its powers under subparagraph (c) hereof. Such expense shall include reasonable wages for the Council's employees engaged in effecting the work referred to in (c) above, supervising and administering the said work together with costs, reasonably estimated by the Council, for the use of materials, machinery, tools and equipment in conjunction with the said work.*
- ii) Legal costs on an indemnity basis for issue of the said notices and recovery of the said costs and expenses together with the costs and expenses of registration of a covenant charge pursuant to section 88F of the Act or providing any certificate required pursuant to section 88G of the Act or obtaining any injunction pursuant to section 88H of the Act.*

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

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

126. Requirements prior to the issue of the Occupation Certificate - The following shall be completed and or submitted to the Principal Certifier prior to the issue of the Occupation Certificate:

- a) The internal driveway construction works, together with the provision for all services (conduits and pipes laid) shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
- b) A Section 73 (Sydney Water) Compliance Certificate for the Subdivision shall be issued and submitted to the PCA prior to the issue of the Occupation Certificate.
- c) Work as All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
- d) Work as Executed Plans prepared by a Chartered Professional Engineer or a Registered Surveyor when all the site engineering works are complete shall be submitted to the PCA prior to the issue of the Occupation Certificate.

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

- (a) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the applicant. The work shall be carried out in accordance with Council's specification, applying at the time construction approval is sought.

- (b) **Construct footpath for the full length of the frontage of the site in accordance with Council's Specifications for footpaths.**
- (c) **Construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontage(s) of the site in accordance with Council's Specifications for kerb and guttering.**
- (d) The materials and finishes shall be consistent with the eastern section of the roadway and shall be in accordance with Council's specifications.

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

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

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

- (a) Driveways and vehicular crossings within the road related area;
- (b) Removal of redundant driveways and vehicular crossings;
- (c) New footpaths within the road related area and all associated paving;
- (d) Relocation of any existing above ground utility services
- (e) Relocation/provision of street signs
- (f) New or replacement street trees;
- (g) New footway verges, if a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street.
- (h) New or reinstated kerb and guttering within the road related area; and
- (i) New or reinstated road surface pavement within the road.
- (j) New or replaced street trees
- (k) The proposed artwork located along the western elevation of the building.

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

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

- (i) Photographs showing the condition of the road pavement fronting the site;
- (ii) Photographs showing the condition of the kerb and gutter fronting the site;
- (iii) Photographs showing the condition of the footway including footpath pavement fronting the site;
- (iv) Photographs showing the condition of retaining walls within the footway or road;

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

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

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

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

- a) Compliance with conditions of development consent relating to stormwater;
- b) The structural adequacy of the On-Site Detention system (OSD);
- c) That the works have been constructed in accordance with the approved design and will provide the detention storage volume and attenuation in accordance with the submitted calculations; and
- d) Pipe inverts levels and surface levels to Australian Height Datum.

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

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

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

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

- 133. Structural Certificates** - The proposed structure must be constructed in accordance with

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

134. **Acoustic Compliance** - Prior to the issue of any Occupation Certificate, a report prepared by a suitably qualified acoustic consultant must be submitted to the PCA certifying that the construction has incorporated the recommendations in the Acoustic Report, titled "*Environmental Noise Impact*" prepared by Day Design and dated 21 August 2018 and the operation of the premises and plant equipment will not give rise to a sound pressure level at any affected premises that exceeds the relevant acoustic criteria. The development will at all times comply with these noise levels post occupation.
135. **BASIX Certificate** - All energy efficiency measures as detailed in the approved BASIX and in the plans approved with the Development Consent, must be implemented before issue of any Occupation Certificate.
136. **Certification - Air handling systems (including water cooling system, hot water systems and warm water systems)** - Certification by a suitably qualified person engineer '2012 must be submitted to the PCA prior to the issue of any occupation certificate verifying that the air handling system has been installed in accordance with:
 - (a) Public Health Act 2010 (as amended)
 - (b) Public Health Regulation 2012 (as amended)
 - (c) AS/NZS 3666.1:2011 Air-handling and water systems of buildings -Microbial control
-Design, installation and commissioning

OPERATIONAL CONDITIONS (ONGOING)

137. **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).
138. **Maintenance of Sound Attenuation** - Sound attenuation must be maintained in accordance with the Acoustic Report Acoustic Report, titled "*Environmental Noise Impact*" prepared by Day Design and dated 21 August 2018.
139. **Communal Open Space** - A Plan of Management for the use of this space shall be adhered to for the perpetuity of the development. The Strata Manager shall ensure that the plan is provided to all residents and occupants of the development and a sign shall be installed communal open space areas to highlight the hours of use of the area and any other operational restrictions i.e keeping the space clean, rules around using the BBQ's.
140. **Final Acoustic Report – Verification of Noise report** - Within three months from the issue of an Occupation Certificate, an acoustic assessment is to be carried out by an appropriately qualified acoustic consultant, in accordance with the EPA's Industrial Noise Policy and submitted to Council for consideration. This report should include but not be limited to, details verifying that the noise control measures as recommended in the acoustic report.
141. **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.

- 142. Safety** - All communal entrances for the building will be capable of being secured. Entry doors are to be self-closing and signs are to be displayed requesting that building occupants not wedge doors open.
- 143. Security** - If any security screens/grilles are installed, they are to be openable from within the building.
- 144. Building identification** - The numbering is to be constructed from durable materials and shall not be obscured by vegetation and consistent with the signage of the adjoining building.
- 145. Entering & Exiting of vehicles** - All vehicles shall enter and exit the basement in a forward direction.
- 146. Loading Bay operations** – The Loading bay shall be utilised for the following way;
 - The Loading Bay shall be utilised for deliveries to the site and for waste removal and shall be in accordance with the restrictions of the easements.
 - Appropriate access arrangements will need to be made with 21-31 Treacy Street as the Loading bay is a shared facility.
- 147. 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.
- 148. Responsibility of Owners Corporation** - The Owners Corporation shall be responsible for presenting all approved waste and recycling receptacles for collection, and returning all receptacles to the Main Waste Collection Room, as soon as practicable after they have been serviced.

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

- 149. Maintenance of Landscaping** - All trees and plants forming part of the approved landscaping in must be maintained in perpetuity. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilizing, pest and disease control, replacement of dead or dying plants and any other operations required to maintain

healthy trees, plants and turfed areas.

- 150. 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.
- 151. Waste facilities** - Occupational Health and Safety issues such as slippery floors in waste rooms and the weight of the waste and recycling receptacles will need to be monitored. Cleaners must monitor the bin storage area and all spills need to be attended to immediately by cleaners.
- 152. Activities and Storage of Goods Outside Buildings** - There will be no activities including storing or depositing of any goods or maintenance to any machinery external to the building with the exception of waste receptacles.
- 153. Disability Discrimination Act** - The applicant is responsible to ensure compliance with this and other anti-discrimination legislation.
- 154. Intensity of car park lighting** - Prior to occupation, the intensity of lighting at the entrance to the basement car park is to be designed to allow for progressive adjustment of light.
- 155. Removal and collection** - Bins are to be collected from the loading bay area or taken to the kerbside for collection and garbage bins and recycling bins are to be collected on a twice a week basis. They are to be removed from the kerbside as soon as possible after collection.
- 156. Allocation of Car Parking Spaces** - A minimum of fifty-eight (58) car parking spaces, and a minimum of sixteen (16) bicycle parking spaces associated with the development are to be allocated as follows, sign posted and/or line marked accordingly:
 - A minimum of one (1) car parking space allocated per apartment
 - The three (3) x 3 bedroom apartments have two spaces allocated to each apartment
 - A minimum of ~~six (6)~~ seven (7) visitor spaces (with a minimum of one (1) accessible space)
 - Minimum of ~~five (5)~~ four (4) spaces for the retail component dedicated in the following manner;
 - Retail 1 tenancy – 2 car parking spaces
 - Retail 2 tenancy – 3 2 car parking spaces
 - One (1) of the visitor spaces is to double up as a shared as a car wash bay.
 - Sixteen (16) bicycle spaces.
 - ~~Two (2)~~ Four (4) dedicated motor bike parking spaces

All car parking spaces will be numbered and marked accordingly and all other spaces shall be marked and signposted accordingly.

(This condition is amended as part of MOD2021/0045)

- 157. Development Engineering - Conditions relating to future Strata Subdivision of**

Buildings

No approval is expressed or implied for the subdivision of the subject building(s). For any future Strata subdivision, a separate Complying Development Certificate shall be approved by Council or an Accredited Certifier.

Prior to the issue of any Strata Certificate of the subject building(s) the following conditions shall be satisfied:

- (a) **Unit Numbering** - Apartment type numbers shall be installed adjacent or to the front door of each unit. The unit number shall coincide with the strata plan lot numbering.
- (b) **Car Parking Space Marking and Numbering** - Each car space shall be line marked with paint and numbered in accordance with the strata plan lot numbering.

"Visitor Parking" signs shall be installed adjacent to any and all visitor car spaces prior to the issue of any Strata Certificate.

- (c) **Designation of Visitor Car Spaces on any Strata Plan** - Any Visitor car spaces shall be designated on the final strata plan as "Visitor Parking - Common Property".
- (d) **Allocation of Car Parking Spaces, Storage Areas and Common Property on any Strata Plan**
 - i. All car parking spaces shall be created as a part lot of the individual strata's unit lot in any Strata Plan of the subject building.
 - ii. All storage areas shall be created as a part lot of the individual strata's unit lot or a separate Utility Lot (if practical) in any Strata Plan of the subject building.
 - iii. The minimum number of parking spaces required to be allocated as a part lot to each individual strata's unit lot shall be in accordance with the car parking requirements of Council's Development Control Plan and as required by the relative development consent for the building construction.
 - iv. No parking spaces shall be created as an individual strata allotment on any Strata Plan of the subject building unless these spaces are surplus to the minimum number of parking spaces required.

If preferred the surplus car spaces shall be permitted to be created as separate Utility Lots, (instead as a part lot of the individual strata's unit lot), in accordance with Section 39 of the Strata schemes (freehold development Act 1973).

The above requirements regarding car parking spaces and storage areas may only be varied with the conditions of a separate Development Application Approval for Strata Subdivision of the Building(s).

- (e) **On Site Detention Requirements** - The location any on-site detention facility shall be shown on the strata plan and suitably denoted.
- (f) **Creation of Positive Covenant** - A Positive Covenant shall be created over any on-site detention facility by an Instrument pursuant to Section 88B of the Conveyancing Act 1919, with the covenant including the following wording:

"It is the responsibility of the Owner's Corporation to keep the on-site detention facilities, together with any ancillary pumps, pipes, pits etc, clean at all times and maintained in an efficient working condition. The on-site detention facilities shall not be modified in any way without the prior approval of Georges River Council."

Georges River Council is to be nominated as the Authority to release, vary or modify this Covenant.

- (g) Creation of Positive Covenant for the accessway** – A positive covenant shall be created over the rear driveway access by an Instrument pursuant to Section 88B of the Conveyancing Act 1919, with the covenant including the following wording:

"It is the responsibility of the Owner's Corporation to keep the rear accessway clean at all times and maintained in an efficient working condition. The accessway shall not be modified in any way without the prior approval of Georges River Council."

Georges River Council is to be nominated as the Authority to release, vary or modify this Covenant.

- 158. Strata Subdivision** - Council will check the consent conditions on the relevant Strata Subdivision consent. Failure to submit the required information will delay endorsement of the plan of subdivision.

Council will undertake the required inspections to satisfy the requirements of the [Strata Schemes Development Regulation 2016](#) to determine the Strata Certificate.

Strata Plans, Administration Sheets, 88B Instruments and copies must not be folded. All Strata Plans, Strata Plan Administration Sheets and 88B Instruments shall be submitted to Council enclosed in a protective cardboard tube (to prevent damage during transfer).

OPERATIONAL REQUIREMENTS UNDER THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

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

- 160. Appointment of a Principal Certifier** - The erection of a building must not commence until the applicant has:

- i) appointed a Principal Certifier for the building work; and
- ii) if relevant, advised the Principal Certifier that the work will be undertaken as an Owner -Builder.

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

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

- 161. Notification of critical Stage Inspections** - No later than two days before the building work commences, the Principal Certifier must notify:

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

- 162. Notice of Commencement** - The applicant must give at least two days notice to the Council and the Principal Certifier of their intention to commence the erection of a building.
- 163. Critical Stage Inspections** - The last critical stage inspection must be undertaken by the Principal Certifier. The critical stage inspections required to be carried out vary according to Building Class under the Building Code of Australia and are listed in Clause 162A of the Environmental Planning and Assessment Regulation 2000.
- 164. Notice to be given prior to critical stage inspections** - The principal contractor for a building site, or the owner-builder, must notify the Principal Certifier at least 48 hours before each required inspection needs to be carried out. Where Georges River Council has been appointed as the Principal Certifier, 48 hours notice in writing, or alternatively 24 hours notice by facsimile or telephone, must be given when specified work requiring inspection has been completed.
- 165. Occupation Certificate** - A person must not commence occupation or use of the whole or any part of a new building unless an Occupation Certificate has been issued in relation to the building or part. Only the Principal Certifier appointed for the building work can issue the Occupation Certificate.

PRESCRIBED CONDITIONS

- 166. Clause 97A - BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
- 167. 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.
- 168. Clause 98A – Erection of Signs** - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the Principal Certifier and the Principal Contractor.
- 169. 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.
- 170. 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.

- 171. 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

- 172. 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.

- 173. 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.

- 174. Lapsing of Consent** - This consent will lapse unless the development is physically commenced within 7 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.

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

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

177. Accompanying Information - Should the Council be appointed as the Principal Certifier, the Construction Certificate Application must be accompanied by the following details, with plans prepared and certified by an appropriately qualified person demonstrating compliance with the BCA:

- Mechanical ventilation to bathroom, laundry and basement areas not afforded natural ventilation.
- Fire-fighting services and equipment including hydrant systems and booster assembly location, sprinkler and valve room systems, hose reels, portable fire extinguishers, smoke hazard management systems, sound & warning systems and the location of the fire control centre.
- Emergency lighting and exit signs throughout, including communal open space areas, lobby/foyer and basement areas.
- Construction of all fire (smoke) doors including warning and operational signage to required exit and exit door areas.
- Egress grades, provision of handrails, travel distance and the discharge from fire isolated exits.
- The protection of openings, entry to basement areas.
- Fire compartmentation and fire wall separation details including all stairway, lift and service shaft areas.
- The location and construction of an electricity substation, including the location and smoke separation of electrical distribution boards.
- Re-entry facilities from fire isolated exit stairways.
- Sound transmission and insulation details.
- Window schedule is to include the protection of openable windows.
- Stretcher facility and emergency lift installation.

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

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

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

179. 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.

- 180. Noise** - Noise related conditions - Council will generally enforce noise related conditions in accordance with the Noise Guide for Local Government (<http://www.environment.nsw.gov.au/noise/nlg.htm>) and the Industrial Noise Guidelines (<http://www.environment.nsw.gov.au/noise/industrial.htm>) publish by the Department of Environment and Conservation. Other state government authorities also regulate the Protection of the Environment Operations Act 1997.

Useful links relating to Noise:

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

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

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

182. Strata Subdivisions

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

- 183. 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.

- 184. Electricity Supply** - This development may need a connection to the Ausgrid network which may require the network to be extended or its capacity augmented. You are advised to contact Ausgrid on 13 13 65 or www.ausgrid.com.au (Business and Commercial Services) for further details and information on lodging your application to connect to the network.
- 185. 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.
- 186. Council as PCA - Total Conformity with BCA - Accompanying Information** - Should the Council be appointed as the Principal Certifier, the Construction Certificate Application must be accompanied by the following details, with plans prepared and certified by an appropriately qualified person demonstrating compliance with the BCA:
- a) Mechanical ventilation to bathroom, laundry and basement areas not afforded natural ventilation.
 - b) Fire-fighting services and equipment including hydrant systems and booster assembly location, sprinkler and valve room systems, hose reels, portable fire extinguishers, smoke hazard management systems, sound and warning systems.
 - c) Emergency lighting and exit signs throughout, including communal open space areas, lobby/foyer and basement areas.
 - d) Construction of all fire doors including warning and operational signage to required exit and exit door areas.
 - e) Egress travel distances to exits and the discharge from fire isolated exits including the swing of exit doors.
 - f) The spandrel protection of openings in external walls
 - g) The protection of paths of travel from a fire isolated exit when passing within 6m of an opening within the external wall of the building.
 - h) Fire compartmentation and fire wall separation details including all stairway, lift and service shaft areas.
 - i) The location and construction of an electricity substation, including the location and smoke separation of electrical distribution boards.
 - j) Sound transmission and insulation details.
 - k) Window schedule is to include the protection of openable windows.

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

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

- 187. 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.

- 188. 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.

- 189. 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).

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

- (i) Complete the "Stormwater Drainage Application Form" which can be downloaded from Georges River Council's Website at www.georgesriver.nsw.gov.au
- (ii) In the Application Form, quote the Development Consent number and reference this condition number (e.g. Condition 10)
- (iii) Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Council's adopted Fees and Charges for the administrative and inspection charges associated with Stormwater applications.





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

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

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

- 191. Council as PCA - Compliance with the BCA** - Should the Council be appointed as the Principal Certifying Authority in determining the Construction Certificate, the building must comply with all the applicable deemed to satisfy provision of the BCA. However, if an alternative solution is proposed it must comply with the performance requirements of the BCA, in which case, the alternative solution, prepared by an appropriately qualified fire consultant, accredited and having specialist qualifications in fire engineering, must justifying the non-compliances with a detailed report, suitable evidence and expert judgement. Council will also require if deemed necessary, for the alternative solution to undergo an independent peer review by either the CSIRO or other accredited organisation. In these circumstances, the applicant must pay all costs for the independent review.
- 192. Energy Efficiency Provisions** - Should Council be appointed as the Principal Certifying Authority, a report prepared and endorsed by an Energy Efficiency Engineer or other suitably qualified person must be submitted, detailing the measures that must be implemented in the building to comply with Section J of the BCA. The proposed measures and feature of the building that facilitate the efficient use of energy must be identified and detailed on the architectural plans. At completion of the building and before the issue of an Occupation Certificate, a certificate certifying that the building has been erected to comply with the energy efficiency provisions must be submitted to the Principal Certifying Authority.
- 193. Compliance with Access, Mobility and AS4299 - Adaptable Housing** - Should the Council be appointment as the PCA, the Construction Certificate Application must be accompanied by detailed working plans and a report or a Certificate of Compliance from an Accredited Access Consultant certifying that the building design and access to the adaptable units complies with Council's DCP and AS 4299 Adaptable Housing.

ATTACHMENTS

- Attachment [1](#)  NORTH ELEVATION (TREACY ST)_PAN-132269
- Attachment [2](#)  SOUTH ELEVATION (RAILWAY)_PAN-132269
- Attachment [3](#)  ROOF PLAN
- Attachment [4](#)  GROUND PLAN



