

## AGENDA - LPP

<b>Meeting:</b>	Georges River Local Planning Panel (LPP)
<b>Date:</b>	Thursday, 03 March 2022
<b>Time:</b>	4.00pm
<b>Venue:</b>	Online Meeting
<b>Participants:</b>	Sue Francis (Chairperson) Nicholas Skelton (Expert Panel Member) Awais Piracha (Expert Panel Member) George Vardas (Community Representative)

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<b>1. On Site Inspections - Carried out by Panel Members prior to meeting</b>	
<b>2. Opening</b>	
<b>3. Consideration of Items and Verbal Submissions</b>	
<b>LPP006-22</b>	<b>10-12 Connelly Street Penshurst – DA2021/0017</b> (Report by Principal Planner)
<b>LPP007-22</b>	<b>13-21 Wyuna Street, Beverley Park – MOD2021/0173</b> (Report by Senior Development Assessment Planner)
<b>4. LPP Deliberations in Closed Sessions</b>	
<b>5. Confirmation of Minutes</b>	

# REPORT TO GEORGES RIVER COUNCIL LPP MEETING OF THURSDAY, 03 MARCH 2022

LPP006-22

<b>LPP Report No</b>	<b>LPP006-22</b>	<b>Development Application No</b>	<b>DA2021/0017</b>
<b>Site Address &amp; Ward Locality</b>	10-12 Connelly Street Penshurst Mortdale Ward		
<b>Proposed Development</b>	Demolition of two existing dwelling houses and the construction of a four storey residential apartment building consisting of 9 apartments over basement parking		
<b>Owners</b>	Ms N Abdullah		
<b>Applicant</b>	W Karavelas		
<b>Planner/Architect</b>	BMA Urban/ W Karavelas		
<b>Date Of Lodgement</b>	18/01/2021		
<b>Submissions</b>	Two (2)		
<b>Cost of Works</b>	\$2,540,397.00		
<b>Local Planning Panel Criteria</b>	Residential Flat Building		
<b>List of all relevant s.4.15 matters (formerly s79C(1)(a))</b>	State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment, State Environmental Planning Policy No.55 – Remediation of Land, State Environmental Planning Policy (Infrastructure) 2007, Draft Environmental State Environmental Planning Policy, Draft State Environmental Planning Policy – Remediation of Land, Draft State Environmental Plan (Design and Place)		
<b>List all documents submitted with this report for the Panel's consideration</b>	Clause 4.6 Report, Architectural Plans, Landscape Plans, Statement of Environmental Effects, survey plan		
<b>Report prepared by</b>	Principal Planner		

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

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?	
<b>Clause 4.6 Exceptions to development standards</b> If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	<b>Yes - Cl4.3 Building Height</b>
<b>Special Infrastructure Contributions</b> Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	<b>Not Applicable</b>
<b>Conditions</b> Have draft conditions been provided to the applicant for comment?	<b>No</b>

### Site Plan



## Executive Summary

### Proposal

1. The development application (DA) seeks consent for the demolition of existing structures, The proposal involves the demolition of the two existing dwellings and site improvements to enable the construction of a four (4) storey residential flat building over basement car parking. The building is to contain a total of nine (9) apartments, while the basement contains parking for fourteen(14) vehicles, three (3) bicycle spaces, secure apartment storage areas and lift and stair access to the residential dwellings above.



Figure 1: Photomontage of the proposed development

### Site and Locality

2. The application applies to land known as 10- 12 Connelly Street, Penshurst, and is legally described as Lot 36 and Lot 37 (respectively) in DP4739.
3. The site is slightly irregular in shape, with a combined frontage to Connelly Street, of 24.38m, southern side boundary measuring side boundary lengths of 36.95m and a northern side boundary of 37.925, with a total site area of 897.8m<sup>2</sup> (by DP).
4. The land has a slight fall from southwest (front) to north east (rear) of approximately 1m.
5. The site is located within an R3 Medium Density Residential zone.

### Zoning and Permissibility

6. The subject site is zoned R3 Medium Density Residential under the provisions of Hurstville Local Environmental Plan 2012 (HLEP 2012). The proposal is for a residential flat building which is permissible with consent in the zone.

### Submissions

7. The DA was notified to adjoining properties in accordance with the Georges River Community Engagement Strategy, between 11/02/2021 to 25/02/2021. In response three (3) submissions were received. These are considered in detail later in this report.

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

8. This application is referred to the Georges River Local Planning Panel for consideration and determination, as the proposal relates to a residential flat building subject to the provisions of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development. The proposed development also exceeds the height control development standard by more than 10%. The lift overrun seeks to vary the building height control of 1.985m or 16.54%.
9. A Clause 4.6 statement has been submitted with the application seeking a variation to the height control (Clause 4.3) in accordance with the provisions of the Hurstville Local Environmental Plan 2012 to justify and support the non-compliance. This is discussed in further detail below.

**Planning and Design Issues**

10. The proposal does not comply with the building height development standard of 12m that applies to the site under Hurstville Local Environmental Plan 2012. The lift overrun, communal WC and awning over the rooftop communal open space area exceed the height limit, with the top of the lift overrun having a height of 13.985m or 16.54% variation. The stair well and roof over the rooftop communal open space has a maximum height of 13.02m or a variation of 8.5%.
11. A variation request to the building height development standard has been submitted pursuant to clause 4.6 of Hurstville Local Environmental Plan 2012; and has been assessed as being -well founded, as discussed in this report.
12. The proposal fails to achieve the required setbacks to the rear of the site, pursuant to the Apartment Design Guide (ADG) and the design treatment of the side elevations will require articulation and improved materials and finishes to be applied, this is discussed in further detail below.

**Conclusion**

13. The application has been assessed having regard to the Matters for Consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, the provisions of the relevant State Environmental Planning Policies, Local Environmental Plan and Development Control Plans. The proposal, subject to conditions of consent results in a development that sits well with its context, and is well located to services and amenities. The development satisfies the overall objectives, and Design Principles of SEPP 65 and the ADG, as well as the zone objectives, for the R3 Medium Density Residential zone.
14. The Clause 4.6 Objection in relation to the building height development standard is considered to be well-founded. As a result the application is recommended for approval subject to conditions.

**Report in Full****Description of the Proposal**

15. The DA seeks consent for the demolition of existing structures and the construction of a four (4) storey Residential Flat Building containing nine (9) residential apartments. Car parking is contained within a basement level containing 14 car parking spaces for residents and visitors.
16. A mix of apartments is proposed, consisting of 5 x two (2) bedroom and 4 x three (3) bedroom apartments.

17. Further details of the proposal are as follows:

Basement

- 12 residential car parking spaces and 2 visitor car parking spaces;
- Residential storage allocated to individual apartments;
- Bicycle parking for 3 bikes;
- Bin store room;
- Service areas;
- Egress stairs; and
- Lift access to the upper levels.

Ground Floor

- 3 apartments (2 x 2 bedroom and 1 x 3 bedroom);
- Communal pedestrian access from the street is proposed along the northern side boundary;
- Driveway access from Connelly Street is located in the south-western corner of the site;
- The circulation spaces of the building are located on the northern side of the building.

First and Second Floors

- 3 apartments (2 x 2 bedroom and 1 x 3 bedroom);

Rooftop

- Rooftop area of communal roof top open space of 245.43m<sup>2</sup> with a shade cloth over the eastern section. The indoor common room contains a WC, seating areas and a BBQ are proposed.
- Perimeter landscaping around the communal open space in planter boxes.

18. The proposal involves the removal of three (3) trees/shrubs from within the site, and one (1) street tree.

**The Site and Locality**

19. The application applies to land known as 10- 12 Connelly Street, Penshurst, and is legally described as Lot 36 and Lot 37 (respectively) in DP4739.
20. The site is slightly irregular in shape, with a combined frontage to Connelly Street, of 24.38m, southern side boundary measuring side boundary lengths of 36.95m and a northern side boundary of 37.925, with a total site area of 897.8m<sup>2</sup> (by DP).
21. The site is located within an R3 Medium Density Residential zone. There are a number of older residential flat buildings adjacent and to the rear of the site, and across Connelly street to the south west of the site, is the local centres of Penshurst, where the land is zoned B2 Local Centre.





**Figure 3:** The site as viewed from Connelly Street, #10 to the left and #12 to the right.



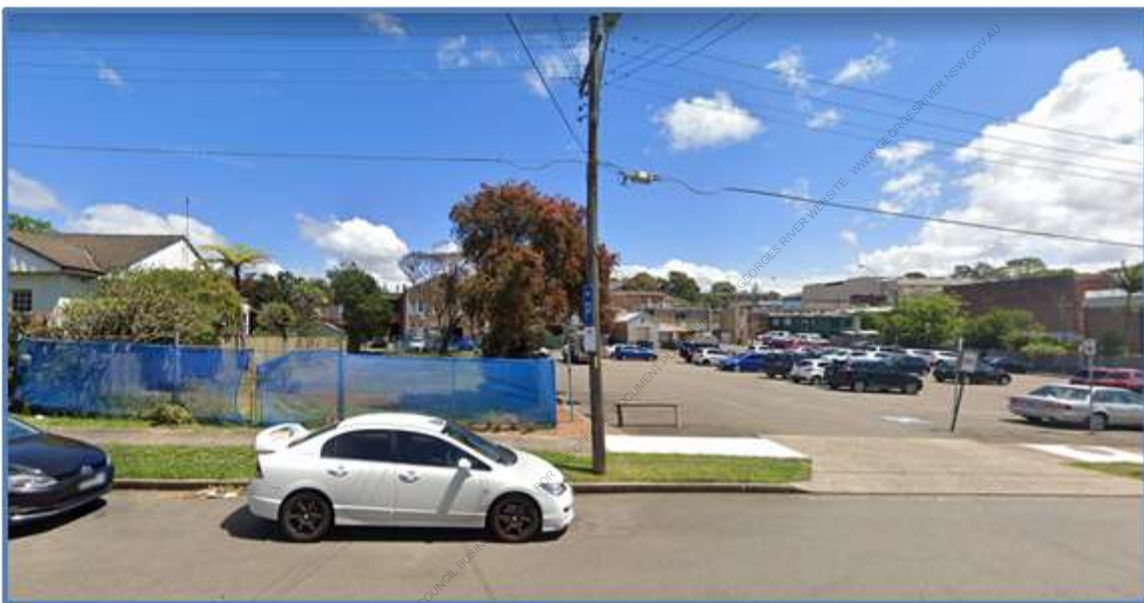
**Figure 4:** Locality image

22. The site is currently occupied by two (2) single storey dwelling houses and scattered vegetation, as well as a number of outbuildings.
23. The site is located in a medium density streetscape setting on the northern side of Connelly Street, with the site located opposite the Penshurst Local Centre to the south west, with and public car parking across the road from the site. Adjacent to the site are existing older style residential flat buildings.





**Figure 5:** Across Connolly Street, looking south



**Figure 6:** Across Connolly Street, looking south west



**Figure 7:** Adjacent development to the north west of the site





**Figure 8:** Adjacent development to the south east of the site

### State Environmental Planning Policies (SEPPs)

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

State Environmental Planning Policy Title	Complies
Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment	Yes
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Yes
State Environmental Planning Policy No 55 – Remediation of Land	Yes
State Environmental Planning Policy (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	Satisfies Design Principles. Non compliant with visual privacy (setback requirements) of the ADG - see below. Acceptable on Merit
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

25. 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,*

26. The stormwater design was referred to Council's Engineering Section for review. No objection was raised with respect to the management and disposal of stormwater subject to recommended conditions of consent.
27. In summary, the proposal is consistent with the objectives and purpose of the Regional Plan if approved with appropriate conditions of consent.

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

28. BASIX Certificate No. 1331917M\_03 was lodged with the amended plans and indicates that the proposal meets the provisions and minimum requirements of BASIX in terms of water, thermal comfort and Energy efficiency.

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

29. 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.
30. Clause 7 requires contamination and remediation to be considered in determining a DA. The consent authority must not consent to the carrying out of development on land unless it has considered whether or not the land is contaminated.
31. A review of historic aerial photography indicates that the site has historically been used for residential purposes. Residential usage is not typically associated with activities that would result in the contamination of land. On this basis, the site is likely to be suitable for residential development in its current state for the development proposed with respect to contamination.
32. Council's Environmental Health officer has reviewed the submitted Preliminary Site Investigation report and, via a condition of consent, recommends that the findings of the report be implemented, further as has also recommended a condition of consent regarding unexpected finds.

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

33. The Vegetation State Environmental Planning Policy aims to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.
34. The Vegetation State Environment 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 (Development Control Plan).*

35. The Vegetation State Environmental Planning Policy repeals clauses 5.9 and 5.9AA of the Standard Instrument - Principal Local Environmental Plan with regulation of the clearing of vegetation (including native vegetation) below the BOS threshold through any applicable development control plan (Development Control Plan).
36. The proposal involves the removal of three (3) trees from the site, and one (1) street tree. Council's Consultant Arborist has reviewed the proposed tree removal and raised no objection to the removal of these trees subject to appropriate replacement tree planting both on site and within the public domain should the application be supported.
37. On this basis, the proposal, should it be supported, is consistent with relevant provisions of the Vegetation State Environmental Planning Policy.

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

38. The Department of Planning and Environment has announced a Draft Remediation of Land State Environmental Planning Policy, which will eventually repeal and replace the current State Environmental Planning Policy No 55 — Remediation of Land.
39. 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.
40. 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. The Draft State Environmental Planning Policy will not alter or affect the findings with respect to State Environmental Planning Policy 55 detailed above.

#### **Draft State Environmental Planning Policy (Design and Place)**

41. The Draft Design and Place 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.
42. 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, notwithstanding that the draft Design and Places SEPP is not a mandatory matter for consideration under the Act at this time.

#### **Draft Environment State Environmental Planning Policy**

43. 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.
44. 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.
45. The proposal is consistent with the provisions of this Draft Instrument.

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

46. State Environmental Planning Policy No 65 – Design Quality of Residential Flat Buildings (State Environmental Planning Policy 65) was gazetted on 26 July 2002 and applies to the assessment of DAs for residential flat developments of three or more storeys in height and containing at least four dwellings. Amendment 3 to State Environmental Planning Policy 65 commenced on 17 July 2015 and implemented various changes including the introduction of the Apartment Design Guide (ADG) to replace the Residential Flat Design Code. Given the nature of the development proposed, State Environmental Planning Policy 65 applies.



47. 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.*
48. An assessment of the development against the Design Quality Principles of State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development is included in the table below.

DESIGN QUALITY PRINCIPLES	ASSESSMENT
Principle 1: Context & Neighbourhood Character	The modern architectural form is consistent with the desired future character of the locality adjacent to the Penshurst Local Centre, subject to recommended conditions of consent regarding changes to materials and finishes.
Principle 2: Built Form & Scale	<p>The development is of an appropriate bulk and scale for this location. The bulk of the development has been concentrated towards the front and centre of the site. The building height control is exceeded, and this is discussed further below. The Clause 4.6 assessment is detailed below, however it is considered that a building height variation is acceptable in this instance.</p> <p>The proposed residential apartment building is appropriately articulated, through architectural form and varying setbacks.</p>
Principle 3: Density	The unit areas and proportions of the apartments are in keeping with the Apartment Design Guide. The proposed densities are sustained, in this location, given the proximity of the site to public transport, community facilities, jobs and the environment.
Principle 4: Sustainability	The development incorporates BASIX requirements and sustainability measures into its overall design so as to enhance water and energy efficiency and to provide suitable amenity.
Principle 5: Landscape	The proposal has incorporated landscaping within the front setback, incorporating planting in the passive communal areas. The applicant has also incorporated a roof top communal open space, with planter boxes, outdoor seating and BBQ and bathroom facilities.
Principle 6: Amenity	<p>This principle refers to good amenity as combining <i>“appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.”</i></p> <p>The proposal is generally consistent with the above amenity</p>

	provisions regarding the controls contained within the Apartment Design Guide. The development proposes areas of active and passive communal open space.
Principle 7: Safety	The proposed development incorporates suitable Crime Prevention Through Environmental Design (CPTED) Principles in the design.
Principle 8: Housing Diversity & Social Interaction	The proposal provides a mix of apartment types. The development includes two (2) and three (3) bedroom apartments, including the provision of an Adaptable dwelling. The development proposes a roof top communal open space, which include seating areas and BBQ facilities, providing opportunities for social interaction among residents.
Principle 9: Aesthetics	An appropriate composition of textures, materials and colours within the development has been achieved, and will be enhanced through recommended conditions of consent.

49. The table below provides an assessment against the ADG.

Apartment Design Guide (ADG) –Building Key Design Criteria			
Objective	Design Criteria	Proposal	Complies
3D-1 Communal Open Space (COS) Site area: 897.8m <sup>2</sup>	COS has a minimum area equal to 25% of the site. (224.45m <sup>2</sup> )  A minimum of 50% direct sunlight to the principle usable part of COS for a minimum of 2 hours between 9am and 3pm on 21 June (mid-winter).	257.3m <sup>2</sup>  Yes	Yes
3E-1 Deep Soil Zones	Deep soil zones are to meet the following minimum requirements. Where the site area is 650m <sup>2</sup> -1500m <sup>2</sup> = min. 3m dimension; and, min. 7% of the site area. (62.8m <sup>2</sup> )	274.5m <sup>2</sup>	Yes
3F-1 Visual Privacy Minimum required separation distances from buildings to the side and rear boundaries:	Up to 12m (4 storeys) <ul style="list-style-type: none"> <li>6m habitable rooms/balconies</li> <li>3m non-habitable rooms</li> </ul> <i>Provision for NIL setback in the ADG for Blank walls</i>	<b>Ground floor</b> <i>Rear boundary: 6.03m</i>  <i>Side setbacks north west – 3m non habitable</i>  <i>south east – 4.5m non habitable</i>  <b>First and Second floor</b> <i>Rear boundary: 5.4m to planter boxes/balcony 6.03m</i>	Yes   Yes  Yes  No – condition of consent is recommended to remove planter boxes,

			resulting in a 6.03m setback
		Side setbacks north west – 5.21m habitable, and 5.13 to planter box	No – see discussion below
		South east – 4.5m to non habitable	Yes
		4.5m to balcony of dwellings 1.03 and 2.03 .	No – see discussion below.
<p>Comment regarding Objective 3F1</p> <p>The north-western setback at first and second floor level to the habitable rooms of dwellings 1.01 and 2.01, are setback 5.21m from the side boundary. Despite this non-compliance there is considered to be minimal impact upon privacy to adjoining property as the windows facing the boundary are highlight windows. Further the neighbouring building to the north west is setback 8.7m at this part of the site, therefore providing separation between the existing and proposed building in accordance with the ADG. Despite the setbacks there is still the opportunity for visual separation, and landscaping opportunities at ground level, as well as the protection of existing vegetation on the adjacent property to the north west. The reduced setbacks are acceptable in this instance.</p> <p>The balcony of units 1.02 and 2.02 are setback 5.13m from the north-western boundary to the planter box, whilst these planter boxes are considered to provide visual relief through the planting of vegetation, they also contribute to the bulk of the building in this part of the site, and a condition of consent recommended for the removal of these planter boxes.</p> <p>The setback of the balcony of units 1.03 and 2.03 from the south-eastern boundary, measures 4.5m. Despite this non-compliance there is considered to be minimal impact upon privacy to adjoining property as the windows facing the boundary are highlight windows. Despite the reduced setbacks there is still the opportunity for visual separation, the neighbouring building to the southeast is setback 7.4m from the boundary with the subject site, and landscaping opportunities at ground level, as well as the protection of existing vegetation on the adjacent property to the south east. The reduced setbacks are acceptable in this instance.</p>			
4A-1 Solar and Daylight Access	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter.	Min 70%	Yes

	A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid-winter.		
4B-3 Natural ventilation	At least 60% of apartments are naturally cross ventilated in the first nine storeys.  Overall depth of cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes	Yes
4C – 1 Ceiling Heights	Measured from finished floor to finished ceiling level, minimum heights are; <ul style="list-style-type: none"> <li>Habitable rooms = 2.7m</li> <li>Non habitable rooms 2.4m.</li> </ul>	Yes	Yes
4D-1 Apartment Size & Layout	Minimum internal areas of; 2 bedroom = 70m <sup>2</sup> (+5m <sup>2</sup> with 2 bathrooms) 3 bedroom = 90m <sup>2</sup> Habitable rooms to have window with area not less than 10% of floor area	Yes	Yes
4D-2 Room Depth	Habitable room depths are limited to maximum 2.5 x the ceiling height. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	Yes	Yes
4D-3 Room Dimensions	Master bedrooms - min area of 10m <sup>2</sup> , and other bedrooms 9m <sup>2</sup> (excluding wardrobe space)  Bedrooms to have min dimension of 3m. Living rooms or combined living/dining rooms have a min width of: <ul style="list-style-type: none"> <li>4m for 2 and 3 bedroom</li> </ul>	Yes	Yes
4E-1 Private Open Spaces / Balconies	All apartments are required to have a primary balcony as follows; <ul style="list-style-type: none"> <li>2 bedroom = 10m<sup>2</sup> (depth of 2m)</li> <li>3+ bedroom = 12m<sup>2</sup> (depth of 2.4m).</li> <li>Ground Level / Podium apartments = 15m<sup>2</sup> (depth of 3m)</li> </ul>	Yes	Yes



4F-1 Common Circulation	Maximum apartments of single circulation core = 8	Yes	Yes
4G-1 Storage	In addition to storage in kitchens, bathrooms and bedrooms the following storage is provided <ul style="list-style-type: none"> <li>• 2 bedroom = 8m<sup>3</sup></li> <li>• 3 bedroom = 10m<sup>3</sup></li> </ul> At least 50% of the required storage is to be located within the apartment.	Yes	Yes

## **Environmental Planning Instruments**

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

#### **Zoning**

50. The subject site is zoned R3 Medium Density Residential under the provisions of the Hurstville Local Environmental Plan 2012 (HLEP2012) (See zoning map below). The proposed development is for a residential flat building which is a permissible land use in the zone.
51. The objectives of the zone are as follows:
- *To provide for the housing needs of the community within a medium density residential environment.*
  - *To provide a variety of housing types within a medium density residential environment.*
  - *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
  - *To ensure that a high level of residential amenity is achieved and maintained.*
  - *To provide for a range of home business activities, where such activities are not likely to adversely affect the surrounding residential amenity.*
52. The proposal satisfies the objectives of the zone and provides both two (2) and three (3) bedroom dwellings, in a medium density setting. There is a high level of residential amenity achieved through solar access, landscaping, communal and private open space. The site is also located in the vicinity of public transport, again contributing to the amenity.
53. The extent to which the proposal complies with the relevant standards of Hurstville Local Environmental Plan 2012 (HLEP2012) is outlined in the table below.

**Table 4: HLEP2012 Compliance Table**

Clause	Standard	Proposed	Complies
2.2 Zone	R3 Medium Density Residential	The proposal is defined as a residential flat building which is a permissible use within the zone.	Yes
2.3 Objectives	Objectives of the Zone	Consistent with zone objectives	Yes
4.3 – Height of Buildings	12m as identified on Height of Buildings Map	The building exceeds the 12m height limit and proposes an overall height at the highest point of 13.985 = 16.54% variation to top of the lift overrun.	No – see discussion below regarding Clause 4.6 Statement

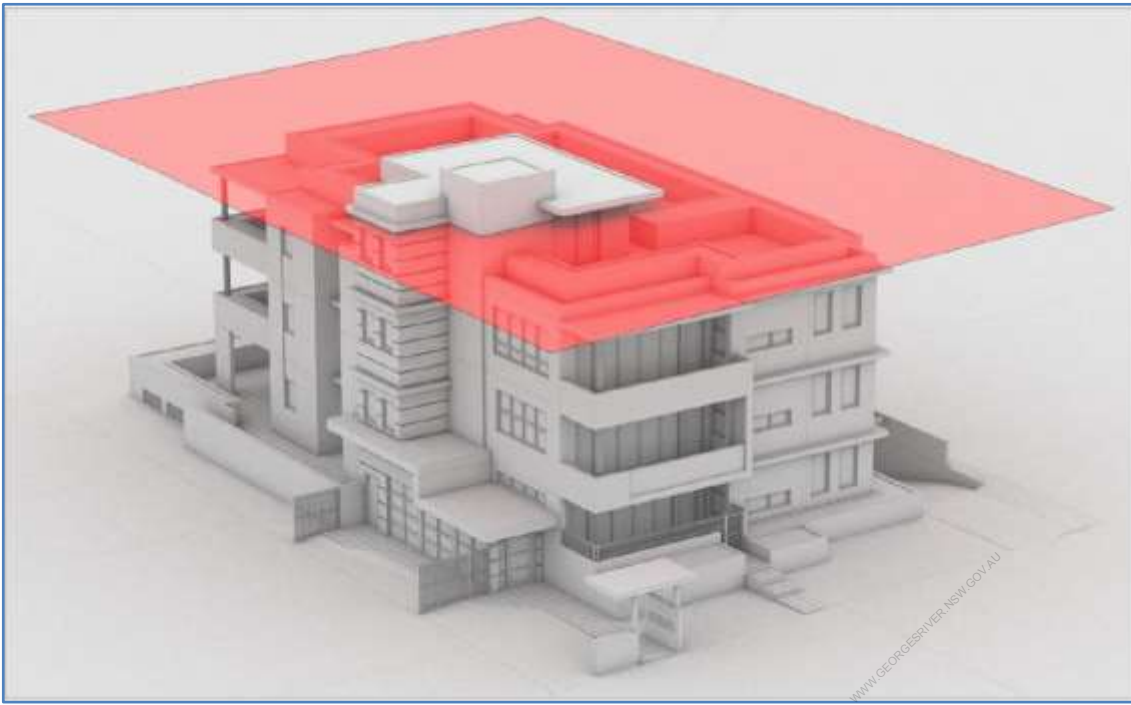
			which has been submitted.
4.4 – Floor Space Ratio	1:1 as identified on Floor Space Ratio Map	The proposed FSR is 0.97:1 or 879.2m <sup>2</sup> .	Yes
4.5 – Calculation of floor space ratio and site area	FSR and site area calculated in accordance with Cl.4.5	The GFA calculations provided by the Applicant have been verified and are considered satisfactory.	Yes
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	Excavation for the basement parking level is proposed. Suitable conditions of consent could be imposed to protect neighbouring properties during construction should the application be approved.	Yes

LPP006-22

#### Clause 4.6 Exceptions to development standards

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

54. The proposed development seeks a variation to the development standard relating to height (Clause 4.3). The Hurstville Local Environmental Plan 2012, identifies a maximum height of 12m for the site. The proposed development will exceed the height by up to 1.985m which comprises of the lift overrun or a 16.54% variation. The stair well and roof over the rooftop communal open space has a maximum height of 13.02m or a variation of 8.5%. Any variation to the height can only be considered under Clause 4.6 – Exceptions to Development Standards of the Hurstville Local Environmental Plan 2012.
55. The area of non-compliance, is demonstrated in figure 9 below.



**Figure 9:** Extent of height variation

56. 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”.

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

57. The Height of Buildings control under Clause 4.3 of the Hurstville Local Environment Plan 2012 is a development standard. The maximum permissible height for this site is 12m.
58. 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”*

59. To support the non-compliance, the applicant has provided a request for a variation to Clause 4.3 in accordance with Clause 4.6 of 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?**

60. Height of Buildings control under Clause 4.3 of the KLEP 2012 is a development standard. The maximum permissible height is 12m.

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

61. The objectives of Height of Buildings standard under Clause 4.3 of Hurstville Local Environmental Plan 2012 are:
- (a) *to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,*
  - (b) *to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development and to public areas and public domain, including parks, streets and lanes,*
  - (c) *to minimise the adverse impact of development on heritage items,*
  - (d) *to nominate heights that will provide a transition in built form and land use intensity,*
  - (e) *to establish maximum building heights that achieve appropriate urban form consistent with the major centre status of the Hurstville City Centre,*
  - (f) *to facilitate an appropriate transition between the existing character of areas or localities that are not undergoing, and are not likely to undergo, a substantial transformation,*
  - (g) *to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain.*

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

62. There have been several Court cases that have established provisions to assist in the assessment of Clause 4.6 statements to ensure they are well founded and address the provisions of Clause 4.6. In *Wehbe V Pittwater Council* (2007) NSW LEC 827 Preston CJ set out ways of establishing that compliance with a development standard is unreasonable or unnecessary.
63. 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.
64. The Clause 4.6 Statement was prepared in consideration of the recent court cases and their judgements.
- *The objectives of the standard are achieved notwithstanding non-compliance with the standard*



65. Applicants comment:***The objectives of the development standard are achieved notwithstanding the non-compliance (First Method)***

*Insight into the purpose of the height standard can be obtained by investigating the objectives of the standard. The objectives in this case are weighted on built form and amenity having regard to desired future character, land use intensity and solar and or visual and privacy impacts. When considered within the framework of the objectives, the purpose of the height control requires the development to maintain a bulk and scale commensurate with the future character of the area and available land use intensity, while providing reasonable amenity impacts as a result of the building height and specifically the variation.*

The objectives of the height of building's principal development standard are:

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

*It is considered that the proposed development achieves the objectives of the standard for the following reasons:*

*Objective (a) seeks to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality. The proposal is compliant in height along the Connelly Street frontage consistent with the height and scale of both current and emerging development. Due to the minor non-compliance being limited to the stairs, common room roof and lift overrun, the volume of the development is not inconsistent with that of a fully compliant scheme when viewed from the neighbouring properties and adjoining street frontage. The largely recessive nature of the height breach, site slope and aspect of the site enable the proposed building to visually integrate with that of neighbouring building both current and future serving as an affirmation of the objective and not that of a building that abandons height controls.*

*Objective (b) seeks to minimise the visual impact, disruption of views, loss of privacy and loss of solar access to existing development and the adjoining public domain from buildings.*

***Visual Impact***

*The visual impact of the non-compliant height elements are not significant because:*

- The development presents as a three storey base with recessed uppermost level whereby any breaching height elements are suitably integrated into the overall*

- design of the building and are of a form and materiality that do not create any unwarranted visual impact;*
- Apart from the stairs, the building elements that exceed the height are limited and are located away from the edges and therefore, do not unreasonably impose on either the neighbouring properties or streetscape.*
  - The landscaped treatments proposed to the roof of the building will serve to soften the visual presentation of the building.*



**Figure 10:** Extent of height variation



**Figure 11:** Extent of height variation

66. **Officer Comment:** The proposed areas of non-compliance with the Height of Buildings development standard does not result in a development that contravenes the objectives of the development standard.

The overall proposal is compatible with the height, bulk and scale of the existing and desired future character of the locality. The adjoining buildings (existing and approved) comply with the height limit and are a suitable response to their respective sites. The proposed development responds to the local context and development largely complies with the height control of 12m. Where the proposed height exceeds the 12m control, as per the figures above, the additional scale has minimal impact upon the character of the locality as it is mostly located towards the centre of the building and away from the street frontage.

The areas of non-compliance do not cause adverse environmental effects, nor do they impact upon view loss, privacy or loss of solar access, to the public domain and existing development, the areas of non-compliance are setback from the boundary as per the ADG requirements, and provided adequate separation between the area of non-compliance and the adjoining neighbour to the northwest.

Overall the proposed areas of non-compliance satisfy the objectives of Clause 4.3 Height of Buildings development standards of the HELP 2012.

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

67. 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 the Clause 4.6 Statement lodged with the application addresses all the information required pursuant to Clause 4.6 and the statement is considered to be well founded and there are sufficient environmental planning grounds to justify contravening the standard given that in this case the proposal satisfies the relevant objectives of the height control.

68. 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,*

69. Applicant’s comment:

*In Part 3 of this request, it was demonstrated that the proposal is consistent with the objectives of the development standard. The proposal, inclusive of the non-compliance, is also consistent with the objectives of the R3 Medium Density Residential as detailed below.*

**Zone R3 – Medium Density Residential Objectives**

Objective	Comment
To provide for the housing needs of the community within a medium density residential environment.	The proposed development is for a four storey residential flat building on the site containing a total of nine (9) units. The variation of the development standard does not result in an inconsistency with this objective. In fact, the variation of the standard more appropriately achieves this objective by enabling for the housing needs of the community without compromise on the existing and emerging character of the locality.
To provide a variety of housing types within a medium density residential environment.	The proposed development comprises a residential flat building within land zoned R3, providing six (6) two bedroom and three (3) three bedroom apartments distributed across three levels. Units also vary in configuration and size to cater to different household types, requirements and levels of affordability.
To enable other land uses that provide facilities or services to meet the day to day needs of the residents	<p>The proposed development does not provide for alternate land uses or facilities that have been designed to meet the day to day needs of residents; however, these services/facilities are available in close proximity to the site within the Penshurst local centre.</p> <p>Furthermore, this breach of the standard does not result in an inconsistency with this objective as it does not preclude the site from being redeveloped in the future for another land use nor does it preclude development in surrounding zones.</p>
To ensure a high level of residential amenity is achieved and maintained	The development is characteristic of that commonly observed within the immediate and local context where it will serve to positively add to the setting of the neighbourhood without disturbing on the character or amenity of the medium density area.
To provide for a range of home business activities where such activities are not likely to adversely affect the surrounding residential amenity.	This objective is not relevant to the proposed development.

70. Officers comment: The objectives of the R3 Medium Density Residential zone 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.*
- *To ensure that a high level of residential amenity is achieved and maintained.*



- *To provide for a range of home business activities, where such activities are not likely to adversely affect the surrounding residential amenity.*

71. The area of non-compliance does not result in a failure of the development satisfy the zone objectives. The development, despite its non-compliance with the building height control, results in a development that provides for the housing needs of the community with a mix of two (2) and three(3) bedroom dwellings, in a well serviced location in the vicinity of a well-connected public transport area and the Penshurst Local Centre.
72. Further the area associated with the non-compliance relates to the communal roof top open space with contributes to the amenity of these proposed dwellings, which further enhances and supports the housing needs of the community.
73. The area of non-compliance does not impact upon the residential amenity of future residents or neighbouring properties, the overall development provides for solar access and ventilation in accordance with ADG.
74. As a result the area of height non-compliance does not undermine the objectives of the zone, the development as a whole is satisfactory and consistent with the zone objectives.

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

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

**The public benefit in maintaining the development standard (Clause 4.6(5)(b))**

76. It is noted that in Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ clarified what items a Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a "better" planning outcome resulting from the non-compliance.
77. Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development.
78. The second matter was in cl 4.6(3)(b), where the Commissioner applied the wrong test in considering this matter by requiring that the development result in a "better environmental planning outcome for the site" relative to a compliant development. Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard.
79. For the portion of the building that exceeds to Height of Building control there is no public benefit to in maintain the development standard. The proposal is of an appropriate bulk and scale for the streetscape, and consistent with the existing and desired future character of the R3 Medium density zone.
80. The proposal satisfied the objectives of the zone, the development standards, and satisfies the principles of SEPP65.

81. The applicant's written submission demonstrates that compliance with the height development standard is unreasonable or unnecessary in the circumstances of the case. It also demonstrates sufficient environmental planning grounds to justify varying this development standard.
82. The proposed variation does not raise any matters of State or regional environmental planning significance.
83. In conclusion the variation to the height development standard satisfies all relevant parts of Clause 4.6 and therefore the variation can be supported.

### Development Control Plans

#### HURSTVILLE DEVELOPMENT CONTROL PLAN NO. 1 (HDCP)

84. The proposal is subject to the provision of Hurstville Development Control Plan No.1 Chapter 3 and Chapter 4.1. These provisions are addressed in more detail below.

Development	Requirements	Proposed	Complies
3.1 Vehicle Access and Parking	DS1.5 Refer to AS 2890.1 2004 and AS2890.2 Part 2 for the design and layout of parking facilities. DS1.6	Turning and manoeuvring into and out of car spaces and isle widths are in accordance with Australian Standards	Yes
	Council does not encourage, but may consider stacked parking for parking spaces in a controlled parking situation which: a. allows no more than two cars in the stacked parking arrangement; b. is likely to maintain a very low turnover; or c. is able to function easily within the management of the site's future operation	Parking for three units consists of double stack parking. Council's Traffic engineer has provided conditions of consent and the parking layout is considered acceptable in this instance.	Yes
	A designated car washing area (which may also be a designated visitor car space) is required for service stations and residential developments of four or more dwellings.	A car wash bay has been provided in conjunction with a visitors parking space.	Yes
Numerical parking controls	<u>Residential Accommodation</u> *1-2 bedrooms:	6 x 2B = 6 spaces	Yes

	<p>1 space per dwelling *3 bedrooms and over: 2 spaces per dwelling Visitor spaces: 1 space per 4 dwellings (or part thereof)</p>	<p>3 x 3B = 6 spaces 2 visitors spaces</p> <p>14spaces required 14spaces proposed</p>	
3.3 Access and Mobility	<p>In developments containing five or more dwellings, a minimum of one adaptable dwelling, designed in accordance with relevant Australian Standards must be provided for every ten dwellings or part thereof.</p> <p>Access for all persons through the principal entrance and access to any common laundry, kitchen, sanitary or other common facilities in accordance with relevant Australian Standards.</p>	<p>Unit G1.01 is nominated as an adaptable apartment.</p> <p>In general, access through the building for people with a disability has been catered for and lift access has been provided to all levels including the roof communal open space.</p>	Yes
3.4 Crime Prevention through Environmental Design	<p>Ensures that the way in which the site, and the buildings within the site, are laid out enhance security and feelings of safety.</p> <p>Ensures that private and public spaces are clearly delineated</p> <p>Ensures that the design of the development allows for natural surveillance to and from the street and between individual dwellings or commercial units within the site</p>	<p>The design of the building generally complies with the objectives and controls.</p>	Yes
3.5 Landscaping	<p>Site layout and design, including buildings, structures and hardstand, ensures the long-term retention and health of existing significant trees and</p>	<p>A number of significant trees are being retained both within the site and adjacent to the site.</p> <p>The proposed landscaping, provides</p>	Yes

	<p>vegetation.</p> <p>Where significant trees or vegetation are required to be removed to allow for site development, they are to be replaced with the same or similar species achieving the same coverage at maturity.</p>	<p>screening and additional tree planting enhances the site and streetscape amenity.</p>	
3.6 Public Domain	<p>Development contributes to the creation of attractive, comfortable and safe streets that comprise consistent and high quality paving, street furniture and street tree plantings.</p>	<p>The front setback is well landscaping, there is a clearly identifiable entry sequence.</p>	Yes
3.7 Stormwater	<p>A development application is supported by a concept stormwater management plan showing how surface and roof waters are to be discharged by gravity to the street or easement and the size of all pipes.</p>	<p>Council's Engineers have reviewed the proposed drainage and stormwater arrangement and have raised no objection subject to the imposition of conditions.</p>	Yes
<b>4.1 Residential Flat Buildings</b>			
Site Frontage	Min street frontage 24m	Street frontage 24.58m	Yes
Height	In accordance with HLEP 2012 and 3 storeys.	<p>A variation is requested to the 12m height control, which is supported, see discussion above.</p> <p>The building is 4 storeys in part</p>	<p>No, see assessment above, variation acceptable in this instance. The proposed development sits within the local context and desired character.</p>
Excavation	The maximum excavation for any building's finished ground floor level facing a public street is 0.5m	Complies	Yes

Front Setback	below natural ground level.  The minimum setback to a primary or secondary street is 6m.	6m to building façade.  5.04m to balcony edge.	Acceptable on merit, façade is well articulated and provides a landscape setting, and activated frontage.
Landscaping	Minimum amount of landscaped area of open space is 20% of the Site area  Min dimension of landscaped open space is 2m	Min 30% of the site is landscape area.  Complies	Yes  Yes
Solar Access	Development allows for at least 3 hours of sunlight on the windows of main living areas and adjoining principal private open space of adjacent dwellings between 9.00 am and 3.00 pm on 22 June.	Complies	Yes
Noise	Windows of adjacent dwellings are separated by a distance of at least 3m	Yes	Yes
Streetscape	Development creates a high quality interface between the public and private domain	Yes	Yes
Fencing	Provides appropriate levels of privacy, security and noise attenuation	Front fencing between is proposed, a condition of consent is recommended that the fencing be not greater than 1.2m in height to allow for surveillance.	Yes
Site Facilities	Development provides space for the storage of recyclable goods, either in the curtilage of each	Storage is provided within the units and in the basement.	Yes

	dwelling or in a central storage area in larger developments.		
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### Interim Policy – Georges River Development Control Plan 2020

85. Council at its Environment and Planning Committee Meeting dated 24 June 2019 resolved to adopt the Georges River Interim Policy Development Control Plan which became effective on 22 July 2019.
86. The Interim Policy is a public policy that is to be used as a guide to set a consistent approach for the assessment of residential development within the LGA. It is a supplementary document, meaning that current Development Control Plan controls will prevail if they are considered best practice. The Interim Policy has no statutory recognition in the assessment of DAs pursuant to the Environmental Planning and Assessment Act, 1979 (EP&A Act).
87. An assessment of the proposal has been carried out against the provisions of the Interim Policy as set out in the following table:

Interim Policy – Georges River Development Control Plan 2020		
Standard	Proposed	Complies
<b>Site Frontage</b>		
24m	24.38m	Yes
<b>Building Height</b>		
The relevant LEP controls relating to building height will prevail over Development Control Plan controls that relate to height in storeys	The proposal has been assessed against the Hurstville Local Environmental Plan 2012 height standard. The proposal does not currently comply.	No – See Height of Buildings CI4.6 assessment above
<b>Private Open Space</b>		
The ADG requirements prevail over the Development Control Plan controls for private open space	The proposal is fully compliant with the ADG's private open space requirements. Refer to "4E – Private Open Space and Balconies" within the ADG Compliance Table above.	Yes
<b>Communal Open Space</b>		
The ADG requirements prevail over the Development Control Plan controls for COS under the Interim Policy	Complies	Yes
<b>Parking</b>		
In accordance with 'A Plan for Growing Sydney' (Department of Planning and Environment): • If located in a strategic centre (i.e. Kogarah CBD	The site is located more than within 800m of a railway station and is not within a strategic centre.  The proposal has been	Complies – 11 residential and 2 visitor spaces required.  12 resident and 2



<p>and Hurstville CBD) and within 800m of a Railway, the “Metropolitan Regional Centre (CBD)” rates apply.</p> <ul style="list-style-type: none"> <li>• If located within 800m of a railway and outside the strategic centres the “Metropolitan Subregional Centre” rates apply.</li> <li>• If located outside of 800m of a Railway, the relevant Development Control Plan applies.</li> </ul>	<p>assessed against the “Metropolitan Subregional Centre” controls and is fully compliant.</p>	<p>visitor spaces proposed</p>
<b>Solar Access</b>		
<p>The ADG requirements prevail over the Development Control Plan controls for solar access under the Development Control Plan</p>	<p>Complies</p>	<p>Yes</p>

## DEVELOPER CONTRIBUTIONS

88. The development is subject Georges River Council Local Infrastructure Contributions Plan 2021 (S7.11 and S7.12) contribution . In accordance with Council’s contributions plan, Section 7.11 contributions are applicable proposed development. The contribution payable is \$140, 000. 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 applications for complying development certificate (CDC) that had been submitted but not determined on the date on which this plan took effect.

## IMPACTS

### **Natural Environment**

90. The proposed tree removal has been assessed by Council’s Consultant Arborist as being acceptable subject to appropriate conditions of consent requiring replacement tree planting both within the site and in the public domain. The landscaping proposed is adequate to contribute to the landscape setting of the site and locality.
91. The proposed development will not adversely affect the natural environment subject to the site being planted with replacement trees as shown on the approved landscape plan. The removal of existing trees has been reviewed by Council’s Consultant Arborist and is deemed acceptable subject to conditions.
92. The proposal includes excavation that has been assessed as being reasonable in the context of the site and consistent with the extent of excavation expected in an R3 Medium Residential zone, to provide basement carparking. Excavation impacts will be managed through standard conditions of consent that have been imposed to protect the environment with respect to contamination and impact onto adjoining allotments and the public domain.

**Built Environment**

93. The proposal exceeds the building height development standard of Hurstville Local Environmental Plan 2012. A Clause 4.6 Objection has been submitted by the applicant in support of the non-compliance.
94. The proposal represents an appropriate planning outcome for the site with respect to its bulk, scale and density, façade articulation and expression and is an appropriate response to the context of the site and its R3 Medium Density Residential zoning, and adjacent B2 Local Centre zoning to the south, across Connelly Street.

**Social Impact**

95. No adverse social impacts have been identified as part of the assessment. The provision of additional dwellings would in principle provide for additional housing in close proximity to a local centre for a cross-section of the community.

**Economic Impact**

96. The proposed development has no apparent adverse economic impact. There may be a small positive economic impact as a result of the construction of the development.

**Suitability of the site**

97. The site is zoned R3 Medium Density Residential. The proposal is a permissible land use within the zone, subject to development consent.
98. This RFB has not been sensitively designed to respond to the constraints of the site, and fits within the local context of other existing three storey, residential flat buildings in the locality.

**SUBMISSIONS AND THE PUBLIC INTEREST**

99. The application was neighbour notified in accordance with Council's Community engagement strategy, got a period of 14 days. Three (3) submissions were received during this period. The issues raised in the submissions are summarised as follows, with a response provided to each.
100. *Non-compliance with the building height and height is out of context with the street and locality.*

Comment: The proposal does not comply with the maximum building height standard of the LEP and the request to vary the control is considered acceptable should the development be supported. The proposal is not considered to be out of context with the surroundings. See discussion above.

101. *Tree concerns at 14 Connelly Street:*
- *Eucalyptus tree in the property to the north west (14 Connelly Street) is damaging the driveway in 14 Connelly Street, and the construction process may damage the tree, or cause the tree roots to uplift the driveway further.*
  - *The objector has been asking Council to remove a tree adjacent to their driveway for several years (at 14 Connelly Street), which has been causing damage to drains, sewer and raising the pavement, and is a hazard, The objector advises that they would like the tree to be removed.*

Comment: This tree (tree 8 on the landscape plan) is capable and worthy of retention as assessed by Councils landscape officer. The levels of the proposed building and site, within the TPZ of this tree, have been designed to protect this tree. A condition of consent is recommended regarding the preparation of a dilapidation report of 14 Connelly Street (and other adjoining properties).

102. *A property of this height impacts southerly breeze flow to our property during the hot weather.*

Comment: The building has been designed to provide adequate separation between buildings, satisfying the objectives and principles of SEPP 65 and the ADG. The site has an approximate east west axis, there is the opportunity for southerly winds to pass across the site and towards the north, as demonstrated on the applicants site analysis plan, demonstrating the prevailing southerly winds.

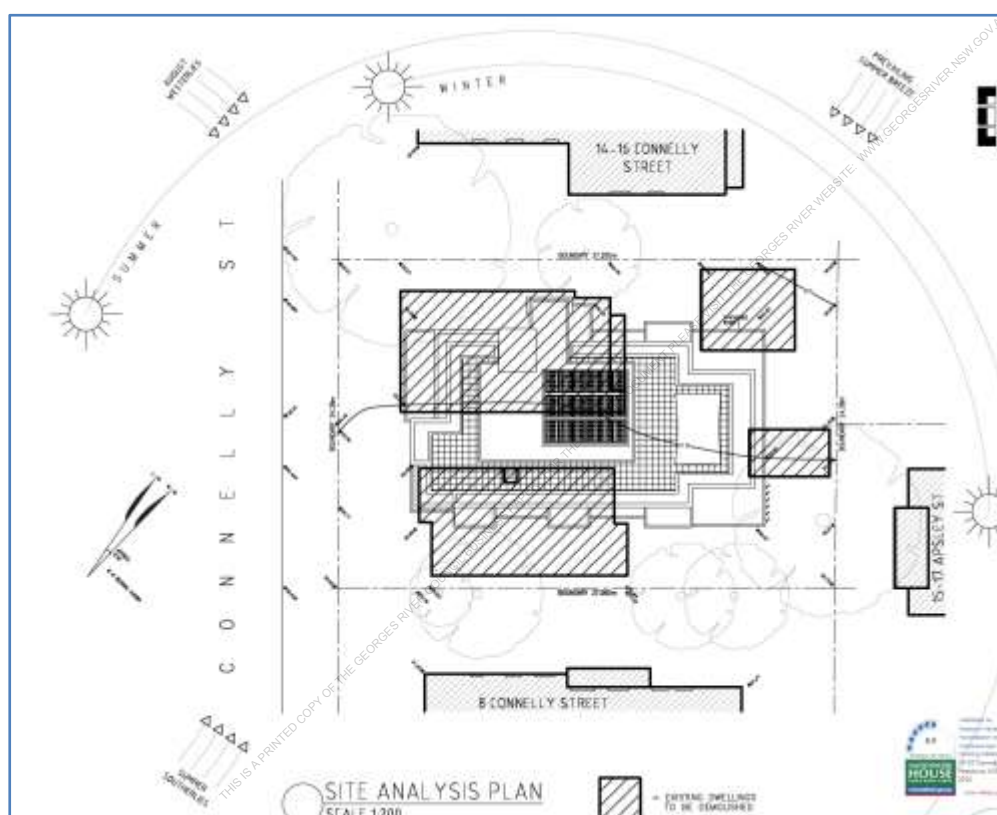


Figure 12: Site analysis plan.

103. *Will the rear fence be replaced as a result of the development?*

Comment: the rear fence has not been identified for removal or replacement as part of this DA. A condition of consent is recommended for a dilapidation report to be prepared for adjoining properties, including fencing. Further boundary fencing is a private matter between the adjoining owners pursuant to the provisions of the *Dividing Fences Act 1991*.

104. *Privacy planting along the rear boundary to provide screening to priority to the rear.*  
Comment: The applicant proposes screen planting along the rear boundary.

## REFERRALS

### Council Referrals

Development Engineer

105. Council's Development Engineer reviewed the proposal. No objection was raised with respect to the proposed stormwater drainage design, subject to conditions of consent being imposed.

#### Infrastructure and Public Domain Engineer

106. Council's Public Domain Engineer reviewed the proposal. No objection was raised to the proposal subject to conditions of consent being imposed.

#### Traffic Engineer

107. The DA was referred to Council's Traffic Engineer. No objection was raised to the proposal subject to appropriate conditions of consent if approved, including a specific condition regarding the installation of a traffic light system *"giving priority to vehicles entering the property to regulate the one-way movement for vehicular access to the property"*.

#### Consultant Arborist

108. Council's Consultant Arborist reviewed existing tree conditions and raised no objection to the development, subject to conditions of consent regarding tree retention and protection on adjacent properties at 14-16 Connelly Street and 8 Connelly Street. Conditions also included the removal of a number of trees within the site, as well as one street tree. The officer has provided conditions for the planting of two (2) street trees and nine (9) replacement trees within the site.

#### Waste Officer

109. The DA was referred to Council's Waste Officer for review. The Waste Officer advised that the applicant did not adequately respond to the request for amendments to the bin area (as per Council's request for information to the applicant).
110. The Officer has provided conditions of consent including waste storage and removal, regarding central bin storage and waste removal from each level, and private waste collection (both household and bulk) wholly within the site.

#### Environmental Health Officer

111. The DA was referred to Council's Environmental Health Officer for review. . No objection was raised to the proposal subject to appropriate conditions of consent if approved.

#### Urban Design

112. Council referred the original plan set to an Urban Design consultant, who raised the following matters:
- Bulk and scale – with regards to building height, and number of storeys due to design of roof top communal open space.
  - Elevated ground floor plan
  - Setbacks: side and rear
  - Pedestrian and vehicular access – pedestrian access is small and narrow (foyer), and visual impact of the basement entry.
  - Impacts upon neighbouring trees
  - Landscaping.
  - Location of fire stairs in the Connelly Street frontage.

113. Council wrote to the applicant advising them of the above comments, the applicant responded with the current design, whereby a number of amendments were made, including the following:

- Introduction of a pergola over the driveway to enable landscaping to soften the basement entry.
- Introduction of an entry cover/arbor to clearly identify the entry sequence into the building, and the ground floor foyer was enlarged.
- The reduction in the overall height of the building from RL 64.65 to RL64.15. The ground floor was lowered closed to natural ground level as well, from RL to RL50.95. Figure 13 below demonstrates the original section identifying the bulk at the roof top level, Figure 14, identifies the modified section plan, subject of this report. The applicant has previously advised that the ground floor cannot be lowered any further in order to protect the trees on neighbouring properties.

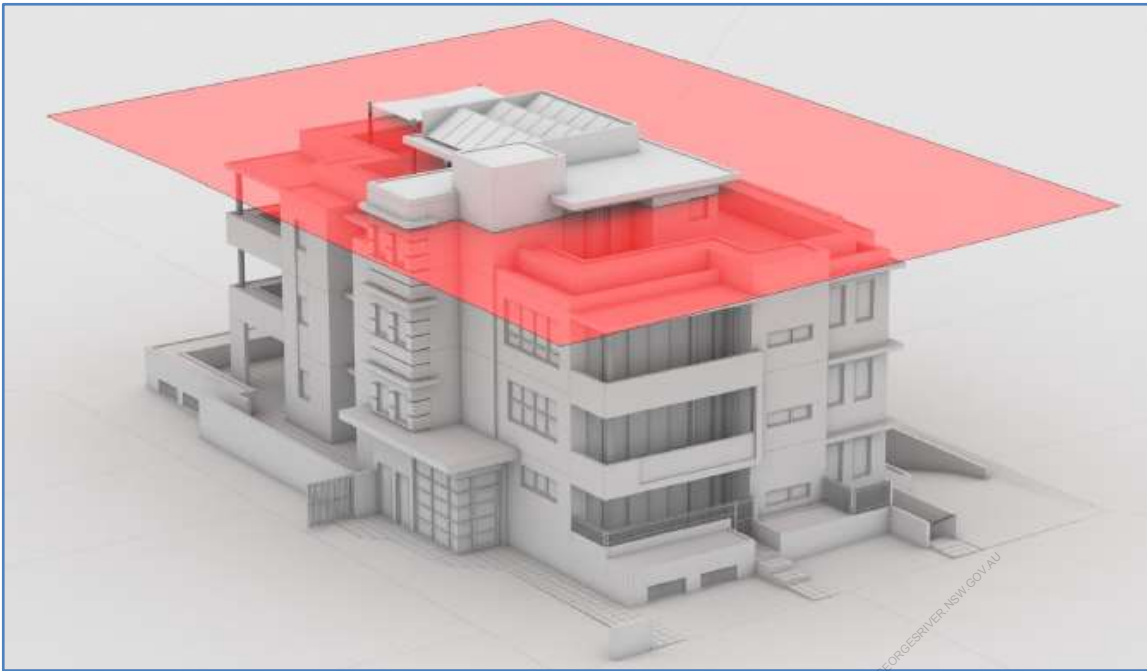


Figure 13: Original Section plan



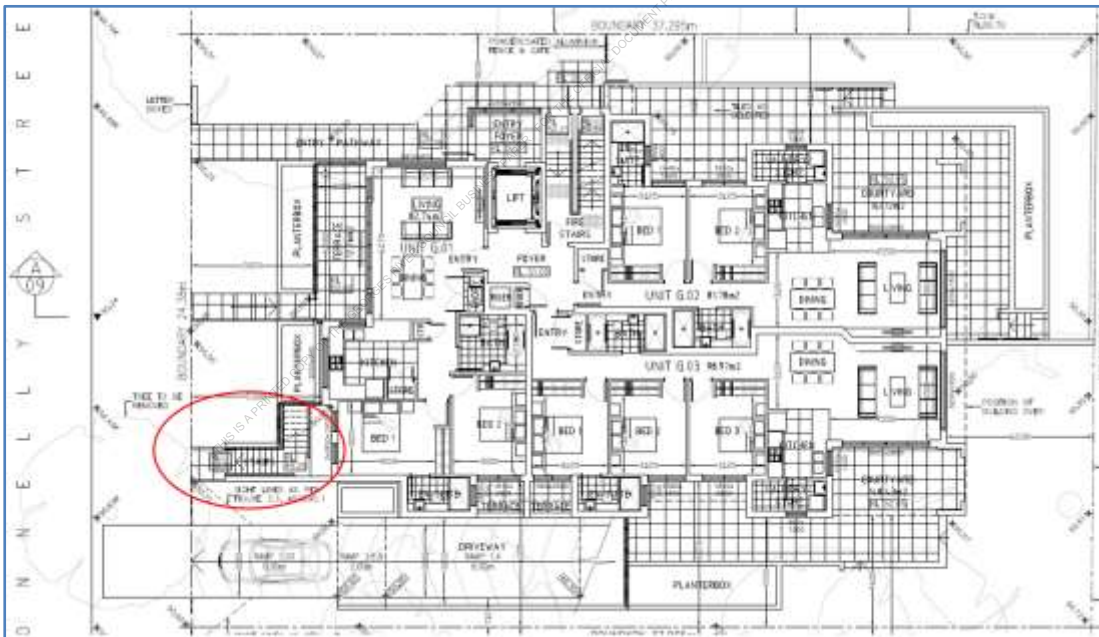
Figure 14: Amended section plan

- The original roof form and height non compliance, prior to the amended design, can be seen in figure 15 below:



**Figure 15:** Original roof form and Height of Building non compliance.

- The applicant removed a basement stairwell from within the front setback, enabling an improved landscaped setting, and urban design outcome, in the front setback. The stair as originally proposed can be seen in Figure 16 below.



**Figure 16:** Original Basement stair exit into front setback, shown in red.

114. Council's Urban Designer raised a number of outstanding matters regarding the modified design, including materials and finishes, and boundary setbacks. A number of design change conditions are recommended as a result.

### External Referrals

#### Ausgrid

115. The application was referred to Ausgrid in accordance with Clause 45 of State Environmental Planning Policy (Infrastructure) 2007. Ausgrid raises no objection to the proposal.



## CONCLUSION

116. The proposal has been assessed using the matters for consideration listed in Section 4.15 of the Environmental Planning and Assessment Act 1979. The proposal is considered to be a reasonable development form given the intensification of site and the proposed additional scale, bulk and height is considered to be an acceptable planning and design outcome for this site and will be consistent with the desired future character of development in the R3 zoned land in this location and immediate locality.
117. The proposal is consistent with various design quality principles of State Environmental Planning Policy 65 including context and neighbourhood character, built form and scale, landscape, amenity and aesthetics.
118. The proposal has been assessed against the provisions of both Hurstville Local Environmental Plan 2012 and Hurstville Development Control Plan No. 1. The proposal exceeds the building height development standard of Hurstville Local Environmental Plan 2012. The Clause 4.6 Statement submitted by the application considered to be well founded, and a height variation is supported for the reasons outlined above. The proposal satisfies the requirements of Clause 4.6 of the Hurstville Local Environmental Plan 2012.
119. For the above reasons, the proposal is recommended for approval.

## DETERMINATION AND STATEMENT OF REASONS

### Statement of Reasons

120. The reasons for this recommendation are:
- The proposed development satisfies the objectives of the R3 Medium Residential zone.
  - The proposal satisfies the design principles of SEPP 65 in that it provides a variety of housing in a well landscaped setting and provides good amenity to future residents through design and provision of private open space.
  - The proposed development complies with the requirements of the relevant environmental planning instruments and development control plan except with the building height of the development, which is considered acceptable having regard to the justification provided in the report above.
  - In this case the Clause 4.6 Statement is considered to be well founded and the non-compliance with the height control is reasonable in the circumstances of the case.
  - The proposal generally achieves compliance with the Apartment Design Guide with respect to both internal and external amenity.
  - The proposed design has been sensitively considered to be consistent with the anticipated desired future character for development in this area.
  - The proposal has effective façade modulation and wall articulation that will serve to provide visual interest and reduce the bulk of the building, which will be further refined through recommended conditions of consent.

### Determination

121. THAT pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act, 1979, as amended, the Georges River Local Planning Panel, grants development consent to Development Application DA2021/0017 for demolition of two existing dwelling houses and the construction of a residential apartment building consisting of 9 apartments over basement parking at Lots 36 and 37 in DP4739 known as 10 – 12 Connelly Street, Penshurst, subject to the following conditions of consent:

## Deferred Commencement Conditions

- A. Deferred Commencement - Materials and Finishes-** Pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, this consent will not operate until the following requirements are satisfied:

The following design changes are to be made and approved by Coordinator Development Assessment - where the facades of the approved development are to be finished in a variety of materials and finishes, including the introduction of darker, recessive colours to parts of the facade, in order to introduce improved visual articulation to the development. The changes required are as follows:

- i) The front (south western facade), is to be finished in:
  - a. Face brick (Bowral Blue or similar as per the approved Schedule of Finishes (Issue B), including the balustrading of units G01, 1.01 and 2.01.
  - b. The glazing feature for the balustrade of Unit 1.01 may remain as per the approved plans.
  - c. Lighter rendering to the eastern portion, consistent with the adjacent development at 6B Connelly Street, Penshurst, is to be applied.
- ii) The north western facade - *including the lift shaft*, (however excluding the fire stair vertical element); is to be finished in face brick (Bowral Blue or similar as per the approved Schedule of Finishes (Issue B), except for the balustrading of each balcony and the entry /lobby.
- iii) The southern eastern elevation shall incorporate a mix of face brick (Bowral Blue or similar as per the approved Schedule of Finishes (Issue B), and rendering.
- iv) The north eastern façade is to be finished in face brick (Bowral Blue or similar as per the approved Schedule of Finishes (Issue B), except for the balustrading of each balcony which may incorporate a rendered finish.
- v) All planter boxes and retaining walls along the northern western, northern and south eastern boundaries, and in the rear communal open space, are to be finished in face brick (Bowral Blue or similar as per the approved Schedule of Finishes (Issue B).
- vi) The front boundary fence is to be finished in (Bowral Blue or similar as per the approved Schedule of Finishes (Issue B), and shall measure no greater than 1.2m in height, stepping down as required to follow the topography.
- vii) As per the approved Schedule of Finishes (Issue B), "Facebricks 2 Bowral" Chillingham White or similar shall not be used., has not been clearly identified on the elevation plans. In order to ensure appropriate materiality and finishes *Facebricks 2 "Bowral" Chillingham White or similar* shall not be used.
- viii) A montage/ render of each façade is to be provided showing the materials and finishes as per the above.

The above details are to be submitted to Council within 36 months of the publication of this decision on the NSW Planning Portal.

## 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	Date	Revision	Prepared by
Basement Plan	DA02	04/07/2021	C	Cornerstone Design
Site/Ground Floor Plan	DA03	25/6/2021	D	Cornerstone Design
First Floor Plan	DA04	Amended by Georges River Council 13/1/2022	C	Cornerstone Design
Second Floor Plan	DA05	Amended by Georges River Council 13/1/2022	C	Cornerstone Design
Rooftop Plan and Roof Plan	DA06	25/6/2021	C	Cornerstone Design
Elevations	DA07	Amended by Georges River Council 13/1/2022	D	Cornerstone Design
Elevations	DA08	Amended by Georges River Council 13/1/2022	C	Cornerstone Design
Section A-A and Streetscape Elevation	DA09	25/6/2021	C	Cornerstone Design
Deep Sol Plan and Excavation Plan	DA16	21/7/2021	B	Cornerstone Design
Driveway Profile	DA17	25/7/2020	A	Cornerstone Design
Erosion and Sediment Control Plan	DA18	25/7/2020	A	Cornerstone Design
Landscape Plan	Sheet 1 of 3 20-4239 LO1	5/8/2021	C	Zenith Landscape Designs
Landscape Plan	Sheet 2 of 3 20-4239 LO2	5/8/2021	C	Zenith Landscape Designs
Landscape Plan	Sheet 3 of 3 20-4239 LO3	5/8/2021	C	Zenith Landscape Designs
Schedule of Finishes	Sheet 1	20/7/2021	B	Cornerstone Design
Schedule of Finishes	Sheet 2	20/7/2021	B	Cornerstone Design

**Separate Approvals Required Under Other Legislation**

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

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

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

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

These separate activity approvals must be obtained and evidence of the approval provided to the Certifying Authority prior to the issue of the Construction Certificate. The relevant Application Forms for these activities can be downloaded from Council's website [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au). For further information, please contact Council's Customer Service Centre on (02) 9330 6400.

3. **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 new 1.5m wide footpath for the full length of the site in accordance with Council's Specifications applying at the time construction approval is sought.
- (b) The thickness and design of the driveway shall be in accordance with Council's Specifications applying at the time construction approval is sought.
- (c) Construct a new 150mm high concrete kerb with 450mm wide gutter for the full length of the prospect road frontages of the site in accordance with Council's Specifications for kerb and guttering, applying at the time construction approval is sought.
- (d) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath 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.

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

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.

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

### Requirements of Concurrence, Integrated & Other Government Authorities

5. **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.
6. **Sydney Water - Tap in™** - The approved plans must be submitted to a Sydney Water Tap in™ to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately endorsed. For details please refer to 'Plumbing, building and developing' section of Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then see 'Building', or telephone 13000 TAP IN (1300 082 746). The Certifying Authority must ensure that a Tap in™ agent has appropriately stamped the plans prior to the issue of the Construction Certificate.
7. **Notice of Requirements for a Section 73 Certificate** - A Notice of Requirements of what will eventually be required when issuing a Section 73 Compliance Certificate under the Sydney Water Act 1994 <<http://legislation.nsw.gov.au/>> must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the 'Plumbing, building and developing' section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) <<http://www.sydneywater.com.au>> then refer to 'Providers' under 'Developing' or telephone 13 20 92 for assistance.

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

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

8. **Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the Sydney Water Act 1994 <<http://legislation.nsw.gov.au/>> must be submitted to the PCA prior to the issue of the Occupation/Subdivision Certificate.

### Prior to the Issue of a Construction Certificate

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

<b>Amendments made in blue on approved plans</b>	All changes made in blue on the approved plans shall be updated and shown on the Construction Certificate plans.
<b>Garage door/shutter to basement.</b>	Solid roller shutters for the vehicular access are not permitted along Connelly Street. If shutters or a door are required to secure the basement, open grille shutters / door should be used that complement the architecture features and materials of the building and to minimise dominance on the streetscape.

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

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

Damage Deposit (\$1236.00 per lineal metre of frontage = 24.38m x \$1236)	\$30, 133.68
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- 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: \$371.00 per inspection.
- c) Submit to Council, before the commencement of work, a dilapidation report of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal.

At the completion of work Council will review the dilapidation report and the Works-As-Executed Drawings (if applicable) and inspect the public works.

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

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

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

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
<b>GENERAL FEES</b>	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See <a href="https://portal.longservice.nsw.gov.au/bci/levy/">https://portal.longservice.nsw.gov.au/bci/levy/</a>	
Damage Deposit (\$1236.00 per lineal metre of frontage = 24.38m x \$1236)	\$30, 133.68
Inspection Fee for Refund of Damage Deposit	\$371.00 per inspection
<b>DEVELOPMENT CONTRIBUTIONS</b>	
Georges River Council Local Infrastructure Contributions Plan 2021 (S7.11 and S7.12)	\$140, 000

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

## 12. **Site Management Plan - Major Development**

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

- location of protective site fencing;
- location of site storage areas/sheds/equipment;
- location of building materials for construction, e.g. stockpiles
- provisions for public safety;
- dust control measures;
- 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.

- 13. 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.

- 14. SEPP 65 Design Verification Statement** - A design verification statement, prepared by a qualified designer, shall be submitted to the Certifying Authority verifying that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out under Schedule 1 of [State Environmental Planning Policy No 65 -Design Quality of Residential Flat Development](#).

- 15. BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No. 1331917M\_03 must be implemented on the plans lodged with the application for the Construction Certificate.

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

- (a) Compliance with the approved Erosion & Sediment Control Plan
- (b) Removal or disturbance of vegetation and top soil is confined to within 3m of the approved building area (no trees to be removed without approval)
- (c) All clean water runoff is diverted around cleared or exposed areas
- (d) Silt fences, stabilised entry/exit points or other devices are installed to prevent sediment from entering drainage systems or waterways
- (e) All erosion and sediment controls are fully maintained for the duration of demolition, excavation and/or development works
- (f) Controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadway
- (g) All disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar

- (h) Compliance with [Managing Urban Stormwater - Soils and Construction \(Blue Book\) produced by Landcom 2004](#).

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

- 17. 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 boundary fencing, retaining walls and pavement/paved areas, including but not limited to:

- a) All neighbouring buildings likely to be affected by the excavation as determined by the consulting engineer, AND
- b) 6B Connelly Street, Penshurst.
- c) 14- 16 Connelly Street, Penshurst.
- d) 19 - 21 Apsley Street, Penshurst.
- e) 15-15 Apsley Street, Penshurst.

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.

**18. On Site Detention**

The submitted Concept Stormwater and OSD Plan prepared by United Consulting Engineer P/L with reference number **"Stormwater Drainage Plans", Drawing No. 20MB8414/D01-D05, Rev B, Five Sheets**, dated 21/05/2021, has been assessed as a concept plan only and no detailed assessment of the design has been undertaken. Final detailed plans of the drainage system, prepared by a professional consulting Civil 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 detail plans including pipe sizes, type, grade, length, invert levels, dimensions, types of drainage pits, three above ground basins, rainwater tanks details prepared by a professional design 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.
- c) A minimum 27.0 cubic metre of three above ground OSD basins volume is to be provided in accordance with the Council approved DA Stormwater Drainage Concept Plan.

- d) Above ground basins DCP1 within front OSD Basin 1 must be installed with a 900X900 grate.
- e) A durable metal plate or similar sign is to be placed at all above ground basins facility and must bear the words:

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

Full details shall accompany the application for the Construction Certificate.

- f) A design certificate shall be submitted from the drainage design engineer (United Consulting Engineer P/L) including final Drainage Design Plans to Council for approval prior to issue of Construction Certificate.

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

- a) Longitudinal and cross sections, gradients, access onto the proposed lots, type of construction materials designed in accordance with Council's Subdivision standards and AS/NZS2890.1-2004.
- b) Suitable underground provision for the supply of all relevant services to the proposed lots (proposed position of pipes and conduits).
- c) The full length of the driveway designed with a minimum 150mm thick reinforced concrete and minimum of 3m wide pavement/kerb face to kerb face width, and a non-slip surface.

**20. Structural details** - Engineer's details prepared by a qualified consulting Structural Engineer with currently valid NER certificate of registration (with name & signature on all design plans) being used to construct all reinforced concrete structural design detailed plan for basement pump sump. The details are to be submitted to the Principal Certifying Authority for approval prior to the issue of construction certificate.

**21. Landscape Plans** - All landscape works shall be carried out in accordance with the approved landscape plans and specifications, drawn by Zenith Landscape Designs, Rev No A, Dwg 10 - 4239 L01 and dated 28/09/21. The landscaping must be maintained in accordance with the approved plans in perpetuity, subject to the following -

- a) The proposed nine (9) trees within the site and all plant species, pot/ bag size and quantities of plants must be in accordance with the proposed plant schedule upon the landscape plan.
- b) The nine (9) trees proposed upon the approved landscape plan shall comply with AS 2303 - 2018, *Tree Stock for Landscape use* and *NATSPEC Specifying Trees: a guide to assessment of tree quality (2003)*, and be planted and maintained in accordance with Councils standard specification;
- c) If the planted trees and plants are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species. If the trees are found dead before they reach a height where they are protected by Councils Tree Management Controls, they must be replaced with the same species and pot/bag size

## 22. Tree Protection and Retention –

The following trees shall be retained and protected in accordance with AS4970 -2009:

Tree Species	Location of Tree / Tree No.	Fencing distance from trunk
<i>Eucalyptus grandis</i>	Within neighbouring site, 14 - 16 Connolly St, side fence	8.3m out from its trunk
<i>Callistemon viminalis</i>	Within neighbouring site, No 8 Connolly St	2.5m
<i>Lagerstroemia indica</i>	Within neighbouring site, 14 - 16 Connolly St, side fence	3.8m
<i>Lagerstroemia indica</i>	Within neighbouring site, No 8 Connolly St, front side	3.8m
<i>Camellia japonica</i> x 2	Within neighbouring site, No 8 Connolly St, front side	2.5m

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

### Tree Protection Measures

- The tree protection measures must be undertaken in accordance AS4970 - 2009 Protection of trees on development sites.
- All trees on adjacent sites, to be retained must be protected before site set up and maintained during demolition, excavation and construction of the site.
- Although trees may be on adjacent sites, the tree protection fencing must be placed on the nominated distances as per table above, out from the trees trunk, within the subject site to minimise impacts to neighbours trees and kept for the entirety of the project.
- Details of the tree protection measures to be implemented must be provided with the application for a Construction Certificate by a qualified Arborist who holds an AQF Level 5 or above in Arboriculture and who is a current practicing and financial member of an Arboricultural Association or Affiliation.
- The engaged AQF 5 Consulting Project Arborist must be present on-site during the stages of site set up, excavation, demolition and construction when works are being undertaken that could impact on the tree canopy or root zone within the tree protection zone of each tree.
- 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 inside the site and no soil or fill should be placed within the protection area.

- i) The tree protection fencing must be kept in place during demolition, excavation and construction and also have a sign displaying 'Tree Protection Zone - DO NOT ENTER' attached to the fence and must also include the name and contact details of the Project Arborist.
- j) The Tree Protection Zone of each tree, to be protected, shall be watered thoroughly and regularly to minimise the effects of construction works.
- k) No building products, preparation of building products, storage of materials, stockpiling, site sheds or services shall be installed or placed within the TPZ of the trees to be retained.

*Excavation works near tree to be retained*

- l) Excavations around the trees to be retained on site, Councils street verge or the adjoining properties shall be supervised by the AQF 5 Project Arborist to ensure that the root system will not adversely be affected.
- m) The excavations for stormwater piping and pits within the TPZ of 8.3m of the Eucalyptus grandis within No 14 Connolly St must be conducted by non destructive methods being by hand, air spade or hydrovac, with no machinery bucket type of machinery allowed. The engaged AQF 5 Arborist must be in attendance during these works with a letter of findings with photographs provided and forwarded to the PCA, to form compliance as per AS4970 - 2009 and ensure the neighbours tree remains viable.
- n) 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.
- o) 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.

**23. Access for Persons with a Disability** - for persons with disabilities must be provided to the premises/building in accordance with the requirements of the Premises Standards, the Building Code of Australia, and AS 1428.1. Details must be submitted with the Construction Certificate Application for approval.

**24. Tree Removal & Replacement**

- a) Tree removal

Consent is granted for the removal of the following trees:

Tree Species	Number of trees	Location
<i>Harpephyllum caffrum</i>	X1	Councils street tree
Council is responsible for the removal of Councils assets		
<i>Ceratopetalum gummiferum</i>	X1	Within site, front yard
<i>Acacia decurrens</i>	X1	Within site, rear yard
<i>Olea europaea subsp Cuspidata</i>	X1	Within site, front side

**General Tree Removal Requirements**



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

#### **Street Tree Removal / Replacement by Council -**

- a) Two (2) street trees of species to be determined 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.

<b>Fee Type - Tree planting on public land</b>	<b>Number of trees</b>	<b>Amount per tree</b>
Administration Fee, tree planting and maintenance	X2	\$489.00
Cost of tree removal - Street tree	Contact Council	
Cost of Stump Grinding - Street tree	Contact Council	

#### **25. Stormwater Drainage Application**

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

- (a) Stormwater & ancillary works in the road reserve. This includes connections to Council.
- (b) Stormwater & ancillary to public infrastructure on private land
- (c) 1800 kerb lintel pit is to be installed at the front of the property along with 400X900 grate
- (d) 375 RCP must be Class 4 type with minimum cover should be 600mm from the pavement surface.

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

The Application Form for this activity can be downloaded from Council's website [www.georgesriver.nsw.gov.au](http://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. Allocation of street addresses** - In order to comply with AS/NZS 4819:2011 Rural and Urban Addressing, the NSW Addressing User Manual (Geographical Names Board of NSW) and Georges River Council's requirements, the street address for the subject development is allocated as follows:

**Primary Address**

- 10 Connelly Street, Penshurst NSW 2222

**Unit Addresses**

<b>Unit description on DA plan</b>	<b>Proposed street address to comply with AS/NZS 4819:2011 and NSW Addressing Manual</b>
Unit G.01	G01/10 Connelly Street, Penshurst NSW 2222
Unit G.02	G02/10 Connelly Street, Penshurst NSW 2222
Unit G.03	G03/10 Connelly Street, Penshurst NSW 2222
Unit 1.01	101/10 Connelly Street, Penshurst NSW 2222
Unit 1.02	102/10 Connelly Street, Penshurst NSW 2222
Unit 1.03	103/10 Connelly Street, Penshurst NSW 2222
Unit 2.01	201/10 Connelly Street, Penshurst NSW 2222
Unit 2.02	202/10 Connelly Street, Penshurst NSW 2222
Unit 2.03	203/10 Connelly Street, Penshurst NSW 2222

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

- 27. Demolition and construction waste** - The storage of all wastes generated during both demolition (including excavation) and construction phases of the development must be stored entirely within the confines of the site with bins and waste storage out of line of sight from the public domain. The applicant must maintain records of licensed waste management disposal for up to 7 years as evidence of correct management of wastes.
- 28. Waste Collection - Private Contractor ONLY**
- a) Strata/Building Manager is responsible for engaging private waste collection services to be provided to the property at expense to the property owners/Strata. Any private waste collection services provided at the site are to be performed entirely within the confines of private property. Private waste collection services can only be provided once per week, between the days of Monday - Friday, and between the hours of 6am - 10pm. As the applicant has not allowed adequate kerbside storage space, bins nor bulky waste will not be permitted to be stored kerbside and waste services are to be provided by private waste contractor entirely within the confines of private property.
  - b) Management of garden organics bin collection by private waste contractor, within private property confines, will be the responsibility of the Strata/Building Manager. If the site elects to cancel the garden organics service once operational, the responsibility for engaging a landscaping contractor to remove organics waste will be the responsibility of the Strata/Building Manager.

- c) The Strata Manager/Building Manager will be responsible for organizing the removal of bulky waste materials from the basement bulky waste storage area by private waste contractors as required and at expense to the Strata/unit owners. Council (including its contractors) will not be responsible for accessing waste from the basement. The applicant must allow for a roller door that does not impede on the storage space of the bulky waste room, that adheres to the BCA.
- d) Collection services are to be provided by private contractor within the confines of private property, and not kerbside/ on Council property

## 29. On-going operational waste -

- a) The Strata/Building Manager will be responsible for coordinating daily cleaning of common areas on each floor, foyers and the lift to prevent slip, spill, odour risks associated with the transport of loose unbagged waste material throughout the site.
- b) Waste removal from each residential level is to be facilitated through the installation of chutes **or** bin storage on each occupied floor, with bins to be rotated by a site caretaker as required.
- c) The Strata/Building Manager will be responsible for coordinating the management, collection and disposal of any litter from common areas including foyers, lift and rooftop areas.

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

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

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

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

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

31. **Dilapidation Report on Public Land - Major Development Only** - 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:

- a) Photographs showing the existing condition of the road pavement fronting the site,

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

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

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

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

- 32. **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](#).
- 33. **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.
- 34. **Contamination of land** - Any new information that comes to light during excavation, demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier and all works on site must cease immediately.

A detailed site contamination investigation shall be carried out by a certified contaminated land consultant in accordance with the requirements of the relevant NSW EPA Guidelines approved under the Contaminated Land Management Act 1997 including the EPA Guidelines for Consultants Reporting on contaminated sites and shall certify the suitability of the site for the proposed development. A copy of the detailed site contamination report must be submitted to Council for review.

Should the detailed site contamination report find that contamination makes the land unsuitable for the proposed development and remediation is required, a Remedial Action Plan must be submitted to Council as per required under State Environmental Planning Policy No 55 - Remediation of Land.

Works associated with the development must not re-commence until such time a validation report prepared by the certified contaminated land consultant verifying that the land is suitable to be used for this development consent is submitted to Council.

Should the recommendation in the detailed site contamination report recommend monitoring of the site, then a monitoring program is to be submitted to Council for assessment and approval prior to any recommencement of works.

**35. Compliance with the recommendation provided in the Preliminary Site Investigation**

Complete and submit information which demonstrates that all recommendations provided in the report submitted to Council titled Preliminary Site Investigation E24870.E01.Rev0, dated 30 October 2020 and prepared by EI Australia, which provide the following recommendations:

*A Hazardous Materials Survey should be undertaken prior to the commencement of any demolition works, to identify any hazardous substances in the existing building fabrics.*

*Following demolition and removal of site structures, an inspection should be performed by a qualified environmental consultant, to confirm there are no visible signs of contamination at the surface (e.g. fragments of ACM, staining, etc).*

*Under the proposed development (Section 1.2 and Appendix B), bulk excavation of site soils will be performed, in order to construct the basement facility. All (fill) soil materials that are designated for off-site disposal, including any virgin excavated natural material (VENM), must be pre-classified in accordance with EPA (2014) Waste Classification Guidelines. The drafting of a Soil Management Plan, with measures for appropriate soil sampling and classification testing, would assist this process.*

*Any material being imported to the site (i.e. for backfilling and/or landscaping purposes) should be validated as suitable for the intended use in accordance with EPA guidelines.*

**36. 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.

- 37. 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**

- 38. 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.
- 39. Registered Surveyors Report - During Development Work** - A report based on progressive construction of all three above ground OSD basins is required which must be prepared, signed and submitted by a Registered Surveyor (signed and registration number) including Drainage Design Engineer regarding construction finished level information (RL's in mAHD) to the PCA and Council at each of the following applicable stages of construction:
- Set out before commencing excavation.
  - All drainage pits and pipes work including the DCP1 formwork and also upon commencing work.
  - Finished surface/invert levels and all associated basin structure works upon completion of works.
  - During construction, a drainage design engineer from Consulting Structural Design Engineer from United Consulting Engineer P/L must carry out inspections to certify all drainage system and OSD basin associated construction works within the property are in accordance with DA approved plans in order to ensure appropriate drainage systems in place for the life cycle of the development. Any proposal to deviate from the approved civil design must be approved in writing by Council's Development Engineer.
  - Note: Work must not proceed beyond each stage until the drainage design engineer has been satisfied that the drainage work is proceeding in accordance with the approved plans.
- 40. 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)
- 41. Development Engineering - Damage within Road Reserve and Council Assets** - The owner shall bear the cost of restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site. This may include works by Public Utility Authorities in the course of providing services to the site.



- 42. Development Engineering - Public Utility and Telecommunication Assets** - The owner shall bear the cost of any relocation or modification required to any Public Utility Authority assets including telecommunication lines and cables and restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site.
- 43. Hours of construction for demolition and building work** - Unless authorised by Council:
- Building construction and delivery of material hours are restricted to: 7.00 am to 5.00 pm (inclusive) Monday to Saturday and no work on Sundays and Public Holidays.
  - Demolition and excavation works are restricted to: 8.00 am to 5.00 pm (inclusive) Monday to Friday only. Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site.
- 44. Ground levels and retaining walls –**
- The ground levels of the site shall not be excavated, raised or filled except where indicated on approved plans or approved by Council
  - Retaining walls shall not be constructed on the allotment boundary. All retaining walls, including footings, shall be constructed wholly within the boundary of the site.
- 45. Cost of work to be borne by the applicant** - The applicant shall bear the cost of all works associated with the construction of the development that occurs on Council property. Care must be taken to protect Council's roads, including the made footway, kerbs, etc., and, where plant and vehicles enter the site, the footway shall be protected against damage by deep-sectioned timber members laid crosswise, held together by hoop iron straps and chamfered at their ends. This construction shall be maintained in a state of good repair and condition throughout the course of construction.
- 46. Obstruction of Road or Footpath** - The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste or skip bins, or any other matter is not permitted unless separately approved by Council under Section 138 of the [Roads Act 1993](#) and/or under Section 68 of the [Local Government Act 1993](#). Penalty infringement Notices may be issued for any offences and severe penalties apply.
- 47. 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.
- 48. Development Engineering - Damage within Road Reserve and Council Assets** - The owner shall bear the cost of restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site. This may include works by Public Utility Authorities in the course of providing services to the site.

## Prior to the issue of the Occupation Certificate

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

- (a) Construct a new 1.5m wide footpath for the full frontage of the site in accordance with Council's Specifications applying at the time construction approval is sought.
- (b) Construct the driveway crossing in accordance with Council's specifications for vehicular crossings.
- (c) Construct a new 150mm high concrete kerb with 450mm wide gutter for the full length of all frontages of the site in accordance with Council's Specifications for kerb and guttering, applying at the time construction approval is sought.
- (d) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the applicant and in accordance with Council's Specification for Driveway Crossings and Associated Works.
- (e) The design boundary level is to be received from Council prior to construction of the internal driveway.

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.

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

- (a) Stormwater pipes, pits and connections to public stormwater systems within the road related area;
- (b) Driveways and vehicular crossings within the road related area;
- (c) Removal of redundant driveways and vehicular crossings;
- (d) New footpaths within the road related area;
- (e) Relocation of existing power/light pole
- (f) Relocation/provision of street signs
- (g) New or replacement street trees;
- (h) 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.
- (i) New or reinstated kerb and guttering within the road related area; and
- (j) New or reinstated road surface pavement within the road.

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

51. **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](http://www.legislation.nsw.gov.au/) [<http://www.legislation.nsw.gov.au/>](http://www.legislation.nsw.gov.au/) (as amended) and [Regulations](http://www.legislation.nsw.gov.au/) [<http://www.legislation.nsw.gov.au/>](http://www.legislation.nsw.gov.au/).

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

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

52. **Noise Domestic Air conditioner and Heat pump water heaters (less than 450mm from boundary)** - Prior to the issue of any Occupation Certificate, a report prepared by a professional acoustic engineer must be submitted to the PCA to certify that the design and construction of the air conditioner / heat pump water heaters shall not produce a sound level exceeding 5 dB(A) above the ambient background level at the closest neighbouring boundary between the hours of 8:00am and 10:00pm on Saturdays, Sundays and Public Holidays and between the hours of 7:00am and 10:00pm on any other day. Outside the specified hours, the sound level output for the running of air conditioner shall not exceed the ambient background noise level.
53. **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.
54. **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 of the three on-site stormwater management system which is, or shall be, constructed on the lot(s) burdened without the prior consent in writing of Georges River Council. The expression "on-site stormwater management system" shall include all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to manage stormwater quantity or quality including the temporary detention or permanent retention of stormwater storages. Any on-site stormwater management system constructed on the lot(s) burdened is hereafter referred to as "the system."*

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

#### **Positive Covenants**

1. *The registered proprietor of the lot(s) hereby burdened will in respect of the system:*

- a) *keep the system clean and free from silt, rubbish and debris*
- b) *maintain and repair and replace (following expiring twin 5910KL tanks life cycle- generally every ten years subject to manufacturer's life cycle warranty) at the sole expense of the registered proprietors the whole of the system so that it functions in a safe and efficient manner*
- c) *permit the Council or its authorised agents from time to time and upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land for the compliance with the requirements of this covenant*
- d) *comply with the terms of any written notice issued by the Council in respect of the requirements of this covenant within the time stated in the notice.*

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

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

**55. 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.

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

**57. Parking and Driveway**

- a. 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*.
- b. 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.
- c. All vehicles must enter and exit the development in a forward direction.
- d. All allocated car parking spaces shall be freely available for the visitors of the proposed development.
- e. 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.
- f. 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*
- g. No deliveries to the premises shall be made direct from a public place or street inclusive of footpaths, nature strip, roadway and car parks.

**58. Traffic light system** - A traffic light system is to be installed, giving priority to vehicles entering the property to regulate the one-way movement for vehicular access to the property.

Evidence of the installation of the above is to be certified and evidence provided to the PCA prior to the issue of an Occupation Certificate.

**59. Maintenance Schedule - On-site Stormwater Management** - A Maintenance Schedule for the proposed on-site stormwater management measures is to be prepared and submitted to Council. The Maintenance Schedule shall outline the required maintenance works, how and when these will be done and who will be carrying out these maintenance works.**60. 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 a final occupation certificate.**61. Requirements prior to the issue of the Occupation Certificate** - The following shall be completed and or submitted to the PCA prior to the issue of the Occupation Certificate:

- (a) All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
- (b) The internal driveway construction works, together with the provision for all services (conduits and pipes laid) shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
- (c) Construct any new vehicle crossings required.

- (d) Replace all redundant vehicle crossing laybacks with kerb and guttering and replace redundant concrete with turf.
- (e) A Section 73 (Sydney Water) Compliance Certificate for the Subdivision shall be issued and submitted to the PCA prior to the issue of the Occupation Certificate.
- (f) Work as Executed Plans prepared jointly by the design engineer and a Registered Surveyor (signed & registration number) following completion of all site engineering works and shall be submitted to the PCA prior to the issue of the Occupation Certificate.

**62. Requirements prior to the issue of the Occupation Certificate - Driveway Works –**

The following shall be completed and or submitted to the PCA prior to the issue of the Occupation Certificate:

The following shall be completed and or submitted to the PCA prior to the issue of the Occupation Certificate:

- (a) Construction of new vehicle crossings as required by this consent.
- (b) Replacement of all redundant vehicle crossing laybacks with kerb and guttering, and replacement of redundant concrete with turf in front properties (both front and rear sides).

**63. 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.

**64. Dilapidation Report on Public Land for Major Development Only** - Upon completion of works, a follow up dilapidation report must be prepared for the items of Council infrastructure adjoining the development.

The dilapidation report must be prepared by a professional engineer specialising in structural engineering, and include:

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

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

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



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

- 65. Stormwater drainage works - Works As Executed** – Prior to the issue of the Occupation Certificate, storm water drainage works are to be certified by a drainage designer engineer prepared by Ibrahim Stormwater Consultants 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 of 27.0 cubic meter as minimum for flow attenuation in accordance with the submitted calculations;
- (d) Pipe/Pits and Site Outlet 300RCP invert and surface levels to Australian Height Datum thus complying with approved CC design plans;
- (e) The Work-As-Executed plans are prepared on the copies of the approved drainage plans issued with the Construction Certificate and variations are marked in red ink;
- (g) The Work-As-Executed plans have been jointly prepared and signed by the design engineer and a registered surveyor certifying the accuracy of dimensions, invert levels, surface levels, storage volume etc;

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

- 66. Completion of Landscape Works** - All landscape works must be completed before the issue of the Final Occupation Certificate.

- a) All landscape works, the planting of nine (9) trees upon the site and the payment for Councils street trees (x2) must be completed before the issue of the Final Occupation Certificate and in accordance with approved landscape plans and specifications, drawn by Zenith Landscape Designs, Rev No A, Dwg 10 - 4239 L01 and dated 28/09/21.
- b) A certificate of compliance for the planting of all nine (9) trees and shrubs proposed for the site. An AQF 5 Horticulturist must 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.
- c) A final certificate of compliance letter, once all building and landscape works have been completed, from the engaged AQF 5 Consulting Arborist, that tree protection measures have been installed and maintained for the entirety of the project and report on the condition of the trees that as part of this Consent, were to be protected and retained, prior to obtaining an Occupation Certificate. by the PCA.

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

- a) All neighbouring buildings likely to be affected by the excavation as determined by the consulting engineer, AND
- b) 6B Connelly Street Penshurst.
- c) 14- 16 Connelly Street Penshurst.
- d) 19 - 21 Apsley Street, Penshurst.

- e) 15-15 Apsley Street, Penshurst.

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.

- 68. Allocation of car parking spaces** - Car parking associated with the development is to be allocated as follows:

- (a) Residential dwellings: twelve (12)
- (b) Residential visitors: two (2) (includes one space as a dual use of visitor and carwash parking - space 14)

### Operational Conditions (On-Going)

- 69. 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.
- 70. 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).
- 71. 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.
- 72. 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.
- 73. 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.
- 74. Maintenance of Landscaping** -
- a. All trees and plants forming part of the landscaping must be maintained. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilizing, pest and disease control, replacement of dead or dying plants and any other operations required to maintain healthy trees, plants and turfed areas.

### Tree Replacement within subject site

- b. If the replacement trees are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species. If the trees are found dead before they reach a height where they are protected by Councils Tree Management Controls, they must be replaced with the same species and pot/bag size.

A copy of the Hurstville City Council's Tree Removal and Pruning Guidelines and Kogarah City Council, Street Tree Management Strategy, Masterplan, and Tree Management Policy 2019, can be downloaded from Council's website [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au) <<http://www.georgesriver.nsw.gov.au>>.

75. **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.
76. **Entering & Exiting of vehicles** - All vehicles shall enter and exit the premises in a forward direction.

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

77. **Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued.
78. **Appointment of a PCA** - The erection of a building must not commence until the applicant has:
  - (a) appointed a PCA for the building work; and
  - (b) if relevant, advised the PCA that the work will be undertaken as an Owner -Builder.

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

1. 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
2. notify the PCA of the details of any such appointment; and
3. 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.

79. **Notification Requirements of PCA** - No later than two days before the building work commences, the PCA must notify:
  - (a) the consent authority and the Council (if not the consent authority) of his or her appointment; and
  - (b) the applicant of the critical stage inspections and other inspections that are to be carried out with respect to the building work.

80. **Notice of Commencement** - The applicant must give at least two days notice to the Council and the PCA of their intention to commence the erection of a building.

A Notice of Commencement Form is attached for your convenience.

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

**82. Notice to be given prior to critical stage inspections** - The principal contractor for a building site, or the owner-builder, must notify the PCA at least 48 hours before each required inspection needs to be carried out.

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

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

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

## Prescribed Conditions

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

**85. Clause 98 - Building Code of Australia & Home Building Act 1989** - Requires all building work to be carried out in accordance with the Building Code of Australia. In the case of residential building work to which the Home Building Act 1989 relates, there is a requirement for a contract of insurance to be in force before any work commences.

**86. Clause 98A - Erection of Signs** - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the PCA and the Principal Contractor.

**87. Clause 98B - Home Building Act 1989** - If the development involves residential building work under the [Home Building Act 1989](#), no work is permitted to commence unless certain details are provided in writing to Council. The name and licence/permit number of the Principal Contractor or Owner Builder and the name of the Insurer by which work is insured under Part 6 of the [Home Building Act 1989](#).

**88. Clause 98E - Protection & support of adjoining premises** - If the development involves excavation that extends below the level of the base of the footings of a building on adjoining land, this prescribed condition requires the person who benefits from the development consent to protect and support the adjoining premises and where necessary underpin the adjoining premises to prevent any damage.

**89. PRE16.8 - 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.

## NOTES/ADVICES

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

Useful links relating to Noise:

- (a) Community Justice Centres - free mediation service provided by the NSW Government ([www.cjc.nsw.gov.au](http://www.cjc.nsw.gov.au)).
- (b) Department of Environment and Conservation NSW, Noise Policy Section web page ([www.environment.nsw.gov.au/noise](http://www.environment.nsw.gov.au/noise)).

- (c) New South Wales Government Legislation home page for access to all NSW legislation, including the Protection of the Environment Operations Act 1997 and the Protection of the Environment Noise Control Regulation 2000 ([www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)).
  - (d) Australian Acoustical Society - professional society of noise-related professionals ([www.acoustics.asn.au/index.php](http://www.acoustics.asn.au/index.php)).
  - (e) Association of Australian Acoustical Consultants - professional society of noise related professionals ([www.aaac.org.au](http://www.aaac.org.au)).
  - (f) Department of Gaming and Racing - ([www.dgr.nsw.gov.au](http://www.dgr.nsw.gov.au)).
6. **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.
  7. **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.
  8. **Access for persons with disabilities** - Should the Council be appointed as the PCA, an Access report prepared by an Accredited Access Consultant may be required to be submitted with the Construction Certificate Application, detailing the existing level of compliance in the building with the above requirements, and to provide details of proposed upgrading work necessary to bring the building into conformity with the Premises Standards and the BCA. All recommendations of the accredited access consultant must be incorporated in the plans to be submitted with the Construction Certificate application.
  9. **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.






10. **Council as PCA - Deemed to Satisfy Provisions of BCA** - Should the Council be appointed as the PCA in determining the Construction Certificate, the building must comply with all the applicable deemed to satisfy provision of the BCA. However, if an alternative fire solution is proposed it must comply with the performance requirements of the BCA, in which case, the alternative solution, prepared by an appropriately qualified fire consultant, accredited and having specialist qualifications in fire engineering, must justifying the non-compliances with a detailed report, suitable evidence and expert judgement. Council will also require if deemed necessary, for the alternative solution to undergo an independent peer review by either the CSIRO or other accredited organisation. In these circumstances, the applicant must pay all costs for the independent review.
11. **Acoustical Engineer Contacts & Reference Material** - Further information including lists of Acoustic Engineers can be obtained from:
- (a) Australian Acoustical Society - professional society of noise-related professionals ([www.acoustics.asn.au](http://www.acoustics.asn.au))
  - (b) Association of Australian Acoustical Consultants - professional society of noise related professionals ([www.aaac.org.au](http://www.aaac.org.au))
  - (c) NSW Industrial Noise Policy - Office of Environment & Heritage ([www.environment.nsw.gov.au](http://www.environment.nsw.gov.au))
12. **Stormwater & Ancillary Works - Applications under Section 138 Roads Act and/or Section 68 Local Government Act 1993** - To apply for approval under Section 138 of the Roads Act 1993 and/or Section 68 Local Government Act 1993:
- (a) Complete the Stormwater Drainage Application Form which can be downloaded from Georges River Council's website at [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au).
  - (b) In the Application Form, quote the Development Consent No. and reference the condition number.
  - (c) Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Council's adopted Fees and Charges for the administrative and inspection charges associated with stormwater applications.

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

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

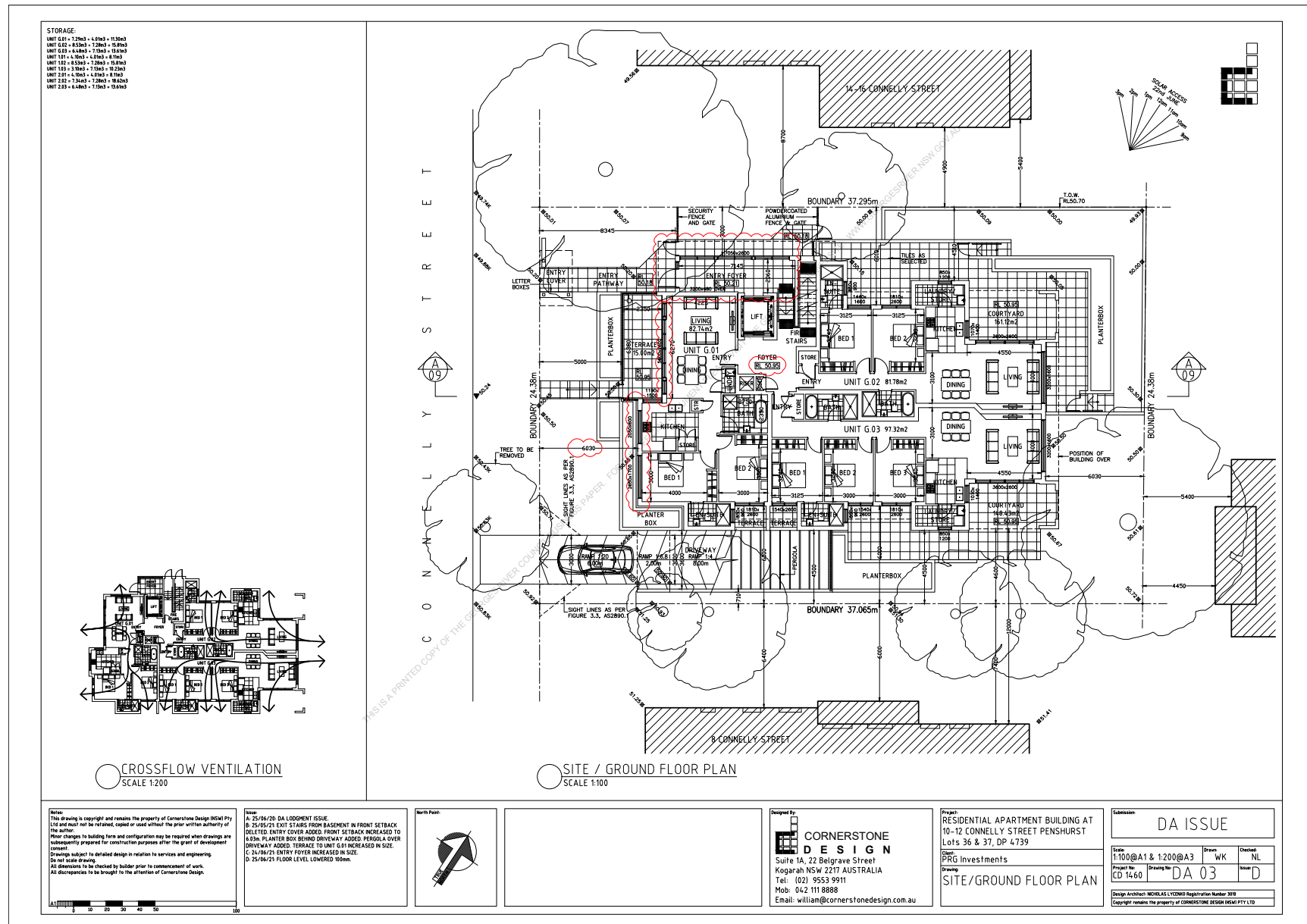
NOTE: A minimum of four weeks should be allowed for assessment.

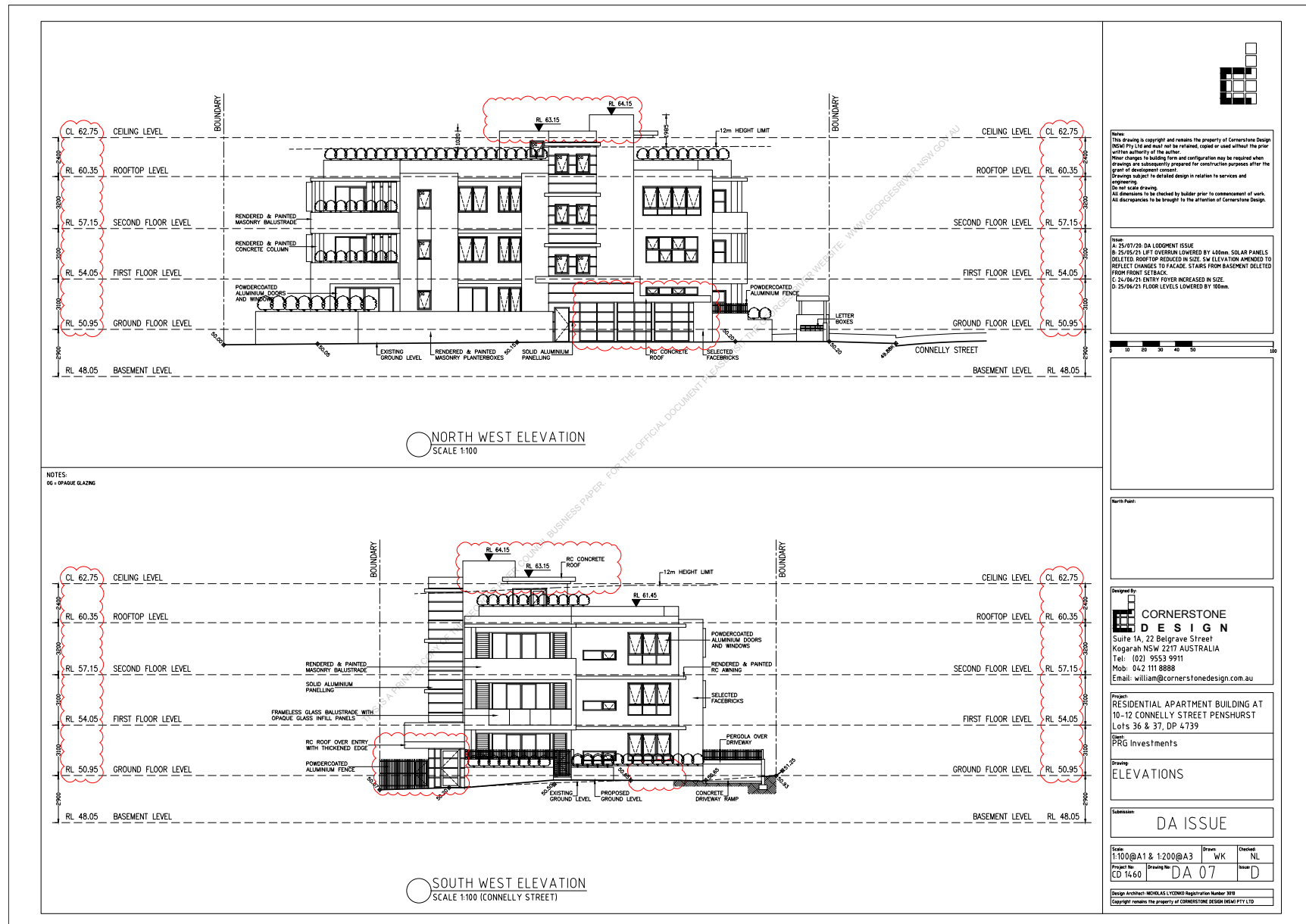
## ATTACHMENTS

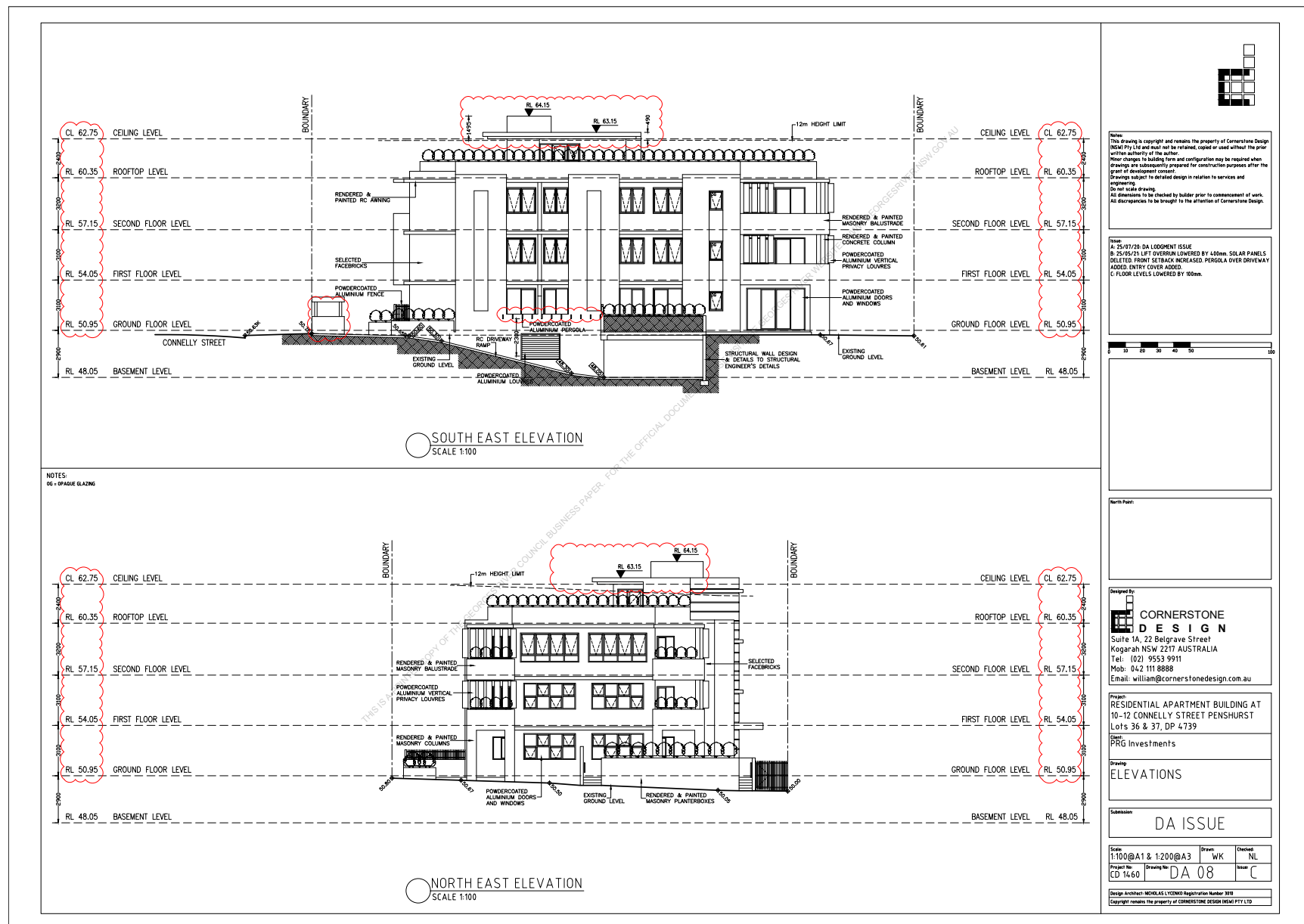
- Attachment [↓](#) 1  Site Plan/Ground Floor Plan
- Attachment [↓](#) 2  Elevations
- Attachment [↓](#) 3  Elevations

LPP006-22

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**REPORT TO GEORGES RIVER COUNCIL  
 LPP MEETING OF THURSDAY, 03 MARCH 2022**

LPP007-22 Attachment 3

<b>LPP Report No</b>	<b>LPP007-22</b>	<b>Development Application No</b>	<b>MOD2021/0173</b>
<b>Site Address &amp; Ward Locality</b>	13-21 Wyuna Street, Beverley Park Kogarah Bay Ward		
<b>Proposed Development</b>	Modification of development Consent No. DA2019/0439 for demolition, tree removal, construction of a 7 storey residential flat building with basement parking		
<b>Owners</b>	Mr Coplin, Mrs Coplin, Wyuna Group P/L		
<b>Applicant</b>	Wyuna Group Pty Ltd		
<b>Planner/Architect</b>	Architect: Shiro Architects Planner: Think Planners		
<b>Date Of Lodgement</b>	6/11/2021		
<b>Submissions</b>	One (1) submission		
<b>Cost of Works</b>	Original DA \$16,421,429.00		
<b>Local Planning Panel Criteria</b>	The application relates to development to which the State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development applies and the application has been lodged under Section 4.55(2) of the Act.		
<b>List of all relevant s.4.15 matters (formerly s79C(1)(a))</b>	State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment, State Environmental Planning Policy No.55 – Remediation of Land, State Environmental Planning Policy (Infrastructure) 2007, Draft Environmental State Environmental Planning Policy, Draft State Environmental Planning Policy – Remediation of Land, Georges River Local Environmental Plan 2021, Georges River Development Control Plan 2021		
<b>List all documents submitted with this report for the Panel's consideration</b>	Statement of Environmental Effects, Architectural Plans, Fire Engineer Letter, QS Report, Design Verification Statement, Stormwater Plans, Clause 4.6 Variation Request (FSR), Submission		
<b>Report prepared by</b>	Senior Development Assessment Planner		

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

## Site Plan



## Executive Summary Proposal



1. The Section 4.55(2) modification application seeks consent for amendments to a consent granted under DA2019/0439, approved by the Georges River Local Planning Panel on 6 August 2020 for demolition, tree removal, construction of a 7 storey residential flat building with basement parking.
2. The modifications sought include:
  - Removal of the mezzanine level of the basement that contained the storage areas for the apartments;
  - Removal of garbage chutes from the development with garbage and recyclables now being taken to the basement waste room;
  - Relocation of storage units to basement two that previously contained motorcycle spaces not required to be provided by the DCP;
  - Removal of one of the two central fire stairs (from adjacent to the lifts) as a result of consultation with a Fire Engineer;
  - Relocation of the two lifts to be located either side of the centralised fire stair;
  - Provision of a new void/light well in the southern portion of the building as a result of the refinement of the need for plant/service rooms throughout the development;
  - Refinement of corridors on all levels as a result of changes the cores and incorporating some corridor space to within apartments;
  - Refinement of plant/services rooms and vertical ducts as a result of detailed design and subsequent increase in internal floor space to some apartments including 5 apartments on each level between levels 1 -3 being apartments 106, 107, 108, 110 and 311 (and the apartments immediately below and above on the next 2 levels); and units 404/504. Four Units being GO7,107, 207 and 307 are now provided with a study as a result of market feedback from potential purchases around COVID impacts;
  - Changes to the internal layouts of the majority of apartments as a result of kitchen layout refinement, bathroom layout and refinement of built in robes;
  - Reduction in height of the southern portion of the building by 390mm as a result of design refinement including the removal of the mezzanine storage areas; and
  - Increase in height of block B by 350mm as a result of reducing the level difference between the two blocks. The approved difference was 1.5m and this modification reduces the level change to 760mm.
  - As a result of the above changes the development has a proposed FSR of 2.02:1 and the overall height of the development has decreased from 22.15m to 21.76m.

### Site and Locality

3. The development site is located on the north western side of Wyuna Street, approximately 100m from its intersection with Stubbs Street. It consists of five (5) existing allotments known as 13, 15, 17, 19 and 21 Wyuna Street, Beverley Park. These sites are legally identified as Lots 8, 20, 21, 22 and 23 in DP 7056.
4. The consolidated site is irregular in shape. It has a total frontage to Wyuna Street of 62.43m and a total site area of 2,675.91sqm. The land falls gently to the street from the rear boundary.
5. Presently situated on the site are five (5) residential dwellings, consisting of one (1) single storey house and four (4) two storey houses with ancillary structures including detached garages, sheds, garden beds and an in-ground swimming pool.
6. This entire block (surrounded by Princes Highway to the north west, Stubbs Street to the north east, Lacey Street to the south west and Wyuna Street to the south east) is

zoned R4 High Density Residential with a maximum height of 21m and a maximum Floor Space Ratio (FSR) of 2:1.

7. The adjacent residential block to the west, bounded by Princes Highway, Lacey Street, John Street and Park Road, has also been up-zoned in the same manner.
8. On the northern side of the Princes Highway to the aforementioned two (2) blocks is the Carlton strip shopping centre zoned B2 Local Centre.
9. Land on the opposite side of Wyuna Street is zoned R2 Low Density Residential and is characterised by single dwelling houses.

### **Zoning and Permissibility**

10. The site is zoned R4 High Density Residential under Georges River Local Environmental Plan 2021 (GRLEP) and the proposed modification being works to the approved residential flat building is permissible with Council's consent.

### **Submissions**

11. The application was neighbour notified between 25 May 2020 and 9 June 2020. One submission was received.

### **Reason for referral to the Local Planning Panel**

12. The proposal is referred to the Local Planning Panel for determination as the development is subject to SEPP 65 and the application has been lodged under Section 4.55(2) of the Act. The Georges River Local Planning Panel is the consent authority via the Ministerial Direction of 23 February 2018.

### **Conclusion**

13. The application has been assessed having regard to Section 4.55(2) of the Environmental Planning and Assessment (EP&A) Act 1979 and the Matters for Consideration under Section 4.15(1) of the EP&A Act 1979. Following the assessment of the proposal, it is considered that Modification No. MOD2021/0173 is worthy of support and is recommended for approval subject to modified conditions.

## **Report in Full**

### **Site and Locality**

14. The development site is located on the north western side of Wyuna Street, approximately 100m from its intersection with Stubbs Street. It consists of five (5) existing allotments known as 13, 15, 17, 19 and 21 Wyuna Street, Beverley Park. These sites are legally identified as Lots 8, 20, 21, 22 and 23 in DP 7056.
15. The consolidated site is irregular in shape. It has a total frontage to Wyuna Street of 62.43m and a total site area of 2,675.91sqm. The land falls gently to the street from the rear boundary.
16. Presently situated on the site are five (5) residential dwellings, consisting of one (1) single storey house and four (4) two storey houses with ancillary structures including detached garages, sheds, garden beds and an in-ground swimming pool.
17. This entire block (surrounded by Princes Highway to the north west, Stubbs Street to the north east, Lacey Street to the south west and Wyuna Street to the south east) is zoned R4 High Density Residential with a maximum height of 21m and a maximum Floor Space Ratio (FSR) of 2:1.

18. The adjacent residential block to the west, bounded by Princes Highway, Lacey Street, John Street and Park Road, has also been up-zoned in the same manner.
19. On the northern side of the Princes Highway to the aforementioned two (2) blocks is the Carlton strip shopping centre zoned B2 Local Centre.
20. Land on the opposite side of Wyuna Street is zoned R2 Low Density Residential and is characterised by single dwelling houses.

### Background

21. The approved development is for the demolition, tree removal, construction of a 7 storey residential flat building with basement parking. (DA2019/0439, which was approved by the Georges River Planning Panel on 6 August 2020.
22. A previous modification application (MOD2021/0040) was approved on 21 April 2021 for inclusion of the stormwater plans in the approved plans list, correction of the S7.11 contributions figures, correction of conditions imposed in error or with incorrect references.

### Proposal

23. The applicant seeks to modify Development Consent No DA2019/0439 in the following manner:
  - Removal of the mezzanine level of the basement that contained the storage areas for the apartments;
  - Removal of garbage chutes from the development with garbage and recyclables now being taken to the basement waste room;
  - Relocation of storage units to basement two that previously contained motorcycle spaces not required to be provided by the DCP;.
  - Removal of one of the two central fire stairs (from adjacent to the lifts) as a result of consultation with a Fire Engineer;
  - Relocation of the two lifts to be located either side of the centralised fire stair;
  - Provision of a new void/light well in the southern portion of the building as a result of the refinement of the need for plant/service rooms throughout the development;
  - Refinement of corridors on all levels as a result of changes the cores and incorporating some corridor space to within apartments;
  - Refinement of plant/services rooms and vertical ducts as a result of detailed design and subsequent increase in internal floor space to some apartments including 5 apartments on each level between levels 1 -3 being apartments 106, 107, 108, 110 and 311 (and the apartments immediately below and above on the next 2 levels); and units 404/504. Four Units being GO7,107, 207 and 307 are now provided with a study as a result of market feedback from potential purchases around COVID impacts;
  - Changes to the internal layouts of the majority of apartments as a result of kitchen layout refinement, bathroom layout and refinement of built in robes;
  - Reduction in height of the southern portion of the building by 390mm as a result of design refinement including the removal of the mezzanine storage areas; and
  - Increase in height of block B by 350mm as a result of reducing the level difference between the two blocks. The approved difference was 1.5m and this modification reduces the level change to 760mm.
  - As a result of the above changes the development has a proposed FSR of 2.02:1 and the overall height of the development has decreased from 22.15m to 21.76m.

24. The conditions in the consent requiring modification are limited to Condition 1 – Approved Plans and Condition 43 – BASIX Commitments.

## ASSESSMENT

### Section 4.55(2) Considerations

25. The application has been made pursuant to Section 4.55(2) of the Environmental Planning and Assessment Act 1979 to modify Development Consent DA2019/0439 determined on 6 August 2020 by the Georges River Local Planning Panel. 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 it:

- **Is satisfied the proposed development as modified is substantially the same development for which consent was originally granted?**

26. The proposed development as modified would represent substantially the same development for which consent was originally granted being a residential flat building.

- **Has advertised and or notified the application in accordance with the regulations or a development control plan?**

27. The application was neighbour notified in accordance with the provisions of Georges River Development Control Plan 2021 and one submission was received.

- **Has considered any submissions made concerning the proposed modification?**

28. One submission was received. This is addressed in detail later in this report.

### Section 4.15 Evaluation

29. In determining a Section 4.55(2) modifications the provisions of Section 4.15 of the EP&A Act 1979 (where relevant) need to be considered as part of the assessment. The following considers the proposal in respect to these requirements.

### State Environmental Planning Policies

30. Compliance with the relevant State Environmental Planning Policies (SEPPs) are discussed in the table below.

State Environmental Planning Policy	Complies
Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment	Yes – no change.
State Environmental Planning Policy 55 – Remediation of Land	Yes - no change.
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Yes – amended BASIX Certificate submitted.
State Environmental Planning Policy (Infrastructure) 2007	Yes - no change.
State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development	Yes - see discussion below.
Draft Environment State Environmental Planning Policy	Yes - no change.
Draft Remediation of Land State Environmental Planning Policy	Yes - no change.

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

31. The proposed modification does not affect the overall design quality of the development which was also taken into consideration under Clause 29 of the SEPP in the assessment of the original DA with regards to the cl 29(b) the design quality principles, and cl 29(c) the Apartment Design Guide (ADG).
32. An assessment of the application against the relevant Design Principles of SEPP 65 and the Objectives in the ADG is provided below. Compliance with 1 – Context and neighbourhood character, 4 – Sustainability, 5 – Landscape, 6 – Amenity, 7 – Safety, 8 – Housing Diversity and Social Interaction and 9 – Aesthetics will not be affected by the modifications proposed.

### Part 4 Application of Design Principles under the SEPP

#### Principle 2: Built form and scale

33. The overall design of the building is generally unchanged and its relationship to other built form in the locality remains unchanged. The height is reduced as compared to the approved height of the building and the minor increase in FSR is contained within the approved building footprint and will not have any visual or amenity impact on the adjoining allotments or the public domain.
34. In summary, the proposal is considered to be consistent with the Design Principles of SEPP 65 – Design Quality of Residential Apartment Development.

#### Clause 28 – Consideration of Apartment Design Guide (ADG)

35. The following table is an assessment against the Objectives of the ADG relevant to the modification application.

ADG Compliance Table		
Standard	Proposal	Complies
<b>3D – Communal Open Space (COS)</b>		
Provide COS at least 25% of the site area located on a podium or roof if it can't be located on ground level  At least 50% direct sunlight to the principal usable part of the COS for at least 2 hours between 9 am and 3 pm on 21 June (mid-winter)	No change to the approved development in this regard.	
<b>3E – Deep Soil Zones</b>		
Site area is > 1,500sqm = 6m min dimension  Min deep soil area of 7%	No change to the approved development in this regard.	
<b>3F – Visual Privacy</b>		
Minimum separation to side and rear boundaries:  <u>Up to 12m (4 storeys):</u> 3m non-habitable rooms	No change to the approved development in this regard.	

6m habitable rooms & balconies	
12m to 25m (5-8 storeys): 4.5m non-habitable rooms 9m habitable rooms and balconies	
<b>3G – Pedestrian Access and Entries</b>	
Building entries and pedestrian access connects to and addresses the public domain	No change to the approved development in this regard.
Multiple entries (including communal building entries and individual ground floor entries) should be provided to activate the street edge	
<b>3H – Vehicle Access</b>	
Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes	No change to the approved development in this regard.
<b>3J – Bicycle and Car Parking</b>	
Car parking provided in accordance with RMS GTTGD (Sub-Regional Centres) for sites located within 800m of a railway station or light rail stop in the Sydney Metropolitan Area.	No change to the approved development in this regard.
<b>4A – Solar and Daylight Access</b>	
Living rooms and private open space receive 2 hours direct sunlight between 9am and 3pm in midwinter for 70% of apartments (ie 13 apartments)	No change to the approved development in this regard.
Max. 15% of apartments receive no direct sunlight between 9am and 3pm in midwinter	
<b>4B – Natural Ventilation</b>	
At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building (i.e. 11 apartments)	No change to the approved development in this regard.
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	
<b>4C – Ceiling Heights</b>	
Minimum ceiling heights measured from FFL to finished ceiling level: Habitable rooms = 2.7m Non-habitable rooms = 2.4m	All habitable and non-habitable rooms 2.7m min.
	Yes

<b>4D – Apartment Size and Layout</b>		
<p>Minimum internal areas:            Studio: 35sqm            1-bedroom: 50sqm            2-bedroom: 70sqm            3-bedroom: 90sqm</p> <p>(Add 5sqm if second bathroom proposed)</p> <p>Each habitable room must have a window in an external wall with a total minimum glass area of at least 10% of the floor area of the room.</p>	<p>All units, including the modified units, meet minimum internal size requirements.</p> <p>Calculated accordingly.</p> <p>All units, including the modified units, achieve compliance.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
<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>All rooms (excluding open plan layouts) are compliant.</p> <p>All units with open plan layouts have a depth no greater than 8m.</p>	<p>Yes</p> <p>Yes</p>
<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:            - 3.6m for studio and 1 bedroom            - 4m for 2 and 3 bedroom apartments</p> <p>Internal width of cross-over or cross-through apartments are at least 4m</p>	<p>All bedrooms are compliant, Including the modified units.</p> <p>All bedrooms are compliant, Including the modified units.</p> <p>All living and living/dining rooms achieve the minimum required widths. Including the modified units</p> <p>N/A – none proposed.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p>
<b>4E – Private Open Space and Balconies</b>		
<p>Minimum primary balcony sizes:            Studio: 4sqm area            1-bedroomr: 8sqm area, 2m depth            2-bedroomr: 10sqm area, 2m depth            3+br: 12sqm area, 2.4m depth</p> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p>	<p>No change to the approved development in this regard.</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					
<b>4F – Common Circulation Areas</b>					
Maximum 12 apartments off a circulation core on a single level	No change to approved development.				
<b>4G – Storage</b>					
<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:  Studio: 4m<sup>3</sup>  1-bedroom: 6m<sup>3</sup>  2-bedroom: 8m<sup>3</sup>  3 –bedroom: 10m<sup>3</sup></p> <p>At least 50% of storage is located within the apartment</p>	<table border="1"> <tr> <td data-bbox="754 564 1286 853">All units have compliant total storage volumes as per the ADG volumes, including the modified units.</td><td data-bbox="1286 564 1495 853">Yes</td></tr> <tr> <td data-bbox="754 853 1286 965">At least 50% of storage is located within the unit, including the modified units.</td><td data-bbox="1286 853 1495 965">Yes</td></tr> </table>	All units have compliant total storage volumes as per the ADG volumes, including the modified units.	Yes	At least 50% of storage is located within the unit, including the modified units.	Yes
All units have compliant total storage volumes as per the ADG volumes, including the modified units.	Yes				
At least 50% of storage is located within the unit, including the modified units.	Yes				
<b>4H – Acoustic Privacy</b>					
<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>	No change to the approved development in this regard.				
<b>4J – Noise and Pollution</b>					
<p>To minimise impacts the following design solutions may be used:</p> <ul style="list-style-type: none"> <li>Physical separation between buildings and the noise or pollution source</li> <li>Residential uses are located perpendicular to the noise source and where possible buffered by other uses</li> </ul>	No change to the approved development in this regard.				

<ul style="list-style-type: none"> <li>Buildings should respond to both solar access and noise. Where solar access is away from the noise source, non-habitable rooms can provide a buffer</li> <li>Landscape design reduces the perception of noise and acts as a filter for air pollution generated by traffic and industry</li> </ul>	
<b>4K – Apartment Mix</b>	
<p>A range of apartment types and sizes is provided to cater for different household types now and into the future.</p> <p>The apartment mix is distributed to suitable locations within the building.</p>	No change to the approved development in this regard.
<b>4L – Ground Floor Apartments</b>	
<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>	No change to the approved development in this regard.
<b>4M – Facades</b>	
<p>Facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale</p>	No change to the approved development in this regard.
<b>4N – Roof Design</b>	
<p>Roof treatments are integrated into the building design and positively respond to the street.</p> <p>Opportunities to use roof space for residential accommodation and open space are maximised.</p>	No change to the approved development in this regard.
<b>4O – Landscape Design</b>	
<p>Landscape design is viable and sustainable, contributes to the streetscape and amenity</p>	No change to the approved development in this regard.
<b>4P – Planting on Structures</b>	
<p>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>	No change to the approved development in this regard.

<b>4Q – Universal Design</b>		
Universal design – design of apartments allow for flexible housing, adaptable designs, accommodate a range of lifestyle needs	No change to the approved development in this regard.	
<b>4R – Adaptive Reuse</b>		
Adaptive reuse as apartment of existing buildings- new additions are contemporary and complementary, provide residential amenity while not precluding future adaptive reuse.	N/A – not an adaptive reuse.	N/A
<b>4U – Energy Efficiency</b>		
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	No change to the approved development in this regard.	
<b>4V – Water Management and Conservation</b>		
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	No change to the approved development in this regard.	
<b>4W – Waste Management</b>		
Waste management – storage facilities are appropriately designed, domestic waste is minimised by convenient source separation and recycling	The waste chutes are deleted from the building as part of this application. The waste rooms in the basement are designed in accordance with Council's controls, noting the GRDCP 2021 does not require waste chutes in buildings less than 8 storeys in height.	
<b>4X – Building Maintenance</b>		
Building design provides protection from weathering  Enables ease of maintenance, material selection reduces ongoing maintenance cost	No change to the approved development in this regard.	

### Draft Environmental Planning Instruments

36. A Draft Environmental SEPP was exhibited from 31 October 2017 to 31 January 2018. The consolidated SEPP proposes to simplify the planning rules for a number of SEPPs. The proposal is not inconsistent with the provisions of this Draft Instrument.
37. A Draft State Environmental Planning Policy – Remediation of Land exists, this amendment does not undermine the requirements of this instrument.
38. The Draft Design and Plan SEPP will repeal and replace SEPP No 65 – Design Quality of Residential Apartment Development and SEPP (Building Sustainability Index:

BASIX) 2004. The explanation of intended effect of the draft SEPP was publicly exhibited in February/March 2021. Following submissions of the EIE the draft SEPP will be on public exhibition in late 2021. The application is not inconsistent with this Draft State Environmental Planning Policy *notwithstanding that the draft Design and Places SEPP is not a mandatory matter for consideration under the Act at this time.*

### **Georges River Local Environmental Plan 2021**

39. The building height of the development was approved at 22.15m under Kogarah LEP 2012. The maximum height under the KLEP and the GRLEP 2021 is 21m. The proposed modification reduces the overall height of the building by 390mm to 21.76m.
40. The FSR of the development was approved at 2:1 under KLEP 2012. The maximum FSR under the KLEP and GRLEP 2021 is 2:1.
41. The total floor space of the development has increased as part of the modification, resulting in a variation to the maximum Floor Space Ratio (FSR) control of 61.85sqm, and this variation has been assessed below.

### **Assessment of Floor Space Ratio (FSR) variation**

42. The approved FSR of the development is 5,351sqm or 2:1. The increased FSR arises from the detailed design of plant and service rooms not requiring as much space as originally anticipated, with some of this space being converted to floorspace within the approved units. The modification results in a 61.85sqm exceedance above the maximum 2:1 FSR control for the site, which represent a variation of 1%.
43. In the NSW Land and Environment Court case of *Gann & Anor v Sutherland Shire Council [2008]*, the Court held that there is power to modify a development application (via a Section 4.55 application) where the modification would result in the breach of development standards. The Court took the view that development standards within an LEP did not operate to prohibit the granting of consent if they were not complied with (and no objection pursuant to SEPP No. 1 (now relevant to a Clause 4.6 variation) had been lodged). Notwithstanding, the Court held that despite a SEPP No. 1 Objection (or Clause 4.6 variation now) not being required, a Section 96 application (this being a Section 4.55(2) application under the EP&A Act) still requires the consent authority to take into consideration those matters referred to in Section 4.15. These matters, where relevant to the application are assessed below.

### **Objectives of Clause 4.4 – Floor space ratio**

44. The objectives of Clause 4.4 are as follows:
  - (a) *to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality,*
  - (b) *to ensure that development provides appropriate built form transition between new buildings and—*
    - (i) *adjoining land uses, or*
    - (ii) *heritage items, heritage conservation areas or Aboriginal places of heritage significance,*
  - (c) *to control development density and intensity of land use, taking into account—*
    - (i) *the environmental constraints and values of the site, including retaining the scenic, visual, and landscape qualities of the area, and*
    - (ii) *the amenity of adjoining land and the public domain, and*
    - (iii) *the availability of infrastructure to service the site, and*

*(iv) the capacity of the road network to accommodate the vehicular and pedestrian traffic that a development will generate.*

45. The proposal satisfies the objectives of the floor space control as the additional floor space located within the footprint of the approved building and will not add to the perceived approved bulk of the building.
46. The site is located in the R4 High Density Residential zone, the objectives of which are:
  - *To provide for the housing needs of the community within a high density residential environment.*
  - *To provide a variety of housing types within a high density residential environment.*
  - *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
  - *To enable other land uses that contribute to the vibrancy of the neighbourhood while ensuring that business centres remain the focus for business and retail activity.*
  - *To encourage development that maximises public transport patronage and promotes walking and cycling.*
47. The modified proposal meets all relevant zone objectives in that it does not discernibly alter the approved intensity of residential land uses and continues to provide a variety of dwelling types.
48. The minor numerical variation to the floor space development standard is acceptable on merit as the proposal meets the objectives of both the zone and the development standard.
49. On “planning grounds” the modified proposal does not alter the degree of which compliance with the zone objectives was achieved under the originally approved development. The modifications will not result in any amenity impacts on adjoining sites or the streetscape.
50. Although an objection pursuant Clause 4.6 is not required, the reasoning applied in *Wehbe v Pittwater Council* [2007] NSW LEC 827, is appropriate to rely upon to determine that the proposal is well founded despite the departure from Clause 4.4 of Georges River LEP 2021. In the judgement the Honourable Brian Preston, Chief Justice of the Land and Environment Court, set out 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.
51. The proposal is considered to be consistent with the first of these in that the objectives of the FSR standard and the R4 zone objectives are achieved notwithstanding the numerical variation proposed.
52. Given that compliance with the zone and development standard objectives is achieved, insistence on strict compliance with the FSR standard is considered to be unreasonable and unnecessary in the circumstances. The proposal is compliant with the relevant objectives and will create negligible environmental impacts. The proposal is therefore justified on environmental planning grounds.

53. It is noted that in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ clarified what items a Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a "better" planning outcome:

*86. The second way is in an error because it finds no basis in cl 4.6. Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development. This test is also inconsistent with objective (d) of the height development standard in cl 4.3(1) of minimising the impacts of new development on adjoining or nearby properties from disruption of views or visual intrusion. Compliance with the height development standard might be unreasonable or unnecessary if the non-compliant development achieves this objective of minimising view loss or visual intrusion. It is not necessary, contrary to what the Commissioner held, that the non-compliant development have no view loss or less view loss than a compliant development.*

*87. The second matter was in cl 4.6(3)(b). I find that the Commissioner applied the wrong test in considering this matter by requiring that the development, which contravened the height development standard, result in a "better environmental planning outcome for the site" relative to a development that complies with the height development standard (in [141] and [142] of the judgment). Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard.*

54. The proposal is considered to achieve a planning purpose of enhancing residential amenity in the absence of any additional or new adverse impacts.

### **Georges River Development Control Plan 2021**

55. The proposed development does not affect the relevant provisions of GRDCP 2021 with regards to Residential Flat Buildings.

### **Developer Contributions**

56. The proposed development is subject to developer contributions which were levied at the time of the development determination. The modification does not alter the amount payable.

### **Planning Agreements**

57. There is no planning agreement applicable to the development.

## EP&A Regulation 2000

58. No matters within the Regulation are affected by the modification. An updated BASIX certificate has been lodged. The BASIX certificate reference in the conditions of consent has been updated.

## IMPACTS

**Likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality**

59. The proposed changes are minor and result in minimal environmental impacts, as discussed above.

## Suitability of the site for the development

60. The site is zoned R4 – High Density Residential. The proposal is a permissible form of development in this zone. The proposed changes do not affect the suitability of the site for the development, and do not impact the development potential of the adjoining allotments.

## SUBMISSIONS AND THE PUBLIC INTEREST

61. The application was notified in accordance with the provisions of Section 4.55 of the Environmental Planning and Assessment Act 1979. One submission was received.

Submission	Comments
<i>The modified development has a proposed FSR of 2.02:1. This exceeds the Georges River Council's own limit of 2:1 for R3 Medium Density Residential land use zone.</i>	The non-compliance of the modified proposal with the FSR standard is minor, being 61sqm, resulting from internal changes to the service and plant areas of the approved building.
<i>The previously approved project already exceeds the zone height limits and further breaches of the zone limits should not be approved. The building is already incompatible in terms of the bulk and scale of the existing character of the street. The proposal, if passed will impact the streetscape as the additional floor space ratio will be visually noticeable.</i>	The approved footprint of the building remains, and the overall height of the building is lowered by 390mm.
<i>Strict compliance with the prescriptive floor space ratio requirement is very reasonable and necessary in the context of the proposal and the location of this development.</i>	The additional internal floor space will not be visible from the street or neighbouring properties.

## The public interest

62. The proposal is not inconsistent with the public interest.

## REFERRALS

### Council Referrals

63. The application was referred to the following Council staff for comment:
- Urban Designer
  - Development Engineer
  - Waste Officer
  - Traffic Engineer
  - Building Surveyor



- Land Information

64. No objections were raised and amended conditions of consent were provided where required (Development Engineer only).

## CONCLUSION

65. The application has been assessed having regard to the Section 4.55 and the Matters for Consideration under Section 4.15(1) of the Environmental Planning and Assessment Act 1979. Following the assessment of the modifications, it is considered that Modification No. MOD2021/0173 is considered worthy of support subject to updated conditions.

66. The changes required to the existing notice of determination are limited to the modified drawings submitted with the modification application (Condition 1) Condition 43 – BASIX Commitments.

## DETERMINATION AND STATEMENT OF REASONS

### Statement of Reasons

67. The reasons for this recommendation are:

- The proposal remains consistent with the original reasons for approval;
- The proposed modifications to the approved plans do not result in undermining the objectives of the Georges River Local Environmental Plan 2021 or the Georges River Development Control Plan 2021; and
- The proposed modifications to the approved plans do not result in any adverse impact on the natural and built environment.

### Determination

68. THAT pursuant to Section 4.55(2) of the Environmental Planning and Assessment Act 1979 that the Georges River Local Planning Panel grant consent to Modification Application MOD2021/0173 for modifications to DA2019/0439 in accordance with the conditions of consent originally imposed at Lot 8 DP 7056 and Lots 20-23 DP 17618 known as 13-21 Wyuna Street, Beverly Park, subject to the amendments in the below conditions of consent (conditions 1 and 43 only):

## GENERAL CONDITIONS

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

Description	Reference No.	Date	Revision	Prepared by
Demolition Plan	DA 03	04.02.20	P9	shiro architects
Site Plan/Roof Plan	DA 04	04.02.20 15.09.21	P12 A	shiro architects
Ground Floor Plan	DA 05	19.05.20 15.09.21	P13 A	shiro architects
Basement 1	DA 06B	19.05.20 15.09.21	P13 A	shiro architects
Mezzanine Basement 1	DA 06A	19.05.20 15.09.21	P13 A	shiro architects
Basement 2	DA 07	19.05.20	P13	shiro architects

		15.09.21	A	
Level 1	DA 08	04.02.20 15.09.21	P012 A	shiro architects
Level 2	DA 09	04.02.20 15.09.21	P12 A	shiro architects
Level 3	DA 10	04.02.20 15.09.21	P12 A	shiro architects
Level 4	DA 11	04.02.20 15.09.21	P12 A	shiro architects
Level 5	DA 11	04.02.20 15.09.21	P12 A	shiro architects
Level 6	DA 13	04.02.20 15.09.21	P12 A	shiro architects
Section A-A	DA 14A	04.02.20 15.09.21	P12 A	shiro architects
Section B-B C-C	DA 14B	04.02.20	P12	shiro architects
Section D-D	DA 14C	04.02.20	P12	shiro architects
Street Elevation	DA 16A	04.02.20	P1	shiro architects
Elevations	DA 16B	04.02.20 15.09.21	P12 A	shiro architects
Landscape Plans	117-L01 to L05	03.06.20	D	Andrew Prowse Landscape Architect
Arboricultural Impact Assessment and Tree Management Plan	5560.1	03.02.20		Redgum Horticultural
Preliminary Site Investigation	E24383.E01_R ev0	23.10.19		EIAustralia
Geotechnical Report	P1563_01	15.11.19		Morrow
Stormwater Plans	E313451 Sheets D1 to D11	1.6.20	C	Donovan Associates

**This condition has been amended as part of MOD2021/0040 (DA2019/0439)**

**This condition has been amended as part of MOD2021/0173 (DA2019/0439)**

## **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](http://www.georgesriver.nsw.gov.au). For further information, please contact Council's Customer Service Centre on (02) 9330 6400.

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

The following details must be submitted:

- (i) That cable anchors will be stress released when the building extends above ground level to the satisfaction of Council;
- (ii) The applicant has indemnified council from all public liability claims arising from the proposed works, and provide adequate insurance cover to the satisfaction of Council.
- (iii) Documentary evidence of such insurance cover to the value of \$20 million;
- (iv) The applicant must register a non-terminating bank guarantee in favour of Council. An amount will be determined when the application is lodged;
- (v) The guarantee will be released when the cables are stress released. In this regard it will be necessary for a certificate to be submitted to Council from a structural engineer at that time verifying that the cables have been stress released.
- (vi) In the event of any works taking place on Council's roadways/footways adjoining the property while the anchors are still stressed, all costs associated with overcoming the difficulties caused by the presence of the 'live' anchors will be borne by the applicant.

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

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

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

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

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

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

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

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

## REQUIREMENTS OF CONCURRENCE, INTEGRATED AND OTHER GOVERNMENT AUTHORITIES

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

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

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

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

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

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

10. **Electricity Supply to Development** – The electricity supply to the development must be underground.

## PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

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

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

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

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

Fee Type	Fee
<b>GENERAL FEES</b>	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See <a href="https://portal.longservice.nsw.gov.au/bci/levy/">https://portal.longservice.nsw.gov.au/bci/levy/</a>	
Builders Damage Deposit (footpaths and roadworks) (calculation based on \$1,236.00 per metre of street frontage, Wyuna Street of 62.43m)	\$77,163.48
Inspection Fee for Refund of Damage Deposit (minimum of two (2) inspections at \$371 per inspection)	\$742.00
<b>DEVELOPMENT CONTRIBUTIONS</b>	
Kogarah Section 94 Development Contributions Plan No.1 - Roads and Traffic Management - Residential	\$12,397.97
Kogarah Section 94 Development Contributions Plan No.5 – Open Space	\$647,480.62
Kogarah Section 94 Development Contributions Plan No.9 – Kogarah Libraries – Books	\$10,428.87
Kogarah Section 94 Development Contributions Plan No.9 – Kogarah Libraries – Building	\$14,27.25
<b>Total S94 Contribution</b>	<b>\$684,934.71</b>

### General Fees

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

### Development Contributions

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

#### Indexation

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

#### Timing of Payment

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

#### Further Information

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

**This condition has been amended as part of MOD2021/0040 (DA2019/0439)**



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

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

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

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

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

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

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

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

- (a) Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development: **\$77,163.48**
- (b) Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee (for two inspections) to enable assessment of any damage and repairs where required: **\$742.00.**
- (c) Submit to Council, before the commencement of work, a photographic record of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal.



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

**16. Design changes** - The following changes are required to be made and shown on the **Construction Certificate** plans:

- (a) The height of the front fence along Wyuna Street shall not exceed 1.2m and shall be designed so that it is 50% transparent.

**17. Use of Rooftop Open Space** - A Plan of Management (POM) for use of rooftop open space must be submitted for approval of Council prior to the issuing of the Construction Certificate. The POM must outline the following:

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

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

**18. Parking and Layout** – The development shall comply with the following requirements:

- Barriers are to be installed in accordance to AS2890.1:2004 section 2.4.5.3.
- 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 allocated car parking spaces shall be freely available for the visitors of the proposed development.
- Any wall or fence or solid object on either side of the driveway/vehicular crossing where it meets the Council's road reserve at the boundary must comply with sight distance requirements stipulated in the *Australian Standards AS2890.1*.
- All vehicles shall enter and exit the premises in a forward direction.

- No deliveries to the premises shall be made direct from a public place or street inclusive of footpaths, nature strip, roadway and car parks.

19. **Materials and finishes** - The proposed materials and finishes selected shall be non-reflective and shall be of the highest quality minimising the need for regular maintenance.
20. **Construction materials** - Any proposed cladding to the building shall be constructed of fire resistant materials which comply with the requirements of the National Construction Code (NCC) 2019 Volume (1) One Building Code of Australia (BCA). Details of the proposed materials and finishes are to be detailed on the construction certificate drawings and shall be to the satisfaction of the PCA.
21. **Mechanical ventilation** - Any proposed mechanical ventilation system will need to satisfy Council's requirements and those stipulated by the National Construction Code and AS1668.2-2002. ~~and shall be in accordance with the plans and details lodged with the application and prepared by RMJ Engineering and dated 26 August 2019.~~

**This condition has been amended as part of MOD2021/0040 (DA2019/0439)**

22. **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.
23. **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.
24. **Construction Traffic Management Plan** - A Construction Traffic Management Plan detailing:
- (a) construction vehicle routes;
  - (b) anticipated number of trucks per day;
  - (c) hours of construction activity;
  - (d) Access arrangements; and
  - (e) Proposed traffic measures to minimise impacts of construction vehicles must be submitted for the approval of Council's Engineers. Council's Engineers must specify in writing that they are satisfied with the Traffic Management Plan prior to the issue of the Construction Certificate.

The Construction Traffic Management Plan may require approval from RMS.

25. **Geotechnical report** - The applicant must submit a Geotechnical Report, prepared by a professional engineer specialising in geotechnical engineering who holds the relevant Certificate of accreditation as required under the Building Professionals Act 2005 in relation to dilapidation reports, all site works and construction. This is to be submitted before the issue of the Construction Certificate and is to include:
- (a) Investigations certifying the stability of the site and specifying the design

constraints to be placed on the foundation, any earthworks/stabilization works and any excavations.

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

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

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

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

#### Residential Waste

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

##### **Domestic Waste**

- 11 x 660L litre mobile bins per apartment/dwelling. Domestic Recycling
- 11 x 240 litre mobile bin per 3 apartments/dwellings.
- Green Waste – 1 to 2 x 240 litre mobile bins per apartment block.

**27. 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.

**28. 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.

**29. Structural details** - Engineer's details prepared by a practising Structural Engineer being used to construct all reinforced concrete work, structural beams, columns and other structural members. The details are to be submitted with the construction certificate to the Certifier for approval prior to construction of the specified works.

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

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

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

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

**31. 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.

**32. Access** - The recommendations of the Access Report prepared by ~~Vista Access Architects~~ Reference No. 18216 PSE Access Consulting dated 20 August 2019 shall

be implemented in the Construction Certificate Plans and Documents.

**This condition has been amended as part of MOD2021/0040 (DA2019/0439)**

~~**33. BCA Assessment** – The recommendations in the Assessment of BCA Compliance Capability prepared by Certified Building Specialists and dated 26 November 2018 shall be incorporated within the Construction Certificate Plans and relevant documents.~~

**This condition has been deleted as part of MOD2021/0040 (DA2019/0439)**

**34. Contamination Report** - The recommendations of the Preliminary Site Investigation prepared by EI Australia dated 23 October 2019 shall be included within the Construction Certificate Plans and relevant documents.

**35. Acoustic Requirements** – The Construction Certificate plans shall demonstrate compliance with the Acoustic Assessment submitted to Council, titled *“Traffic Noise Intrusion Assessment – for proposed development at No. 13 - 21 Wyuna Street, Beverley Park.”* Reference No. 20200206.1/0805A/R0/AS prepared by Acoustic Logic and dated 8 May 2020.

This means that a review of glazing design and mechanical plant must be undertaken to ensure that acoustic objectives will be met. Written verification from a suitably qualified acoustic consultant must be submitted to Council validating that the acoustic objectives contained within the aforementioned report will be met, must be submitted to Council for approval. The Construction Certificate will not be issued until Council approves this validation.

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

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

The report must be submitted with the Construction Certificate application.

**37. Slip Resistance** - All pedestrian surfaces in areas such as foyers, public corridors/hallways, stairs and ramps as well as floor surfaces in the wet rooms in any commercial/retail/residential apartments will have slip resistance classifications, as determined using test methods in either wet or dry conditions, appropriate to their gradient and exposure to wetting. The classifications of the new pedestrian surface materials, in wet or dry conditions, will comply with AS4586:2013 - Slip Resistance Classifications of New Pedestrian Surface Materials and will be detailed on the plans lodged with the application for the Construction Certificate.

**38. Advice from Fire and Rescue (FR) NSW** - Prior to the issue of a Construction Certificate the applicant may be required, under Clause 144 of the Environmental Planning & Assessment Regulation, 2000 to seek written comment from FR NSW about the location of hydrant facilities and any Fire Engineered Solution developed to meet the performance requirements under the Category 2 Fire Safety Provisions.



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

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

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

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

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

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

Where any shoring is to be supporting, or located on Council's property, certified structural engineering drawings detailing; the extent of the encroachment, the type of

shoring and the method of removal, will be included on the plans. Where the shoring cannot be removed, the plans will detail that the shoring will be cut to 150mm below footpath level and the gap between the shoring and any building will be filled with a 5MPa lean concrete mix.

43. **BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No. 1037318M\_03 and dated 8 February 2021 must be implemented on the plans lodged with the application for the Construction Certificate.

**This condition has been amended as part of MOD2021/0173 (DA2019/0439)**

44. **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.
45. **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).
46. **Landscape Plans** - All landscape works shall be carried out in accordance with the approved landscape plans and specifications, drawn by Andrew Prouse Landscape Architecture, Ref No Dwg No 117, Issue D, and dated 3 June 2020. The landscaping shall be maintained in accordance with the approved plans in perpetuity, subject to the following -
- a) Prior to the issue of a Construction Certificate, the total number, quantities of all trees and plants shall be forwarded as per landscape plans – Ground floor plan, level 4 landscape plan, level 6 landscape plan, including all landscape plans for this proposal.
  - b) The proposed trees and plant species, pot/ bag size 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;
  - c) All trees proposed upon the approved landscape plan shall comply with AS 2303 – 2018, *Tree Stock for Landscape use* and *NATSPEC Specifying Trees: a guide to assessment of tree quality (2003)*, and be planted and maintained in accordance with Councils standard specification;
  - d) If the planted trees and plants are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species. If the trees are found dead before they reach a height where they are protected by Councils Tree Management Controls, they must be replaced with the same species and pot/bag size;
  - e) 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.
47. **Compliance with submitted Arborist Report** – The recommendations outlined in the Arborist's Report titled Arboricultural Impact Assessment prepared by Redgum Horticultural dated 3 February, 2020 must be implemented throughout the relevant stages of construction. Details of tree protection measures to be implemented must be detailed and lodged with the Construction Certificate application for approval and shall



be in accordance with *Section 4 - Australian Standard AS 4970-2009: Protection of trees on development sites*.

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

Tree Species	Location of Tree / Tree No.	Tree Protection Zone (metres) TPZ as per AS4970 - 2009
Trees 6, 7 and 8 - Callistemon citrinus	Council's street trees	Trunk wrapping and ground protection as per AS4970 -2009
T15 - Persea Americana	Neighbours tree at rear back fence 182 Princes Highway	4.0 metres radially out from its trunk
T19 – Syagrus romanzoffiana	Rear of 2 Lacey Street Beverley Park	4.0 metres radially out from its trunk
T20 – Cinnamomum camphora	188 Princes Highway Beverley Park	12.0 Metres radially out from its trunk

- The client shall engage a qualified Arborist who holds an AQF Level 5 or above in Arboriculture and who is a current practicing and financial member of an Arboricultural Association or Affiliation.
- A certificate of compliance letter for tree protection measures shall be completed and forwarded to the PCA – Principal Certifying Authority, at three (3) stages being 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.

### Tree Protection Measures

- The Tree Protection Zone of Tree 20 **must not be** used for any storage of materials, building products or preparation of any building products for the entirety of the project.
- The Tree Protection Plan, Part B within the Arboricultural Impact Assessment completed by Redgum Horticultural shall be overseen by the project Arborist, re - Tree 20 – *Cinnamomum camphora*. The project Arborist shall complete written certificates that all protection measures have been completed and witnessed and forwarded to the PCA, for compliance.
- All trees on Council property, subject site and adjacent sites, to be retained shall be protected before and maintained during demolition, excavation and construction of the site.
- Although trees may be on adjacent sites, the tree protection fencing must be placed on the nominated distances as per table above, out from the trees trunk, within the subject site to minimise impacts to neighbours trees and kept for the entirety of the project.
- The tree protection measures must be undertaken in accordance AS4970 - 2009 Protection of trees on development sites.
- Details of the tree protection measures to be implemented must be provided with the application for a Construction Certificate by a qualified Arborist who holds an AQF Level 5 or above in Arboriculture and who is a current practicing and financial member of an Arboricultural Association or Affiliation.
- The engaged AQF 5 Consulting 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.

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- (h) In accordance with AS 4970-2009 *Protection of trees on development sites*, a protective fence consisting of 2.4 x 1.8 metres high, fully supported chainmesh fence shall be used. The distance of the fence from the base of each tree is to be in accordance with the TPZ listed in the table above. A layer of organic mulch 100 millimetres thick shall be placed over the protected area and no soil or fill should be placed within the protection area.
- (i) To preserve the Council's street trees – Trees 6, 7 and 8, no work shall commence nor shall a Construction Certificate be issued (whichever occurs first) until the trunk/ branches are protected, in accordance with AS4970 - 2009, *Protection of trees on development sites*, by the wrapping of geo woven fabric around the trunk 4 / 5 times and the placement of two metre long, lengths of 50mm x 100mm timber battens vertically arranged around the trunk, with 100mm spacing's. The timber battens shall be secured by wire/ hoop straps but not secured into the tree itself. The trunk/ branch protection shall be maintained intact until the completion of all works upon the site

Or

In the case of horizontal branching, tree protection fencing shall encompass the tree, without interfering with pedestrian access.

- (j) The Tree Protection Zone of each tree, to be protected, shall be watered thoroughly and regularly to minimise the effects of construction works.
- (k) No building products/ 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 – Tree 20 – Cinnamomum camphora**

- (l) 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.
- (m) All stormwater piping and pit installations must be completed by hand or pneumatic air spade type of excavations. No machine excavator bucket type excavations are allowed within the TPZ of Tree 20.
- (n) 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.
- (o) Tree Protection Zones around the trees to be retained are not to have soil level changes, building product / materials stored or services installed in this area. Any structures proposed to be built in this area of the trees are to utilise pier and beam or cantilevered slab construction.

### Pier and Beam/ Cantilever type –

- (a) To preserve Tree 20 – *Cinnamomum camphora*, the footings of the proposed patio of apartments 8, shall be isolated pier and beam/ cantilever type construction within the TPZ of 12 metre radius of the trunk. The piers shall be hand dug and located such that no roots of a diameter greater than 50mm are severed or injured in the process of any site works during the construction period. The beam shall be located on or above the existing soil levels.
- (b) 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).

### 48. Tree Removal & Replacement - Permission is granted for the removal of the following trees:

#### Tree removal

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

Permission is granted for the removal of the following trees:

Tree Species	Number of trees	Location
Tree 1- <i>Callistemon citrinus</i>	X1	Councils street tree (removed by Council only)
Tree 2/3 – <i>Citrus Spp</i>	X2	Rear of 13 Wyuna Street
Tree 4 – <i>Plumeria rubrum</i>	X1	Rear side fence of 13 Wyuna Street
Tree 5 – <i>Melaleuca bracteata</i>	X1	Rear side fence of 13 Wyuna Street
Tree 9 – <i>Howea forsteriana</i>	X1	Front yard of No 17 Wyuna Street
Tree 10 – <i>Phoenix canariensis</i>	X1	Front yard of No 17 Wyuna Street
Tree 11 – <i>Howea forsteriana</i>	X1	Front yard of No 11 Wyuna Street
Tree 12 – <i>Sedum Spp</i>	X1	Front yard of No 11 Wyuna Street
Tree 13/14 – <i>Citrus Spp</i>	X2	Rear yard of No 17 Wyuna Street
Tree 16 – <i>Persea americana</i>	X1	Rear yard of No 19 Wyuna Street
Tree 17 - <i>Howea forsteriana</i>	X1	Front yard of No 19 Wyuna Street
Tree 18 – <i>Citrus Spp</i>	X1	Rear yard of No 21 Wyuna Street
Tree 21 – <i>Cactus Spp</i>	X1	Rear yard of No 19 Wyuna Street
Tree 22 – <i>Persea Americana</i>	X1	Rear yard of No 19 Wyuna Street
Tree 23 – <i>Howea forsteriana</i>	X1	Rear yard of No 19 Wyuna Street
Tree 24 – <i>Cuppressus sempervirens</i>	X2	Front yard of No 21 Wyuna Street

### General Tree Removal Requirements

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

prior written approval of Council.

#### 49. **Street Tree Removal / Replacement by Council –**

- a) Three (3) street trees of species to be determined 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.

<b>Fee Type – Tree planting/ removal on public land</b>	<b>Number of trees</b>	<b>Amount per tree</b>
Administration Fee, tree planting and maintenance	X3	\$452.00, prior to Construction Certificate
Cost of tree removal – T1 – Callistemon Spp	X1	To be determined by Council, prior to Construction Certificate.
Cost of Stump Grinding	X1	To be determined by Council, prior to Construction Certificate

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

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

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

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

**51. 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 plan in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).
- (b) The PCA shall ensure that the approved drainage design levels are to be surveyed during construction by a registered surveyor.
- (c) Prior to the commencement of works, the registered surveyor shall ensure to the PCA 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.
- (d) The RHS galvanised pipe must have a minimum of 50mm of cover along its length through the road reserve. A detailed section of the connection through the road reserve is to be prepared and shown on the drainage plan prior to the commencement of works.
- (e) 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.
- (f) The stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a professional engineer who specialises in Hydraulic Engineering in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (1987) and Council's Stormwater Drainage Guidelines, shall accompany the application for the Construction Certificate.

#### **Stormwater Systems with Basement**

- (a) The underground basement car park must pump to and all other stormwater must drain by gravity to:
  - i. 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.

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

- (b) 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.

**52. 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 is to be constructed with capacity as shown on the approved plan in this case.

- (a) Provide the OSD system with at least one access for future maintenance and show on plan.
- (b) Provide the OSD system with sufficient ventilation and show on plan.

- (c) The OSD tank shall be certified to be structurally adequate to carry the designated loads to the satisfaction of the PCA.

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

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

Full details shall accompany the application for the Construction Certificate.

- 53. 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;
- (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.

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

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

## **PRIOR TO COMMENCEMENT OF WORKS**

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

- (a) Compliance with the approved Erosion & Sediment Control Plan
- (b) Removal or disturbance of vegetation and top soil is confined to within 3m of the approved building area (no trees to be removed without approval)
- (c) All clean water runoff is diverted around cleared or exposed areas
- (d) Silt fences, stabilised entry/exit points or other devices are installed to prevent sediment from entering drainage systems or waterways



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- (e) All erosion and sediment controls are fully maintained for the duration of excavation and construction works
- (f) Controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadway
- (g) All disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar
- (h) Compliance with Managing Urban Stormwater - Soils and Construction (Blue Book) produced by Landcom 2004.

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

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

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

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

**Note:** Copies of the Act, Regulation and Code of Practice can be downloaded free of charge from the SafeWork NSW website: [www.SafeWork.nsw.gov.au](http://www.SafeWork.nsw.gov.au).

- 57. Demolition Notification Requirements** - The following notification requirements apply to this consent:

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

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

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

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

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

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

The report must include the following:

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

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

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

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

**61. Registered Surveyor's Report - During Development Work** - A report will be

submitted to the Certifier at each of the following applicable stages of construction:

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

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

62. **Utility Arrangements** - Arrangements are to be made with utility authorities in respect to the services supplied by those authorities to the development. The cost associated with the provision or adjustment of services within the road and footway areas is to be at the applicant's expense.
63. **Structural Engineer's Details - Supporting Council road/footway** - Prior to the commencement of work in connection with the excavation of the site associated with the basement carpark, structural engineer's details relating to the method of supporting Council's roadways/footways and the Heritage Item on site will be submitted to the satisfaction of Council.
64. **Notification Requirements** - The following notification requirements apply to this consent:
  - (a) The developer/builder will notify adjoining residents five (5) working days prior to excavation. Such notification is to be a clearly written note giving the date works will commence, contact details of the developer/builder and the appropriate regulatory authority. Notification is to be placed in the letterbox of every premises (including every residential flat or apartment, if any) either side and immediately at the rear of the site.
  - (b) Five (5) working days prior to excavation, the developer/builder is to provide written notification to Council advising of the commencement date, and details of the list of residents advised of the works.
65. **Notice of Commencement** - The beneficiary of the development consent must give at least two (2) days' notice to the Council and the Principal Certifier of their intention to commence the erection of a building.
66. **Notification of Critical Stage Inspections** - No later than two (2) days before the building work commences, the Principal Certifier must notify:

- (a) the consent authority and the Council (if not the consent authority) of his or her appointment; and
- (b) the beneficiary of the development consent of the critical stage inspections and other inspections that are to be carried out with respect to the building work.

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

## **DURING CONSTRUCTION**

**68. Archaeology** - As required by the National Parks and Wildlife Service Act 1974 and the Heritage Act 1977, in the event that Aboriginal cultural heritage or historical cultural fabric or deposits are encountered/discovered where they are not expected, works must cease immediately and Council and Heritage NSW must be notified of the discovery.

In the event that archaeological resources are encountered, further archaeological work may be required before works can re-commence, including the statutory requirement under the Heritage Act 1977 to obtain the necessary approvals/permits from Heritage NSW. Note: The National Parks and Wildlife Service Act 1974 and the Heritage Act 1977 impose substantial penalty infringements and / or imprisonment for the unauthorised destruction of archaeological resources, regardless of whether or not such archaeological resources are known to exist on the site.

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

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

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

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

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

- 71. Critical Stage Inspections** - The last critical stage inspection must be undertaken by the Principal Certifier. The critical stage inspections required to be carried out vary according to Building Class under the Building Code of Australia and are listed in Clause 162A of the Environmental Planning and Assessment Regulation 2000.
- 72. Site sign** - A clearly legible Site Management Sign is to be erected and maintained throughout the course of the works. The sign is to be centrally located on the main street frontage of the site and is to clearly state in legible lettering the following:
- a) The builder's name, builder's telephone contact number both during work hours and after hours.
  - b) That no works are to be carried out in Council's Road Reserve without prior application and approval of a Road Opening Permit from Council.
  - c) That a Road Opening Permit issued by Council must be obtained for any road openings or excavation within Council's Road Reserve associated with development of the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
  - d) That no skip bins or materials are to be stored on Council's Road Reserve.
  - e) That the contact number for Council for permits is 9970 1111.
- 73. Soil & Erosion Control Measures** - Prior to the commencement of works (including excavation), a durable site sign, issued by Council in conjunction with this consent, will be erected in a prominent location on site. The site sign warns of the penalties which apply to pollution, storing materials on road or footpath and breaches of the conditions relating to erosion and sediment controls. The sign will remain in a prominent location on site up until the completion of all site and building works.
- 74. Physical Connection of Stormwater to Site** - No work is permitted to proceed above the ground floor slab level of the building until there is physical connection of the approved stormwater drainage system from the land the subject of this consent to street kerb and gutter as indicated on the approved plan. The site stormwater discharge pipes across the footpath shall be RHS type, laid at minimum 1% grade as reflected on the drainage plan.
- 75. Cost of work to be borne by the applicant** – The applicant shall bear the cost of all works associated with the construction of the development that occurs on Council property. Care must be taken to protect Council's roads, including the made footway, kerbs, etc., and, where plant and vehicles enter the site, the footway shall be protected against damage by deep-sectioned timber members laid crosswise, held together by hoop iron straps and chamfered at their ends.
- This construction shall be maintained in a state of good repair and condition throughout the course of construction.
- 76. Obstruction of Road or Footpath** – The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste or skip bins, or any other matter is not permitted unless separately approved by Council under Section 138 of the Roads Act 1993 and/or under Section 68 of the Local Government Act 1993. Penalty infringement Notices may be issued for any offences and severe penalties apply.
- 77. Hours of Construction and Building Work** - Any work activity or activity associated



with the development consent that requires the use of any tools (including hand tools) or any power operated plant and machinery must not be performed, or permitted to be performed, except between the hours of 7.00am to 5.00pm, Monday to Saturday inclusive. No work or ancillary activity is permitted on Sundays, or Public Holidays.

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

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

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



throughout any building work.

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## PRIOR TO ISSUE OF THE OCCUPATION CERTIFICATE

- 86. Section 73 Compliance Certificate** – A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be submitted to the Certifier prior to the issue of the Occupation Certificate.
- 87. Completion of Landscape Works** - All landscape works and Street tree (3) planting fees must be completed before the issue of the Final Occupation Certificate and to the satisfaction of Councils Tree Management Officers. In accordance with approved landscape plans and specifications, drawn by Andrew Prouse Landscape Architecture, Ref No Dwg No 117, Issue D, and dated 3 June 2020. The landscaping shall be maintained in accordance with the approved plans in perpetuity, subject to the following -
- a) Prior to the issue of a Construction Certificate, the total number, quantities of all trees and plants shall be forwarded as per landscape plans – Ground floor plan, level 4 landscape plan, level 6 landscape plan, including all landscape plans for this proposal.
  - b) The proposed trees and plant species, pot/ bag size 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;
  - c) All trees proposed upon the approved landscape plan shall comply with AS 2303 – 2018, *Tree Stock for Landscape use* and *NATSPEC Specifying Trees: a guide to assessment of tree quality (2003)*, and be planted and maintained in accordance with Councils standard specification;
  - d) If the planted trees and plants are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species. If the trees are found dead before they reach a height where they are protected by Councils Tree Management Controls, they must be replaced with the same species and pot/bag size;
  - e) A certificate of compliance for the planting of all trees and shrubs proposed for the site. An AQF 5 Horticulturist shall be engaged and in writing certify that all trees have been planted as per landscape plan and specifications and forwarded to the PCA – Principal Certifying Authority.
- 88. Tree Protection Measures** - A final certificate of compliance letter, once all building and landscape works have been completed, from the engaged AQF 5 Consulting Arborist, that tree protection measures have been installed and maintained for the entirety of the project and report on the condition of the trees that as part of this Consent, were to be protected and retained.
- 89. Tree Replacement within subject site**
- a) The required number of trees and plants must be planted as requested prior to the Construction Certificate upon the plan view of the proposed landscape plans. All trees must attain a minimum mature height of nine (9) metres and shall be planted within the property. The trees are to conform to AS2303 – 2018, *Tree stock for landscape use*.

- b) If the planted trees are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species. If the trees are found dead before they reach a height where they are protected by Councils Tree Management Controls, they must be replaced with the same species and pot/bag size.
- c) A copy of the Hurstville City Council's Tree Removal and Pruning Guidelines and Kogarah City Council, Street Tree Management Strategy, Masterplan, and Tree Management Policy 2019, can be downloaded from Council's website [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au) .

90. **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.
91. **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.
92. **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.
93. **Post Construction Dilapidation report (Private Land)** - At the completion of the construction works, a suitably qualified person is to be engaged to prepare a post-construction dilapidation report. This report is to ascertain whether the construction works associated with the subject development created any structural damage to the adjoining premises.

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

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

94. **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.
95. **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.

- 96. Occupation Certificate** - A person must not commence occupation or use of the whole or any part of a new building unless an Occupation Certificate has been issued in relation to the building. Only the Principal Certifier appointed for the building work can issue the Occupation Certificate.
- 97. SEPP 65 Design Verification Statement** - The Principal Certifier will not issue an Occupation Certificate to authorise a person to commence occupation of the residential flat development unless the he/she has received a design verification from a qualified designer, being a statement in which the qualified designer verifies that the residential flat development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No 65 Design Quality of Residential Flat Development.
- 98. Requirements prior to the issue of the Occupation Certificate** - The following will be completed and or submitted to the PCA prior to the issue of the Occupation Certificate:
- (a) All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
  - (b) The internal driveway construction works, together with the provision for all services (conduits and pipes laid) shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
  - (c) Construct any new vehicle crossings required.
  - (d) Replace all redundant vehicle crossing laybacks with kerb and guttering, and replace redundant concrete with turf.
  - (f) Work as Executed Plans prepared by a Chartered Professional Engineer or a Registered Surveyor when all the site engineering works are complete shall be submitted to the PCA prior to the issue of the Occupation Certificate.
- 99. Completion of Major Works** - Prior to the issue of a Final Occupation Certificate, the following works must be completed at the applicant's expense to the satisfaction of Council's Engineering Services section:
- (a) If applicable Stormwater pipes, pits and connections to public stormwater systems within the road related area;
  - (b) Driveways and vehicular crossings within the road related area;
  - (c) Removal of redundant driveways and vehicular crossings;
  - (d) New footpaths within the road related area;
  - (e) Relocation of existing power/light pole if applicable
  - (f) Relocation/provision of street signs
  - (g) New footway verges, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to

contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street.

- (h) New or reinstated kerb and guttering within the road related area and New or reinstated road surface pavement within the road where it is applicable.

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

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

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

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

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

- 101. 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.”

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## Positive Covenants

1. *The registered proprietor of the lot(s) hereby burdened will in respect of the system:*
  - (a) *keep the system clean and free from silt, rubbish and debris*
  - (b) *maintain and repair at the sole expense of the registered proprietors the whole of the system so that it functions in a safe and efficient manner*
  - (c) *permit the Council or its authorised agents from time to time and upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land for the compliance with the requirements of this covenant*
  - (d) *comply with the terms of any written notice issued by the Council in respect of the requirements of this covenant within the time stated in the notice.*
2. *Pursuant to Section 88F(3) of the Conveyancing Act 1919 the Council shall have the following additional powers:*
  - (a) *in the event that the registered proprietor fails to comply with the terms of any written notice issued by the Council as set out above the Council or its authorised agents may enter the land with all necessary materials and equipment and carry out any work which the Council in its discretion considers reasonable to comply with the said notice referred to in part 1(d) above*
  - (b) *the Council may recover from the registered proprietor in a Court of competent jurisdiction:*
    - (i.) *any expense reasonably incurred by it in exercising its powers under subparagraph (i) hereof. Such expense shall include reasonable wages for the Council's employees engaged in effecting the work referred to in (i) above, supervising and administering the said work together with costs, reasonably estimated by the Council, for the use of materials, machinery, tools and equipment in conjunction with the said work.*
    - (ii.) *legal costs on an indemnity basis for issue of the said notices and recovery of the said costs and expenses together with the costs and expenses of registration of a covenant charge pursuant to section 88F of the Act or providing any certificate required pursuant to section 88G of the Act or obtaining any injunction pursuant to section 88H of the Act. Name of Authority having the power to release vary or modify the Positive Covenant referred to is Georges River Council.*

**102. Completion of Major Works** - Prior to the issue of the Occupation Certificate, the following works will be completed at the applicant's expense to the satisfaction of Council's Engineering Services section:

- a) If applicable Stormwater pipes, pits and connections to public stormwater systems within the road related area;
- b) Driveways and vehicular crossings within the road related area;
- c) Removal of redundant driveways and vehicular crossings;
- d) New footpaths within the road related area;
- e) Relocation of existing power/light pole if applicable
- f) Relocation/provision of street signs
- g) New footway verges, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to



contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street.

- h) New or reinstated kerb and guttering within the road related area and new or reinstated road surface pavement within the road where it is applicable.

Council's Engineering Services Section will 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].

- 103. Stormwater Drainage Works - Works As Executed** - Prior to the issue of the Occupation Certificate, storm water drainage works are to be certified by a professional engineer specialising in hydraulic engineering, with Works-As-Executed drawings supplied to Council detailing:

- (a) Compliance with conditions of development consent relating to stormwater;
- (b) The structural adequacy of the On-Site Detention system (OSD);
- (c) That the works have been constructed in accordance with the approved design and will provide the detention storage volume and attenuation in accordance with the submitted calculations;
- (d) Pipe invert levels and surface levels to Australian Height Datum;

A Works As Executed plan of Council's Stormwater system extension as constructed including all levels will be submitted and approved by Council.

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

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

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

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

## **OPERATIONAL CONDITIONS (ONGOING)**

- 105. Intensity of car park lighting** – Prior to occupation, the intensity of lighting at the entrance to the basement carpark is to be designed to allow for progressive adjustment of light.

**106. Removal and collection** – Bins are to be taken to the kerbside for collection and garbage bins and recycling bins are to be collected on a weekly basis. They are to be collected from the kerbside and removed from the kerbside as soon as possible after collection.

**107. Acoustic Compliance – General Operation of Premises** - The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the [Protection of the Environment Operations Act 1997](#) (as amended) and [Regulations](#).

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

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

**108. 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.

**109. BASIX Certificate** - All energy efficiency measures as detailed in the approved BASIX Certificate in the plans approved with the Development Consent will be implemented before issue of any Occupation Certificate. A Compliance Certificate will be provided to the Principal Certifier regarding the implementation of all energy efficiency measures as detailed in the approved BASIX Certificate before any Occupation Certificate is issued.

**110. Allocation of Car Parking Spaces** – A total of 109 car parking spaces, and a minimum of thirty (30) bicycle parking spaces associated with the development is to be allocated as follows, sign posted and/or line marked accordingly:

- Ninety six (96) residential spaces, including eight (8) accessible spaces.
- Thirteen (13) dedicated visitor spaces.
- One (1) of the visitor spaces is to also be a shared as a wash bay.
- Twenty two (22) bicycle spaces for residents.
- Eight (8) bicycle spaces for visitors.

**111. Electricity Supply** - Evidence will be provided demonstrating that the development has been connected to the electricity network.

**112. Structural Certificates** - The proposed structure will be constructed in accordance with details designed and certified by the practising qualified structural and geotechnical engineer. In addition, Compliance or Structural Certificates, to the effect that the building works have been carried in accordance with the structural design; will be submitted to the PCA prior to the issue of the Occupation Certificate.

- 113. Stormwater & Ancillary Works** - Applications under Section 138 of the Roads Act and/or Section 68 Local Government Act 1993, the applicant must obtain all necessary approvals. An approval for a new or modified vehicular crossing will contain the approved access and/or alignment levels which will be required to construct the crossing and/or footpath. Once approved, all work will be carried out by a private contractor in accordance with Council's specifications prior to the issue of an Occupation Certificate.

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

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

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

- 114. Maintenance of Landscaping** - All trees and plants forming part of the landscaping must be maintained. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilizing, pest and disease control, replacement of dead or dying plants and any other operations required to maintain healthy trees, plants and turfed areas.
- 115. Allocation of street addresses** – In order to comply with AS/NZS 4819:2011 Rural and Urban Addressing, the NSW Addressing User Manual (Geographical Names Board of NSW) and Georges River Council's requirements, the street address for the subject development is allocated as follows:

**Primary Address**

- 17 Wyuna Street, Beverley Park NSW 2217

**Apartments Addresses**

- Refer to the list of apartment addresses for the subject development:



Unit Addresses at 17 Wyuna Street BEVERLEY PARK NSW 2217					
Unit numbers on DA Plans		Floor Number	Unit numbers and addresses allocated by Council		
Level	Unit No.		Unit No	Street No	Street Name
Basement 1	-	B1	Basement Carpark - B1		
Basement 2	-	B2	Basement Carpark - B2		
Ground floor	6	G	001	17	Wyuna Street
Ground floor	5	G	002	17	Wyuna Street
Ground floor	4	G	003	17	Wyuna Street
Ground floor	3	G	004	17	Wyuna Street
Ground floor	2	G	005	17	Wyuna Street
Ground floor	1	G	006	17	Wyuna Street
Ground floor	11	G	007	17	Wyuna Street
Ground floor	10	G	008	17	Wyuna Street
Ground floor	9	G	009	17	Wyuna Street
Ground floor	8	G	010	17	Wyuna Street
Ground floor	7	G	011	17	Wyuna Street
Level 1 Plan	106	1	101	17	Wyuna Street
Level 1 Plan	105	1	102	17	Wyuna Street
Level 1 Plan	104	1	103	17	Wyuna Street
Level 1 Plan	103	1	104	17	Wyuna Street
Level 1 Plan	102	1	105	17	Wyuna Street
Level 1 Plan	101	1	106	17	Wyuna Street
Level 1 Plan	111	1	107	17	Wyuna Street
Level 1 Plan	110	1	108	17	Wyuna Street
Level 1 Plan	109	1	109	17	Wyuna Street
Level 1 Plan	108	1	110	17	Wyuna Street
Level 2 Plan	107	1	111	17	Wyuna Street
Level 2 Plan	206	2	201	17	Wyuna Street
Level 2 Plan	205	2	202	17	Wyuna Street
Level 2 Plan	204	2	203	17	Wyuna Street
Level 2 Plan	203	2	204	17	Wyuna Street
Level 2 Plan	202	2	205	17	Wyuna Street
Level 2 Plan	201	2	206	17	Wyuna Street
Level 2 Plan	211	2	207	17	Wyuna Street
Level 2 Plan	210	2	208	17	Wyuna Street
Level 2 Plan	209	2	209	17	Wyuna Street
Level 2 Plan	208	2	210	17	Wyuna Street
Level 2 Plan	207	2	211	17	Wyuna Street
Level 3 Plan	306	3	301	17	Wyuna Street
Level 3 Plan	305	3	302	17	Wyuna Street
Level 3 Plan	304	3	303	17	Wyuna Street
Level 3 Plan	303	3	304	17	Wyuna Street
Level 3 Plan	302	3	305	17	Wyuna Street
Level 3 Plan	301	3	306	17	Wyuna Street
Level 3 Plan	311	3	307	17	Wyuna Street
Level 3 Plan	310	3	308	17	Wyuna Street
Level 3 Plan	309	3	309	17	Wyuna Street
Level 3 Plan	308	3	310	17	Wyuna Street
Level 3 Plan	307	3	311	17	Wyuna Street
Level 4 Plan	404	4	401	17	Wyuna Street
Level 4 Plan	403	4	402	17	Wyuna Street
Level 4 Plan	402	4	403	17	Wyuna Street
Level 4 Plan	401	4	404	17	Wyuna Street
Level 4 Plan	406	4	405	17	Wyuna Street
Level 4 Plan	407	4	406	17	Wyuna Street
Level 4 Plan	406	4	407	17	Wyuna Street
Level 4 Plan	405	4	408	17	Wyuna Street
Level 5 Plan	504	5	501	17	Wyuna Street
Level 5 Plan	503	5	502	17	Wyuna Street
Level 5 Plan	502	5	503	17	Wyuna Street
Level 5 Plan	501	5	504	17	Wyuna Street
Level 5 Plan	508	5	505	17	Wyuna Street
Level 5 Plan	507	5	506	17	Wyuna Street
Level 5 Plan	506	5	507	17	Wyuna Street
Level 5 Plan	505	5	508	17	Wyuna Street
Level 5 Plan	603	6	601	17	Wyuna Street
Level 5 Plan	602	6	602	17	Wyuna Street
Level 5 Plan	601	6	603	17	Wyuna Street
Level 5 Plan	604	6	604	17	Wyuna Street

NOTE: Unit numbers on plan are not the same order as units allocated by council

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

#### Additional comments

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

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

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

**116. Dilapidation Report on Public Land for Major Development Only** – Upon completion of works, a follow up dilapidation report must be prepared for the items of Council infrastructure adjoining the development site.

The dilapidation report must be prepared by a professional engineer specialising in structural engineering, and include:

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

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

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

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

**117. 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.

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

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

Flashing, moving or intermittent lights or signs are prohibited.

**119. 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.



- 120. Boundary fencing** - Any new boundary fencing erected along the side and rear boundaries shall not exceed a height of 1.8m unless specified by any other conditions.
- 121. Disability Discrimination Act** – The applicant is responsible to ensure compliance with this and other anti-discrimination legislation.
- 122. Electrical connection** - Any new electrical and telecommunication connections to the site are to be carried out using underground cabling.
- 123. Finishes** - Any materials or surfaces addressing the public domain on the ground and first floor (where accessible by members of the public) shall utilise graffiti-resistant materials.
- 124. 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.
- 125. Security** - If any security screens/grilles are installed, they are to be openable from within the building.
- 126. Building identification** numbering that presents to public areas (ie the adjoining road reserve) are to be at least 7cm high and are to be situated 1-1.5m above ground level on the street frontage. The numbering is to be constructed from durable materials and shall not be obscured by vegetation.
- 127. Noise Control** - The use of the premises will not give rise to the transmission of offensive noise to any place of different occupancy. Offensive noise is defined in the Protection of the Environment Operations Act 1997 (as amended).
- 128. Amenity of the Neighbourhood** - The implementation of this development will not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, dust, waste water, waste products, grit, oil or other harmful products.
- 129. Maintenance of Landscaping** - All trees and plants forming part of the landscaping will be maintained. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilising, pest and disease control, replacement of dead or dying plants and any other operations required to maintain healthy trees, plants and turfed areas.

The maintenance of the landscaping shall be undertaken in perpetuity. Should any plants or trees die, then they shall be replaced with the same species (ie like for like).

- 130. Annual Fire Safety Statement** - The owner of the building premises will ensure the Council is given an annual fire safety statement in relation to each essential fire safety measure implemented in the building. The annual fire safety statement will be given:
- (a) Within 12 months after the date on which the fire safety certificate was received.
  - (b) Subsequent annual fire safety statements are to be given within 12 months after the last such statement was given.
  - (c) An annual fire safety statement is to be given in or to the effect of Clause 181 of the Environmental Planning and Assessment Regulation 2000.

- (d) A copy of the statement is to be given to the Commissioner of Fire & Rescue NSW, and a further copy is to be prominently displayed in the building.

- 131. Responsibility of Owners Corporation** - The Owners Corporation will be responsible for presenting all approved waste and recycling receptacles for collection, and returning all receptacles to the waste collection room, as soon as practicable after they have been serviced.

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

**138. 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.

**139. 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.

**140. 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.

**141. 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**

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

- 143. 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.
- 144. 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.
- 145. 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.
- 146. 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.
- 147. Clause 98E - Site Excavation** - Excavation of the site is to extend only to that area required for building works depicted upon the approved plans. All excess excavated material shall be removed from the site.

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

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

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

## END CONDITIONS

## NOTES/ADVICES

- 148. 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.

149. **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.
150. **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.
151. **Access to NSW Legislations (Acts, Regulations and Planning Instruments)** - NSW legislation can be accessed free of charge at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)
152. **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.
153. **Fire and Rescue NSW comments.** Prior to the issue of a Construction Certificate the applicant may be required, under Clause 144 of the Environmental Planning & Assessment Regulation 2000 to seek written comment from FR NSW about any Fire Engineered Solution developed to meet the performance requirements under Category 2 Fire Safety Provisions.
154. **Referral to Fire and Rescue NSW** - Prior to the issue of an Occupation Certificate the applicant may be required, under Clause 152A of the Environmental Planning & Assessment Regulation, 2000 to seek written comment from FR NSW about the construction and location of any hydrant/booster system, developed to meet the performance requirements of the Building Code of Australia.
155. **Building - Energy Efficiency Provisions** - Should Council be appointed as the Principal Certifying Authority, a report prepared and endorsed by an Energy Efficiency Engineer or other suitably qualified person must be submitted, detailing the measures that must be implemented in the building to comply with Section J of the BCA. The proposed measures and feature of the building that facilitate the efficient use of energy must be identified and detailed on the architectural plans. At completion of the building and **before the issue of an Occupation Certificate**, a certificate certifying that the building has been erected to comply with the energy efficiency provisions must be submitted to the Certifying Authority.
156. **Land Contamination** - Note: A Certified Contaminated Land Consultant is a Certified Environmental Practitioner (Site Contamination) (CENVP(SC)) or certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM)

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

- 157. Energy Efficiency Provisions - Energy Efficiency Provisions** - Should Council be appointed as the Principal Certifier, a report prepared and endorsed by an Energy Efficiency Engineer or other suitably qualified person must be submitted, detailing the measures that must be implemented in the building to comply with Section J of the BCA. The proposed measures and feature of the building that facilitate the efficient use of energy must be identified and detailed on the architectural plans. At completion of the building and before the issue of an Occupation Certificate, a certificate certifying that the building has been erected to comply with the energy efficiency provisions must be submitted to the Principal Certifier.
- 158. Compliance with Access, Mobility and AS4299** - Adaptable Housing - Should the Council be appointment as the PCA, the Construction Certificate Application must be accompanied by detailed working plans and a report or a Certificate of Compliance from an Accredited Access Consultant certifying that the building design and access to the adaptable apartments complies with Council's DCP and AS 4299 Adaptable Housing.
- 159. Noise** - Noise related conditions - Council will generally enforce noise related conditions in accordance with the Noise Guide for Local Government (<http://www.environment.nsw.gov.au/noise/nglg.htm>) and the Industrial Noise Guidelines (<http://www.environment.nsw.gov.au/noise/industrial.htm>) publish by the Department of Environment and Conservation. Other state government authorities also regulate the Protection of the Environment Operations Act 1997.

Useful links relating to Noise:

- (a) Community Justice Centres - free mediation service provided by the NSW Government ([www.cjc.nsw.gov.au](http://www.cjc.nsw.gov.au)).
  - (b) Department of Environment and Conservation NSW, Noise Policy Section web page ([www.environment.nsw.gov.au/noise](http://www.environment.nsw.gov.au/noise)).
  - (c) New South Wales Government Legislation home page for access to all NSW legislation, including the Protection of the Environment Operations Act 1997 and the Protection of the Environment Noise Control Regulation 2000 ([www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)).
  - (d) Australian Acoustical Society - professional society of noise-related professionals ([www.acoustics.asn.au/index.php](http://www.acoustics.asn.au/index.php)).
  - (e) Association of Australian Acoustical Consultants - professional society of noise related professionals ([www.aaac.org.au](http://www.aaac.org.au)).
  - (f) Department of Gaming and Racing - ([www.dgr.nsw.gov.au](http://www.dgr.nsw.gov.au)).
- 160. Acoustical Engineer Contacts & Reference Material** - Further information including lists of Acoustic Engineers can be obtained from:
- (a) Australian Acoustical Society - professional society of noise-related professionals ([www.acoustics.asn.au](http://www.acoustics.asn.au))
  - (b) Association of Australian Acoustical Consultants - professional society of noise related professionals ([www.aaac.org.au](http://www.aaac.org.au))
  - (c) NSW Industrial Noise Policy - Office of Environment & Heritage

([www.environment.nsw.gov.au](http://www.environment.nsw.gov.au))

**161. 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).

**162. 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.

**163. Electricity Supply** - This development may need a connection to the Ausgrid network which may require the network to be extended or its capacity augmented. You are advised to contact Ausgrid on 13 13 65 or [www.ausgrid.com.au](http://www.ausgrid.com.au) (Business and Commercial Services) for further details and information on lodging your application to connect to the network.

**164. 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.

**165. 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.

- 166. 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.

- 167. 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.

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



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

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

- (i) Complete the Driveway Crossing on Council Road Reserve Application Form which can be downloaded from Georges River Council's Website at [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au)
- (ii) In the Application Form, quote the Development Consent No. (eg. DA2018/0580)
- (iii) Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Council's adopted Fees and Charges for the administrative and inspection charges associated with Vehicular Crossing applications.

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

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

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

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

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

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

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

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

**to issue of the Construction Certificate.**

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- 171. 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.
- 172. Compliance with Access, Mobility and AS4299 - Adaptable Housing** - Should the Council be appointment as the PCA, the Construction Certificate Application must be accompanied by detailed working plans and a report or a Certificate of Compliance from an Accredited Access Consultant certifying that the building design and access to the adaptable apartments complies with Council's DCP and AS 4299 Adaptable Housing.

#### ATTACHMENTS

- Attachment [↓](#) 1 Site Plan - provided on website  
Attachment [↓](#) 2 Elevations - provided on website  
Attachment [↓](#) 3 Elevations 2 - provided on website

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