
AGENDA - LPP

Meeting:	Georges River Local Planning Panel (LPP)
Date:	Thursday, 16 June 2022
Time:	4.00pm
Venue:	Blended Meeting Online and Dragon Room Level 1, Georges River Civic Centre Corner Dora and MacMahon Streets, Hurstville
Participants:	Juliet Grant (Chairperson) John Brockhoff (Expert Panel Member) Milan Marecic (Expert Panel Member) Fiona Prodromou (Community Representative)

1. On Site Inspections – Carried out by Panel Members prior to meeting

2. Opening

3. Consideration of Items and Verbal Submissions

LPP028-22	18 Letitia Street, Oatley – DA2021/0007 (Report by Senior Development Assessment Planner)
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LPP029-22	18A Letitia Street Oatley – DA2021/0002 (Report by Senior Development Assessment Planner)
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LPP030-22	17 Planthurst Road Carlton – DA2021/0284 (Report by Senior Development Assessment Officer)
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LPP031-22	2-10 Palmerston Street Kogarah – MOD2022/0025 (Report by Senior Development Assessment Officer)
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4. Local Planning Panel Deliberations in Closed Session
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5. Confirmation of Minutes

**REPORT TO GEORGES RIVER COUNCIL
LPP MEETING OF THURSDAY, 16 JUNE 2022**

LPP028-22

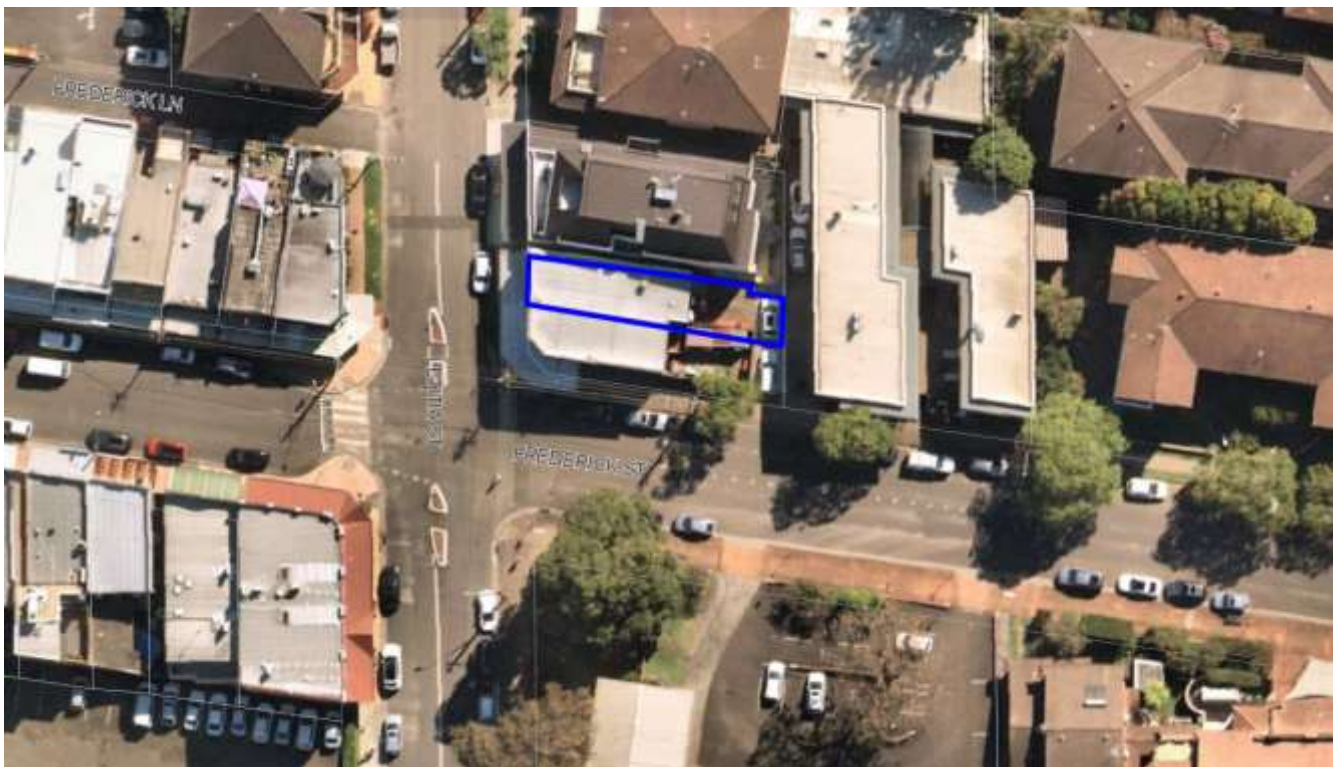
LPP Report No	LPP028-22	Development Application No	DA2021/0007
Site Address & Ward Locality	18 Letitia Street, Oatley Blakehurst Ward		
Proposed Development	Demolition works, alterations and additions to a mixed use building containing retail premises and shop top housing.		
Owners	Law Search Co Pty Ltd		
Applicant	Mrs Jennifer Walsh		
Planner/Architect	Planner – Wynne Planning and Architect Innovate Architects		
Date Of Lodgement	13/01/2021		
Submissions	Two submissions		
Cost of Works	\$730,000.00		
Local Planning Panel Criteria	Determination of the application by the Panel is in the public interest.		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Industry and Employment) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, Georges River Local Environmental Plan 2021, Kogarah Local Environmental Plan 2012, Georges River Development Control Plan 2012, Kogarah Development Control Plan 2013		
List all documents submitted with this report for the Panel's consideration	Architectural Plans, Statement of Environmental Effects, Stormwater Plans, Traffic and Parking Report, BCA Report, Survey Plan, Submissions		
Report prepared by	Senior Development Assessment Planner		

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

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

Site Plan



Aerial – site outlined in blue

Executive Summary Proposal

1. This development application (DA) seeks consent for demolition works and alterations and additions to a mixed-use building containing retail premises on the ground floor and an office on the first floor.
2. The existing building contains a café on the ground floor fronting Letitia Street and an office on the first floor.

3. The application proposes excavation at ground level to the rear of the café to provide storage for the café, office and proposed residential unit. A carport for one vehicle is proposed above the storage areas and is to be accessed from the rear of the site, via a right of way over No. 18A Letitia Street from Frederick Street.
4. The existing office on the first floor is to be extended toward the rear, and a new 2 - bedroom residential unit is proposed on the second floor. New signage is proposed on the Letitia Street façade above the existing first floor window (Greg Walsh and Co. Lawyers).
5. The proposal complies with the height and floor space ratio standards of the Kogarah Local Environmental Plan 2012.

Site and Locality

6. The development site is located on 18 Letitia Street. The site is legally identified as Lot 11 in DP515307.
7. The site is irregular in shape. It has an approximate frontage to Letitia Street of 6.14m and a total site area of 168.53sqm. The land falls gently from the rear of the site to the frontage of Letitia Street.
8. Presently situated on the site is a two-storey commercial development. The ground (street) level is currently occupied by a cafe. The first floor is currently utilised for office/commercial purposes. The rear of the site also contains a paved area and driveway which connects to the right of way easement located over 18A Letitia Street.
9. The site is zoned as B2 Local Centre with a maximum height of 12m and a maximum Floor Space Ratio (FSR) of 2.5:1.
10. The adjacent land to the north, at No. 18B Letitia Street, which currently contains a four-storey mixed used residential/commercial development with 3 residential units, ground floor commercial/retail use, and basement car parking.
11. DA2021/0002 on 18A Letitia Street, (south of the subject site), proposes demolition works and alterations and additions to a mixed-use building containing a retail premises (used as a bottle shop) and shop top housing. The assessment report for DA2021/0002 is also on the agenda of the LPP meeting for 16 June 2022. The works need to be considered together as amalgamation is not proposed.
12. The adjacent land to the east, at No. 32 Frederick Street, currently contains a commercial development with various retail and commercial uses. Across Letitia Street, to the west at No. 30 Frederick Street is a two-storey commercial development.
13. Adjacent sites are zoned as B2 Local Centre whilst the locality also contains sites zoned R4 High Density Residential, R3 Medium Density Residential, and SP2 Educational Establishment and Place of Public Worship.

Zoning and Permissibility

14. The subject site is zoned B2 Local Centre under the provisions of Kogarah Local Environmental Plan 2012 (KLEP 2012). The proposal involves alterations and additions to an existing commercial building which is a permissible use in the zone with development consent. The development being the incorporation of a residential unit on

level three results in the development being defined as shop top housing which is also permissible with consent in this zone.

Submissions

15. The DA was publicly notified to neighbours for a period of fourteen (14) days. One submission was received.

Reason for Referral to the Local Planning Panel

16. This application is referred to the Georges River Local Planning Panel for determination as the application is considered to be in the public interest via Council delegations.

Planning and Design Issues

17. The proposal is fully compliant with the maximum height and FSR development standards that apply to the site under KLEP 2012. The proposal is therefore consistent with the desired future built form controls for the site.
18. The application seeks a variation to the car parking requirements for the proposal, which is supported and discussed in detail later in this report.

Conclusion

19. The application has been assessed having regard to the Matters for Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, the provisions of the relevant State Environmental Planning Policies, Local Environmental Plans and Development Control Plans. The proposal is an appropriate response to the site and the locality. As a result, the application is recommended for approval subject to conditions of consent.

Report in Full

Description Of the Proposal

20. The proposal seeks consent for demolition works and alterations and additions to an existing mixed-use building to provide storage, a café, an office and a residential unit on the site resulting in the development being defined as shop top housing.

A detailed description of the proposal is as follows:

Storage Level: Excavation to provide OSD, separate storerooms for the café, office and residential unit, and stair access to the carport above.

Ground Level - Letitia Street: No change to the existing café.

Ground Level – east: Carport for one vehicle, commercial and residential bin storage areas, and new stair access to levels above.

First Floor – office: Extension of the existing office to provide additional office space of 30sqm.

Second Floor – residential: New residential unit containing two bedrooms one with ensuite, bathroom, study, laundry, kitchen, living area and two balconies.

Description of the Site and Locality

21. The development site is located on 18 Letitia Street. The site is legally identified as Lot 11 in DP515307.

22. The site is irregular in shape. It has an approximate frontage to Letitia Street of 6.14m and a total approximate site area of 168.53sqm. The land falls gently from the rear of the site to the frontage of Letitia Street.
23. Presently situated on the site is a two-storey commercial development. The ground (street) level is currently occupied by a food and drink premise. The first floor is currently utilised for office/commercial purposes. The rear of the site also contains a paved area and driveway which connects to the right of way easement located over 18A Letitia Street.

LPP028-22



Figure 1: View of site (two storey commercial development) from Letitia Street.



Figure 2: Eastern neighbour No. 32 Frederick Street, Oatley



Figure 3: Northern neighbour No. 18B Letitia Street, Oatley

24. The adjacent land to the north, at No. 18B Letitia Street, currently contains a four-storey mixed used residential/commercial development (shop top housing) with 3 residential units, ground floor commercial/retail use and basement car parking.

25. DA2021/0002 on 18A Letitia Street, (south of the subject site), proposing demolition works and alterations and additions to a mixed-use building containing a retail premises (used as a bottle shop) and a residential unit over being shop top housing. The assessment report for DA2021/0002 is also on the agenda of the LPP meeting for 16 June 2022. The works need to be considered together as amalgamation is not proposed.
26. The adjacent land to the east, at No. 32 Frederick Street, currently contains a commercial development with various retail and commercial uses. Across Letitia Street, to the west at No. 30 Frederick Street is a two-storey commercial development.



Figure 4: Montage of proposed development at 18 Letitia Street and 18A Letitia Street

27. The site is zoned as B2 Local Centre with a maximum height of 12m and a maximum Floor Space Ratio (FSR) of 2.5:1.
28. Adjacent sites are zoned as B2 Local Centre whilst the locality also contains sites zoned R4 High Density Residential, R3 Medium Density Residential, and SP2 Educational Establishment and Place of Public Worship.

State Environmental Planning Policies (SEPPs)

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

State Environmental Planning Policy Title	Complies
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Yes
State Environmental Planning Policy (Resilience and Hazards) 2021	Yes
State Environmental Planning Policy (Transport and Infrastructure) 2021	Yes
State Environmental Planning Policy (BASIX) 2004	Yes
State Environmental Planning Policy (Industry and Employment) 2021	Yes

State Environmental Planning Policy (Biodiversity and Conservation) 2021

30. The relevant parts of the above Policy that apply to this application are Chapter 2 – Vegetation in non-rural areas, and Chapter 11 – Georges River Catchment.

Chapter 2 - Vegetation in Non-Rural Areas

31. Chapter 2 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.
32. This chapter applies to clearing of:
- *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*
 - *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).*
33. No tree removal is proposed as part of the application.

Chapter 11 – Georges River Catchment

34. 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,*
35. The stormwater design was reviewed by Council's Engineering Section at lodgement. No objection was raised with respect to the management and disposal of stormwater.
36. The proposal is consistent with the objectives and purpose of Chapter 11 of the SEPP.

State Environmental Planning Policy (Resilience and Hazards) 2021

37. Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 is relevant to the proposal.
38. Chapter 4 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.
39. Clause 4.6 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.

40. A review of historic aerial photography indicates that the site has historically been used for commercial/residential purposes not typically associated with activities that would result in the contamination of land. On this basis, the site is considered suitable for residential development in its current state for the development proposed with respect to contamination.

State Environmental Planning Policy (Transport and Infrastructure) 2021

41. Compliance with SEPP (Transport and Infrastructure) 2021 has been considered. Ausgrid was consulted as required by Chapter 2. No objection was raised and no conditions required.

State Environmental Planning Policy (BASIX) 2004

42. The trigger for BASIX Certification is when the estimated cost of works for residential development (new dwelling(s)/alterations and additions) is equal to or above \$50,000. BASIX Certification is also triggered when proposing a swimming pool with a volume of 40,000 litres.
43. A valid BASIX Certificate has been submitted with the Development Application satisfying the minimum requirements of SEPP (Building Sustainability Index: BASIX) 2004.

State Environmental Planning Policy (Industry and Employment) 2021

44. Chapter 3 of the SEPP applies to advertising and signage. The policy aims to ensure that signage is compatible with the desired amenity and visual character of an area.
45. Part 3.7 of the SEPP states:
- 3.7 Advertisements to which this Part applies**
- (1) *This Part applies to all signage to which this Chapter applies, other than the following—*
- (a) *business identification signs,*
 - (b) *building identification signs,*
 - (c) *signage that, or the display of which, is exempt development under an environmental planning instrument that applies to it,*
 - (d) *signage on vehicles.*
- (2) *Despite subsection (1)(d), section 3.26 applies to signage on a trailer (within the meaning of the [Road Transport Act 2013](#)).*
46. The proposed signage is classified as a business identification sign. The proposed signage is shown in the figure below.



Figure 5: Proposed new signage on Letitia Street elevation

47. There are no controls within the SEPP for business identification signs to consider other than the assessment criteria in Schedule 5. An assessment of the proposal against Schedule 5 of the SEPP is provided in the table below.

Assessment Criteria	Proposal	Compliance
1 Character of the area <ul style="list-style-type: none"> Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located? Is the proposal consistent with a particular theme for outdoor advertising in the area or locality? 	<p>The proposed signage is compatible with signage in the immediate locality.</p> <p>There is no particular theme of signage in the locality.</p>	<p>Yes</p> <p>Yes</p>
2 Special areas <ul style="list-style-type: none"> Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas? 	<p>The site is not located in a special area.</p>	<p>Yes</p>
3 Views and vistas <ul style="list-style-type: none"> Does the proposal obscure or compromise important views? Does the proposal dominate the 	<p>No as the signage is flush to the external façade of the building.</p> <p>No as it is flush to the</p>	<p>Yes</p> <p>Yes</p>

Assessment Criteria	Proposal	Compliance
skyline and reduce the quality of vistas? • Does the proposal respect the viewing rights of other advertisers?	façade of the building. Yes, as it is flush to the façade of the building.	Yes
4 Streetscape, setting or landscape • Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape? • Does the proposal contribute to the visual interest of the streetscape, setting or landscape? • Does the proposal reduce clutter by rationalising and simplifying existing advertising? • Does the proposal screen unsightliness? • Does the proposal protrude above buildings, structures or tree canopies in the area or locality? • Does the proposal require ongoing vegetation management?	Yes, the signage is consistent with other commercial signage in the precinct. The signage is appropriate for the streetscape as it advertises the business and is flush to the façade of the building. The sign replaces an existing sign. No as flush to the façade. No as flush to the facade No	Yes Yes Yes Yes Yes
5 Site and building • Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located? • Does the proposal respect important features of the site or building, or both? • Does the proposal show innovation and imagination in its relationship to the site or building, or both?	Yes, the signage is on the façade of the building which is characteristic of signage in the locality. The signage is appropriately located on the façade of the building. The sign is the name of the business occupying the commercial tenancy.	Yes Yes Yes
6 Associated devices and logos with advertisements and advertising structures • Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	No	NA

Assessment Criteria	Proposal	Compliance
7 Illumination <ul style="list-style-type: none"> • Would illumination result in unacceptable glare? • Would illumination affect safety for pedestrians, vehicles or aircraft? • Would illumination detract from the amenity of any residence or other form of accommodation? • Can the intensity of the illumination be adjusted, if necessary? • Is the illumination subject to a curfew? 	Not proposed. Not proposed. Not proposed. Not proposed. Not proposed.	NA NA NA NA NA
8 Safety <ul style="list-style-type: none"> • Would the proposal reduce the safety for any public road? • Would the proposal reduce the safety for pedestrians or bicyclists? • Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas? 	No as non illuminated façade signage. No as non illuminated façade signage. No as non illuminated façade signage.	Yes Yes Yes

Environmental Planning Instruments

Kogarah Local Environmental Plan 2012 (KLEP 2012)

Zoning

48. The subject site is zoned B2 Local Centre under the provisions of the Kogarah Local Environmental Plan 2012 (KLEP2012). Refer to zoning map below. The proposed development is defined as shop-top housing which is a permissible land use in the zone.

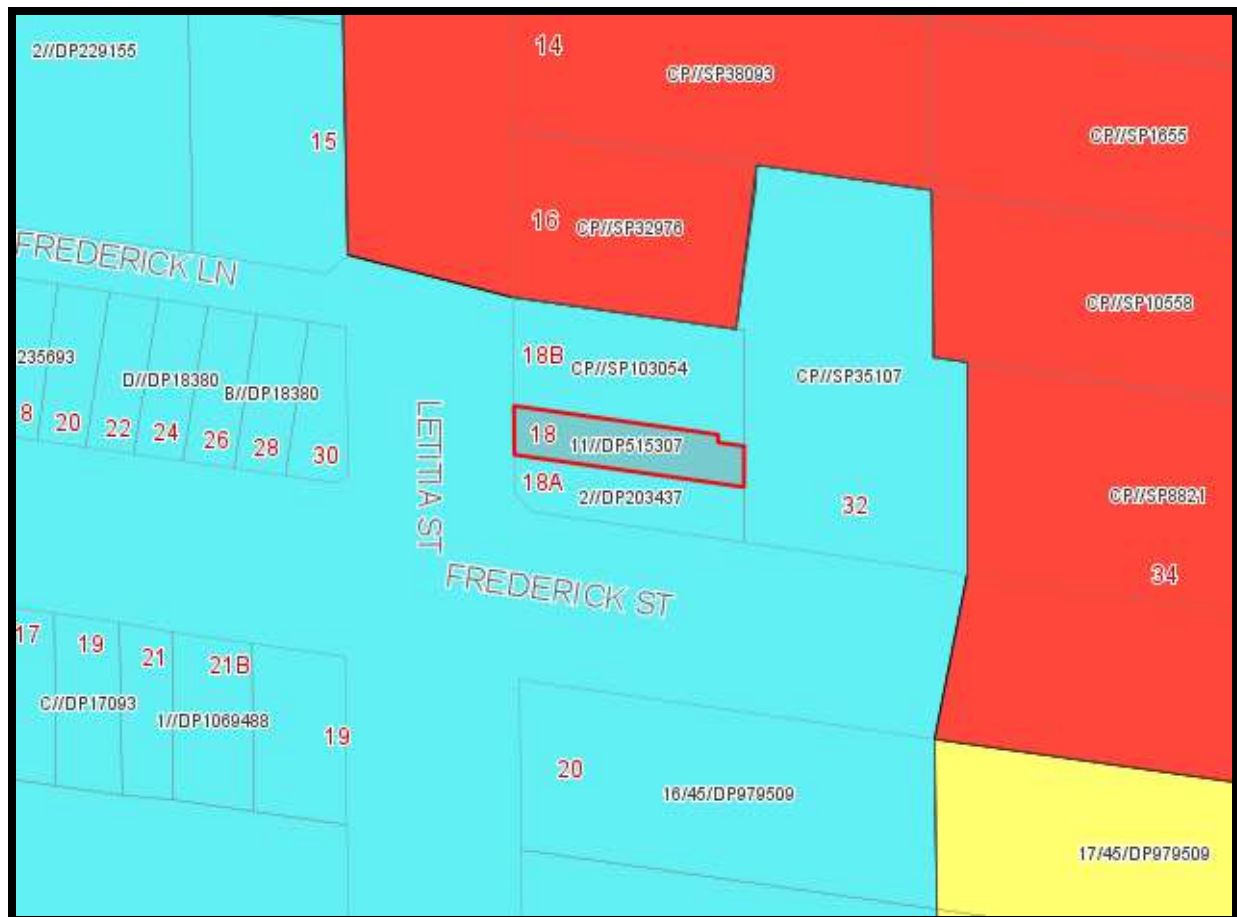


Figure 6: Zoning map of the site (KLEP 2012)

49. The objectives of the B2 zone are as follows:
- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
 - To encourage employment opportunities in accessible locations.*
 - To maximise public transport patronage and encourage walking and cycling.*
50. The proposal satisfies the objectives of the B2 Zone as it will continue to provide residential and commercial uses in an accessible area.
51. The extent to which the proposal complies with the relevant standards of Kogarah Local Environmental Plan 2012 (KLEP2012) is outlined the table below.

KLEP2012 Compliance Table

Clause	Standard	Proposed	Complies
2.2 Zone	B2 Local Centre	The proposal is a permissible use within the zone.	Yes
2.3 Objectives	Objectives of the Zone	Consistent with the zone objectives.	Yes
4.3 – Height of Buildings	12m as identified on Height of Buildings Map	The maximum height of the building is 10.2m.	Yes
4.4 – Floor Space Ratio	2.5:1 as identified on Floor Space Ratio Map	1.9:1	Yes

Clause	Standard	Proposed	Complies
4.5 – Calculation of floor space ratio and site area	FSR and site area calculated in accordance with Cl.4.5	The GFA has been calculated in accordance with this clause.	Yes
6.2 Earthworks	To ensure that earthworks do not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land	The proposed development includes excavation and associated earthworks to accommodate storage areas for the café, the office and Unit 1.	Yes

Georges River Local Environmental Plan 2021

52. The Georges River Local Environmental Plan 2021 was gazetted on 8 October 2021.
53. In relation to this development site the zoning, height and floor space ratio remain unchanged.
54. Consideration is given to the provisions of Georges River Local Environmental Plan 2021 in the assessment this application.
55. In this regard, the provisions have no determining weight because of the operation of Clause “1.8A Savings provisions relating to development applications” of the Draft Plan which provides “If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.”

Development Control Plans

Kogarah Development Control Plan No 2013 (KDCP)

56. The following compliance table is an assessment of the proposal against the relevant Development Control Plan controls.

Required	Proposed	Complies
B4 Parking and Traffic		
<u>Residential parking:</u> 1 x 2 bedroom units @ 1.5 spaces per unit = 1 space required.	1 space provided.	Yes
<u>Visitor parking:</u> 1 total units @ 1 space per 5 units = 1 space required	No visitor parking proposed.	No – refer to discussion below
<u>Car wash bay:</u> 1 bay, which can also function as a visitor space	No car wash bay proposed.	No – refer to discussion below
<u>Accessible Space</u> For developments with less than	No accessible space proposed.	No – refer to

Required	Proposed	Complies
<p>100 car spaces, a minimum of one accessible space must be provided</p> <p>Designated accessible car spaces may be treated as resident car spaces in the calculation of parking requirements.</p>		discussion below
<p><u>Commercial and Industrial</u></p> <p><u>Offices/commercial (outside of the Centres)</u></p> <p>1 space/40m2 of gross floor area Office GFA = 109sqm (existing + proposed)</p> <p><u>Retail Premises</u></p> <p><u>Take away food and drink premises (drive-in)</u></p> <p>Developments with on-site seating but no drive through facilities:</p> <p>1 space per 100m2 gross floor area, or the greater of:</p> <p>1 space per 5 seats (both internal and external seating), or</p> <p>1 space per 2 seats (internal seating).</p>	One existing parking space on site.	No – refer to discussion below
<p><u>Bicycle Parking:</u></p> <p>1 space per 3 dwellings = 1</p> <p>1 space per 10 dwellings for visitors = 1 spaces</p> <p>Total = 2 spaces required</p>	Space available in the proposed storeroom.	Yes
Car park access and layout to comply with relevant Australian Standards	Complies.	Yes

Discussion on car parking

57. The existing and proposed parking arrangements do not comply with the controls in the DCP as there is currently one space on site for use by the existing commercial tenants. Council's Senior Traffic Engineer has reviewed the proposal and raises no concern with the parking deficiency as the alterations and additions proposed are not substantial in terms of traffic and parking matters.

58. The site is located within walking distance of Oatley railway station and bus stops, the proposed carport space is to be for the exclusive use of the proposed residential unit, and a condition of consent is recommended to this effect.
59. A number of conditions of consent have been recommended at the end of this report in relation to traffic and parking, including conditions requiring submission of a construction vehicle and pedestrian plans of management, adequacy of the existing driveway/Right-of-Carriageway paving, driveway/carport finished level, loading/unloading of goods, and car space allocation (the carport space is to be allocated to the proposed residential unit).

B5 – Waste Management and Minimisation		
Submit Waste Management Plan (WMP)	A WMP was submitted with the DA.	Yes
Provide a dedicated caged area within the bin room for the storage of discarded bulky items.	The carport level contains sufficient bin storage areas for both the residential and commercial occupants.	
B6 – Water Management		
All developments require consideration of Council's Water Management Policy	The proposed method of stormwater management is considered satisfactory subject to conditions.	Yes
B7 – Environmental Management		
Building to be designed to improve solar efficiency and are to use sustainable building materials and techniques	Design, materials, siting and orientation generally optimise solar efficiency, the development is BASIX-compliant.	Yes

Part D1: Development in the B1 Neighbourhood Centres & B2 Local Centre zones

Requirement	Proposal	Complies
3.1 Streetscape		
(1) Infill development is to respect and maintain consistency with the established rhythm and scale of existing shopfronts.	No change to the existing ground floor shopfront.	Yes
(2) Parapets are to be utilised for the consistency of street frontage and screening of unsightly roof structures.	No change to the existing parapet – the proposed second floor is setback behind the level below to facilitate a balcony at the residential level.	Yes
(3) Facades are to be ordered and articulated to visually break up the building massing, for example through materials, colour and the design of openings. Large areas of glass curtain walling and blank walls are to be	The second floor addition is setback and complements the existing mansard style second floor of the adjacent building.	Yes

Requirement	Proposal	Complies
avoided.		
(4) Enhance pedestrian amenity through the provision of continuous awnings for weather protection.	The existing awning to remain unchanged.	Yes
(5) Promote safety and security by providing a high level of activation to the street, employing clear and direct lines of sight between the street and building entries, and using appropriate signage and lighting to enhance the amenity of the public domain.	The public domain interface of the building remains unchanged and complies.	Yes
(6) Site and design vehicular access (driveways, parking facilities, service access and garages) away from the main street frontage, from rear lanes or secondary streets.	Existing rear access maintained.	Yes
3.2 Shop-top housing		
(1) The ground floor level of buildings shall maintain active retail/commercial uses facing the street.	No change to the existing ground floor commercial use.	Yes
(2) Levels above ground can sustain mixed uses, including commercial, professional services, and residential, where appropriate.	First floor – office Second floor – residential	Yes Yes
(3) Site and design non-residential and residential land uses in the same development in a manner that will not adversely affect the future operation of those land uses.	Appropriately separated and complies	Yes
(4) Residential uses are only be permitted subject to demonstration of satisfactory amenity for building occupants, particularly in relation to impacts from noise, fumes and vibration on	The site is located in a suitable area for additional residential development with good internal amenity for the proposed unit and located close to amenities, services and transport.	Yes

Requirement	Proposal	Complies
heavily trafficked streets.		
3.3 Heritage & Significant Facades – Commercial Precincts		
(5) Respond to requirements for heritage items (Schedule 5 of KLEP 2012) or significant facades as identified in the Commercial Locality Controls.	Not applicable as the site is not Heritage listed or in a Conservation Area.	NA
(6) For the redevelopment of heritage buildings identified in Schedule 5 of KLEP 2012, vertical additions are permitted with an upper level setback, where the parapet becomes the balustrade to the balcony of a new upper level storey.		
3.4 Building Heights		
(7) Building heights are to be in accordance with the Locality Controls.	Maximum 12m Proposed 10.2m	Yes
(8) Buildings are massed towards the street frontage and step down towards the rear, to be in keeping with the existing retail/commercial built form pattern and compatible with the scale and character of adjacent residential areas.	The building mass is suitable for the site and consistent with adjacent development.	Yes
(9) Where allotment adjoins a low density residential area, buildings should be: (i) reduced in height in accordance with the locality controls; and (ii) setback from the adjoining property boundary.	NA – the site adjoins B2 zoned land.	NA
(10) The height of new development at the street boundary is to be no more than the prevailing height of the parapets of any adjacent and neighbouring heritage buildings.	Complies.	Yes

Requirement	Proposal	Complies
(11) Floor to ceiling heights - min 3m (ground floor) for range of uses (retail, commercial, home offices).	The existing ground floor to remain unchanged.	Yes
(12) Floor to ceiling should be a minimum of 2.7m at the upper storeys of the building, to allow for a range of uses, and to improve the environmental performance and amenity of the building	The proposed second floor has a 2.7m floor to ceiling height.	Yes
3.5 Setbacks		
(13) Buildings adjacent to public roads are generally to align with and be built to the street frontage to provide continuity in the streetscape and encourage active frontages to ground level.	The proposed second floor is setback in a mansard style roof which is consistent with the adjacent building at 18B Letitia Street.	Yes
(14) Street setbacks at ground level are permitted only: (i) Where the existing footpath is narrow and the provision of additional pedestrian space is desirable (ii) Where the established pattern is setback (for example where there are residential buildings within the locality) (iii) Where the setback enables or enhances visual appreciations of adjacent heritage items.	No change to the existing ground floor setbacks.	Yes
(15) Side setbacks are generally not permitted in order to maintain the continuity of active frontages, unless specified in the locality controls.	Existing side setbacks to remain, with new external staircase proposed to the northern elevation (nil setback) for access to the first and second floors.	Yes
(16) Where the locality abuts a residential zone and/or a residential allotment, the side setbacks are generally to be a minimum 3m, except where the locality character is established by the existing footprints and the allotment capacity of the locality would	The site does not adjoin residentially zoned land.	NA

Requirement	Proposal	Complies
<p>be unreasonably constrained. Refer to the Locality Controls of Part D2 for specific side setback requirements.</p> <p>(17) Rear setbacks are determined by the context including the amenity of neighbouring residential uses and the amenity of any rear lanes. Refer to Locality Controls within Part D2 for specific rear setback requirements.</p> <p>(18) Setbacks on corner blocks are to enable sufficient sightlines for traffic in accordance with the relevant Australian Standard.</p> <p>(19) Upper level street setbacks are required to any residential component above retail/ commercial uses together with building design and apartment layout that satisfactorily mitigates the impacts of noise, fumes and vibration on major roads.</p>	<p>Suitable setback to the rear is proposed for the second floor residential unit – 3.365m to the proposed master bedroom balcony.</p> <p>No change to the existing vehicular access from Frederick Street. Access via an easement for access over 18A Letitia Street.</p> <p>The setback of the second floor residential unit from the street is 2.8m to the external wall with an unroofed balcony between the external wall and boundary fronting Letitia Street.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
3.6 Building Design		
3.6.1 Building Facades		
<p>(20) Where appropriate, integrate buildings into the streetscape by adopting a modular form, which reflects the underlying narrow shop width of older buildings. Use vertical elements, such as vertically proportioned windows, exposed party walls, vertical balustrades, attached fins to express this modulation and rhythm. Use horizontal elements such as roofs, parapets, balconies and balustrades to align the building with its neighbours.</p> <p>(21) Ensure that the facade clearly expresses a bottom, middle</p>	<p>The proposed built form is in keeping with the existing and desired character and aligns with the adjoining development incorporating a mansard style second floor addition.</p> <p>The ground and first floor are existing presenting to Letitia Street.</p>	<p>Yes</p> <p>Yes</p>

Requirement	Proposal	Complies
and top related to the overall proportion of the building.	The style and design of the roof form of the second floor residential unit clearly shows a differentiating roof of the building.	
(22) Incorporate design characteristics such as projecting fins, corbelling, balconies with variable materials and finishes, punctuated walls with visually recognisable patterns, decorative features, rhythm and texture and a variable colour palate to achieve façade modulation and articulation.	The proposed design, materials and finishes together with the colour scheme is appropriate for the development and the streetscape.	Yes
(23) Avoid curtain walls, large expanses of glass and large expanses of concrete as these do not create well-articulated and harmonious façades.	Not proposed.	Yes
(24) Express important corners by giving visual prominence to parts of the façade, including changes in articulation, material or colour, roof expression or increased height (where identified in the Locality Controls in Part D2).	NA	NA
(25) Provide a greater proportion of solid areas to void areas on all façades and incorporate non-reflective materials.	The proposal provides appropriate façade treatment and materiality.	Yes
(26) Use non-reflective glass or recess glass behind balconies to minimise reflectivity.	The balconies at the second level are behind parapets.	Yes
(27) Windows and openings are to be generally of a vertical character and located within vertical bays.	Appropriately designed.	Yes
(28) Air-conditioning	Can be appropriately	Yes

Requirement	Proposal	Complies
units/fans/vents/stacks/hoods etc are to be inconspicuously located so as not to be visible from the shopping street and any other major side street.	accommodated.	
3.6.2 Active Frontages		
(1) Provide direct visual connections between footpaths and shops.	Complies and is existing.	Yes
(2) Wrap shop fronts around corners into side streets to increase the area of active frontage.	The ground floor is existing and remains unchanged.	NA
(3) Design building openings at the ground floor to be in keeping with the overall building and bay scale and proportions.	The ground floor is existing and remains unchanged.	Yes
(4) For cafe/dining uses, provide openable window areas in association with seating overlooking the street, to create the effect of outdoor dining. Note: Applications for outdoor dining must comply with Council's Code for Commercial Use of Public Footways.	The ground floor is existing and remains unchanged. The ground floor currently contains an operating café.	Yes
(5) For commercial uses, avoid blank walls, dark or obscure glass to the street frontage.	Not proposed to the second level. The ground and first floor are existing.	Yes
(6) Incorporate continuous, independent and barrier free access to ground floor commercial entries, including effective signage, sufficient illumination, tactile ground surface indicators and pathways with limited cross-falls, sufficient width, comfortable seating and slip-resistant floor surfaces.	Complies – the ground floor is existing.	Yes
(7) Open grilles or see-through security screens are preferred to shutters, to	Not proposed.	Yes

Requirement	Proposal	Complies
<p>optimise the openness of windows and any spill lighting of the footpath. Shutters, if provided, must be minimum 65% visually permeable.</p> <p>(8) Pedestrian access to upper level uses is preferred from the side street or rear lane. If provided from the main street, openings for access are to be between 1.5m and 3m wide.</p> <p>(9) Recessed shop frontages are not permitted except in the cases of heritage buildings where the recess is sympathetic to the building character.</p>	<p>Rear access provided and a new stair to service the upper levels.</p> <p>Not proposed. The ground floor remains unchanged.</p>	<p>Yes</p> <p>Yes</p>
<p>3.6.3 Awnings</p> <p>(1) Awnings should retain any original awning features present that contribute to the desired locality character.</p> <p>(2) Provide under awning lighting to improve public safety.</p> <p>(3) Wrap awnings around the corners of the main commercial street onto side streets.</p> <p>(4) Design awnings in the high range 3.6m – 4m and no higher or lower than adjoining awnings.</p> <p>(5) Provide awnings flat or near-flat in shape (not tilted upwards away from the facade), and opaque in finish.</p>	<p>Existing awning to remain unchanged.</p> <p>Existing to remain unchanged.</p> <p>NA, not a corner lot.</p> <p>Existing awning to remain unchanged.</p> <p>Existing awning to remain unchanged.</p>	<p>Yes</p> <p>Yes</p> <p>NA</p> <p>Yes</p> <p>Yes</p>
<p>3.6.4 Balconies</p> <p>(1) Each apartment is to have at least one primary balcony.</p> <p>(2) Primary balconies are to have a minimum depth of 2.5m and a minimum size of 10m².</p>	<p>Complies one at the front of the unit off the living and dining area and one at the rear off the bedroom.</p> <p>2.5m 13.5sqm</p>	<p>Yes</p> <p>Yes Yes</p>

Requirement	Proposal	Complies
(3) Design balconies that are recessed into the wall or enclosed with walls, columns or roofs to provide sufficient enclosure and visual firmness.	The balconies are unroofed to provide a front and rear setback to be consistent with the adjacent building to the north.	Yes
(4) Design balustrades that allow for views into, and along the street.	Surveillance of the street will be achieved from the front balcony to Letitia Street.	Yes
(5) Employ juliet balconies and French windows to articulate facades with architectural detail and vertically proportioned windows.	Not proposed.	NA
(6) Locate balconies adjacent to main living areas to expand the living space of units, where possible.	The Letitia Street facing balcony is off the living and dining area.	Yes
(7) Balconies are to be designed to respond to the local context. In this regard, special attention should be paid to the design of balconies for buildings situated on busy roads and/or adjacent to railway lines. This may be achieved by: (i) layering and recessing balconies to increase noise buffering from busy roads and railway lines; (ii) grouping balcony openings; (iii) providing balconies with operable screens, windows, or operable walls/sliding doors with a balustrade; (iv) recessing balconies in response to acoustic and visual privacy issues; and (v) ensure the privacy of occupants, neighbours, and public is taken into account by careful design and balustrades with a balance of transparent and solid materials.	The balconies are appropriately designed for occupant amenity.	Yes

Requirement	Proposal	Complies
3.6.5 Materials & Finishes		
(1) Utilise high quality and durable materials and finishes.	Appropriate materials and finishes proposed.	Yes
(2) Combine different materials and finishes to assist building articulation and modulation.	Varying materials and finishes proposed on the building.	Yes
(3) Where the Locality includes a significant facade or streetscape, materials and finishes are to compliment the existing streetscape.	NA	NA
(4) Avoid large unarticulated expanses of any single material to facades.	Not proposed on this facade.	Yes
3.6.6 Mobility and Access		
(1) New development and refurbishments are to comply with the requirements of the Building Code of Australia (BCA) and the Australian Standards.	The application has been accompanied by an access report that details that compliance can be achieved at Construction Certificate Stage.	Yes
(2) All buildings with a residential component that have access to more than two storeys are required to have lift access.	NA – one unit proposed on the second floor.	NA
3.6.7 Public Art		
(1) Development on sites over 1000m ² should, where possible include the provision of high quality artwork within development in a publicly accessible location.	NA	NA
(2) The artwork should be prepared having regard to links between the Locality and details of such artwork and the proposed location are to be submitted with the Development Application.		
3.6.8 Roof forms and Parapets		
(1) Variation to the existing pattern of roof forms may only occur where the parapet line is not disrupted and where the new roof is not visible from the street below	In keeping with adjacent mansard roof for the secondary level.	Yes

Requirement	Proposal	Complies
or adjacent public areas.		
(2) Minimise the bulk and mass of roofs and their potential for overshadowing.	The roof is appropriate for the development.	Yes
(3) Design roofs to generate a visually interesting skyline and minimise apparent bulk.	The roof design achieves this criterion.	Yes
(4) Conceal lift over runs and plant equipment within well designed roofs.	No lift proposed.	NA
(5) Roof fixtures (such as roof vents, chimneys, aerials, solar collectors, mobile phone transmitters, satellite dishes) are to be inconspicuously located so as not to be visible from the street (including side streets).	Not proposed.	NA
(6) Television antennae are to be located within the roof space.	Noted.	-
3.6.9 Signage		
(1) Comply with the requirements of Part F1- Advertising and Signage	Refer to the relevant table in his report for a detailed assessment against the SEPP.	Yes
3.7 Vehicular Access & Parking		
Car Parking		
(1) Car parking for the commercial /retail component of a development is to be provided in accordance with the requirements in Part B4.	Refer to earlier discussions.	Yes on merit.
3.8 Dwelling Design – Apartment Mix & Dwelling Size		
(1) Provide a mix of studios, 1, 2 and 3 or more bedroom apartments in varying layouts.	1 x 2B unit proposed.	Yes
(2) Dwellings within the residential component of a mixed development must have the minimum internal floor areas (IFA): • Studios - minimum IFA of 40m ² • 1 bedroom unit - minimum IFA of 60m ² • 2 bedroom unit - minimum IFA of	86.1sqm	Yes

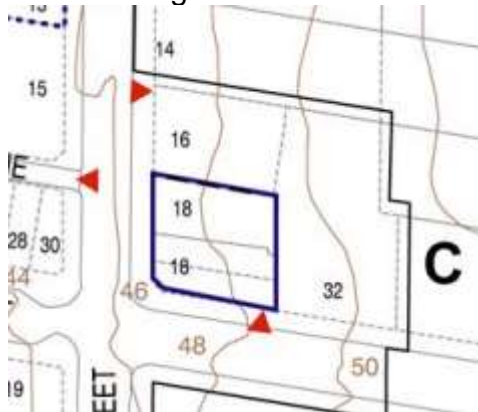
Requirement	Proposal	Complies
85m ² • 3 bedroom unit - minimum IFA of 100m ² .		
(3) In all instances the first bedroom is to maintain an internal floor area of 15m ² and the second bedroom is to maintain a minimum internal floor area of 12m ² .	15sqm 10sqm	Yes No but considered acceptable
(4) Consider the design needs of those who work from home in the internal configuration of residential apartments.	Study provided.	Yes
3.10 Storage		
(1) All developments must provide a designated secure storage space (in addition to any areas set aside for off street parking) to a minimum floor area of 4m ² for each dwelling or unit. (2) The storage space may be incorporated as part of the garage.	Provided on lower ground level.	Yes
3.11 Clothes Drying		
(1) Wherever possible, provide dedicated external clothes drying areas for all apartments that will be utilised by the residents, while being screened from the public view. (2) Additional balconies (i.e. not main balconies) may be considered appropriate for this purpose, provided that they are screened from public areas	Two balconies provided to accommodate clothes drying with acceptable orientation.	Yes
3.12 Amenity		
3.12.1 Visual and Acoustic Privacy <i>Visual Privacy</i>		
(1) Design building separation for parallel ranges of buildings to at least the following standards for the residential component: f 12 metres between habitable rooms/the edge of their balconies f 9 metres between habitable rooms/the	NA	NA

Requirement	Proposal	Complies
edge of their balconies and non-habitable rooms \geq 6 metres between non-habitable rooms.		
(2) Offset facade openings from existing openings in adjacent development to minimise direct overlooking of rooms and private open spaces.	Achieved in this design.	Yes
(3) For street wall buildings, design zero side setbacks to result in zero building separation, providing dual aspect commercial or residential uses with openings to the front (street) and the rear.	Existing to remain.	Yes
(4) For ground floor retail/commercial uses, provide appropriate rear and side setbacks to adjacent residential uses, and design building layout to avoid overlooking of private spaces.	Existing to remain.	Yes
(5) Utilise design elements to increase levels of privacy such as landscaping, screening, offset windows, recessed balconies, louvres, planter boxes, pergolas or shading devices.	The design has achieved this criterion.	Yes
(6) Development adjacent to the Railway Line or adjacent to road corridor with annual average daily traffic volume of more than 40,000 vehicles.	Not adjacent to the rail corridor.	NA
<i>Acoustic Privacy – General</i>		
(7) Design and site buildings adjacent to noise generating land uses to minimise noise impacts, for example through building layout and location and size of openings.	The development is appropriately located.	Yes
(8) Where appropriate locate	NA	NA

Requirement	Proposal	Complies
individual buildings and groups of buildings to act as barriers to the noise.		
(9) Utilise the site and building layout to maximise the potential for acoustic privacy by providing adequate building separation within the development and from neighbouring buildings	The development is appropriately designed.	Yes
(10) Locate and design all noise generating equipment such as mechanical plant rooms, mechanical ventilation from car parks, driveway entry shutters, garbage collection areas or similar to protect the acoustic privacy of workers, residents and neighbours. The noise level generated by any equipment must not exceed an Laeq of 5dBA above background noise at the property boundary.	The development has been appropriately designed.	Yes
(11) Development is to meet or exceed the sound insulation requirements between separating walls and floors of adjoining dwellings of the Building Code of Australia.	Conditioned for compliance.	Yes
(12) With particular regard to timber flooring in the residential component of developments, appropriate insulation between floors is to achieve a minimum sound attenuation of (50Rw)	Noted.	-
(13) Where development is proposed adjacent to the railway line or a classified road corridor compliance with the requirements of the ISEPP.	The site is not located adjacent to a rail corridor or classified road.	NA
3.12.2 Safety and Security		
(1) Maximise passive surveillance by orienting buildings towards the street, such that building frontages and entries overlook	The development is appropriately designed to satisfy this criterion.	Yes

Requirement	Proposal	Complies
and are clearly visible from the street and provide a sense of address and visual interest.		
(2) Avoid blank walls addressing streets and any public plazas or pocket parks.	The development is appropriately designed in this regard.	Yes
(3) Clearly design buildings and spaces, and the entries to buildings, to delineate public from private space to provide a clear sense of ownership, minimise ambiguity and discourage illegitimate use.	The ground floor of the development remains unchanged and the entry locations are existing.	Yes
(4) Delineate public, semi public and private space through the use of barriers, such as low fences or landscaping, post boxes, lighting and signage.	Not applicable to this development.	Yes
(5) Avoid building recesses, alcoves or dense landscaping in places where concealment is possible.	Not proposed in this development.	Yes
(6) Design and place facilities such as toilets and parents rooms to maximise opportunities for casual surveillance.	NA	NA
(7) Place services such as Automatic Teller Machines (ATMs) and public telephones in highly visible locations and be accessible and well lit at night.	NA	NA
(8) Solid roller shutters are not permitted as security devices on shop fronts (windows and doors). Open grille security devices may be used on shop fronts if such devices are necessary but should be unobtrusive and sympathetic to the character of the building and the streetscape, with minimum transparency of 65%	NA	NA

Requirement	Proposal	Complies
to provide light spill to the pavement and create a sense of openness to the street.		
(9) Development applications for mixed developments containing more than 10 units are required to be referred to the NSW Police Service.	NA	NA
(10) Provide sufficient lighting of public areas, footpaths, and laneways in accordance with the relevant Australian Standard.	NA	NA
(11) Provide sufficient lighting of shopfronts and the area under awnings, in accordance with the relevant Australian Standard.	Existing and considered acceptable.	Yes
3.13 Open Space and Landscaping		
(1) Retain existing, and incorporate new indigenous trees, shrubs and ground cover where appropriate.	NA	NA
(2) Maximise deep soil zones to provide for substantial landscaping and mature trees.	NA	NA
(3) Submit a landscape plan prepared by a qualified landscape architect.	NA	NA
(4) Where development is proposed adjacent to low density residential development, an appropriate landscape buffer is to be planted to provide separation and screening between the proposed development and the existing low density development (Refer to Locality Controls). These areas should be deep soil areas so as to allow for the planting of large/medium trees.	NA	NA

Requirement	Proposal	Comply								
Part D2.16 - Oatley										
16.3.2 Preferred Land Use										
(1) The preferred land uses in this locality are as follows: <table><tr><th>Level</th><th>Preferred Land Use</th></tr><tr><td>Ground floor (Level 1)</td><td>Retail</td></tr><tr><td>First floor (Level 2)</td><td>Commercial and/or Residential</td></tr><tr><td>Second floor (Level 3)</td><td>Residential and/or commercial</td></tr></table>	Level	Preferred Land Use	Ground floor (Level 1)	Retail	First floor (Level 2)	Commercial and/or Residential	Second floor (Level 3)	Residential and/or commercial	Ground: retail First: commercial Second: residential	Yes
Level	Preferred Land Use									
Ground floor (Level 1)	Retail									
First floor (Level 2)	Commercial and/or Residential									
Second floor (Level 3)	Residential and/or commercial									
16.3.3 Amalgamation										
<p>) All sites are required to be amalgamated as shown in Figure 8.</p> 	<p>The proposal is for alteration and addition to each existing building rather than demolition and a new build.</p> <p>A DA for similar work is proposed at 18A Letitia Street and will be determined at the same time as this DA.</p> <p>Amalgamation is not proposed as part of this application, however the owners have proposed alterations and additions to their respective buildings at the same time to achieve a cohesive design outcome.</p>	Acceptable								
16.3.4 Density										
(1) Density should fit within the required building setbacks.	Complies.	Yes								
16.3.5 Pedestrian Entry										
(1) Pedestrian entry should be obtained from the street.	Existing entry to remain.	Yes								
16.3.6 Vehicle Access										
(1) Vehicle access should be obtained from side streets and Frederick Lane and from consolidated entries on Oatley Avenue where no other opportunities exist. (2) No vehicle access is permitted from Frederick Street.	Existing access and carparking to remain.	Yes								
16.3.7 Car Parking										
(1) Off street parking is to be provided for any	At grade parking	Yes								

Requirement	Proposal	Comply								
new development either underground or at the rear of the properties.	proposed at the rear of the development accessed from Frederick Street.									
(2) Where a basement is provided this is not to protrude more than 1m above natural ground level.	NA	NA								
16.3.8 Awnings										
(1) Development is to provide a suspended awning across the full frontage of the development and within 20m of the intersection to side streets.	Existing to remain unchanged.	Yes								
16.6 Block C – Corner of Letitia Street and Frederick Street										
16.6.1 Setbacks										
(1) The front setback to Frederick Street and Letitia Street being as follows: <table><tr><th>Level</th><th>Setback</th></tr><tr><td>Ground floor (Level 1)</td><td>Build to Boundary</td></tr><tr><td>First floor (Level 2)</td><td>Build to Boundary</td></tr><tr><td>Second floor (Level 3)</td><td>N/A</td></tr></table>	Level	Setback	Ground floor (Level 1)	Build to Boundary	First floor (Level 2)	Build to Boundary	Second floor (Level 3)	N/A	Second floor: nil to balcony edge.	Acceptable
Level	Setback									
Ground floor (Level 1)	Build to Boundary									
First floor (Level 2)	Build to Boundary									
Second floor (Level 3)	N/A									
(2) The rear setback to No.18 Frederick Street being as follows: <table><tr><th>Level</th><th>Setback</th></tr><tr><td>Ground floor (Level 1)</td><td>Minimum 6m to enable driveway access</td></tr><tr><td>First floor (Level 2)</td><td>Minimum 6m</td></tr><tr><td>Second floor (Level 3)</td><td>N/A</td></tr></table>	Level	Setback	Ground floor (Level 1)	Minimum 6m to enable driveway access	First floor (Level 2)	Minimum 6m	Second floor (Level 3)	N/A	Rear setback to Frederick Street is 3.365m.	Acceptable on merit.
Level	Setback									
Ground floor (Level 1)	Minimum 6m to enable driveway access									
First floor (Level 2)	Minimum 6m									
Second floor (Level 3)	N/A									

Part F1 Advertising and Signage

Requirement	Proposal	Comply
1.4 Advertising signs that are prohibited		
(1) The following types of advertising signs are prohibited in the Kogarah local government area: <ul style="list-style-type: none"> (i) Advertising signs over 45m²; (ii) Advertising signs within navigable waters (except a sign on a vessel that is ancillary to the dominant purpose of the vessel). (iii) Advertising signs on land zoned Residential (but not including a mixed use zone or similar zone), Open Space or Waterways, or in a heritage area, natural or other conservation area or scenic protection area are prohibited, except for advertising signs identified as 'Exempt Development' by the Kogarah Local 	Not proposed.	Yes

Requirement	Proposal	Comply
<p>Environmental Plan 2012</p> <p>(3) Corporate colours, logos and other graphics are acceptable elements of signs only where they achieve a very high degree of compatibility with the architecture, materials, finishes and colours of the building and the streetscape. In many cases, the corporate colours, logo and other graphics will need to be modified to achieve this compatibility</p>		
2.2 General Requirements		
<p>Wall Sign</p> <p>Must comply with all of the following controls, otherwise prohibited:</p> <p>(a) Only one sign per building elevation;</p> <p>(b) Must not have an area greater than:</p> <p>a. 10% of the elevation, if the elevation is > 200m²</p> <p>b. 20m² if the elevation is greater than 100m² but < 200m²</p> <p>c. 20% of the elevation for elevations of < 100m².</p> <p>(c) Must not project above or beyond the wall to which it is attached;</p> <p>(d) Must not extend over a window or other opening, or architectural feature;</p> <p>(e) Must not be located on a building wall if there is an existing building or business identification sign on the building elevation;</p> <p>(f) Size, shape and location determined by facade grid analysis (refer to Section 3.11); and</p> <p>(g) Painted wall signs to be painted at least once every three years, or at the Council's discretion.</p>	<p>Only one sign proposed.</p> <p>Elevation – 20sqm Sign – 0.96sqm (4.8%)</p> <p>Flush façade sign.</p> <p>Flush façade sign.</p> <p>The new sign will replace the existing awning sign.</p> <p>Complies.</p> <p>Noted.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>-</p>
1.1 All Advertising Signs		
<p>(1) Advertising must relate to the use of the premises and products sold on the premises.</p> <p>(2) Signage must be sympathetic to, and integrated with, the architecture and structure of the supporting building and not be the dominant visual element on a building.</p>	<p>The sign is for the commercial tenant that occupies the first floor.</p> <p>Appropriately designed and located.</p>	<p>Yes</p> <p>Yes</p>

Requirement	Proposal	Comply
(3) The proposed advertising sign must be compatible with the streetscape, setting or landscape, and not dominating in terms of its scale, proportion and form.	Appropriate location and size.	Yes
(4) Lettering, materials and colours must complement the existing building or place.	Appropriately designed.	Yes
(5) Signage must not project above any parapet or eave.	Flush façade sign.	Yes
(6) Signage must not be located where it will adversely impact views or vistas or cause significant overshadowing.	Flush façade sign.	Yes
(7) The main facades of buildings between the first floor and parapet must be uncluttered and generally free of signage.	The signage is appropriately located and sized.	Yes
(8) The façade of the host building is to be subdivided into a series of vertical or horizontal panels on which the signage can be placed (Figures 3 and 4).	Signage appropriately located.	Yes
(9) The cumulative impacts of multiple advertising signs and the number of existing signs on the premises will be considered. Council may require existing inappropriate signage to be removed as a condition of development consent.	Only one proposed on this building façade.	-
(10) All advertising and signage must be displayed in English but may also include a translation in another language. Any translated message must be accurate and complete, and using wording and/or numbering that is not larger than the English message.	Proposed in English.	Yes
(11) Signs must be attractive and professionally sign written.	Appropriately designed.	Yes
(13) Where a business or organisation offers a product or service, the name of the business or organisation should have greater dominance over the product or service advertisement.	Complies.	Yes
(14) The wording and content of the advertising sign must not: (i) offend nearby sensitive land uses (e.g. places of worship, schools, child care centres); (ii) contain undesirable discriminatory	The sign is the name of the business and is appropriate.	Yes

Requirement	Proposal	Comply
advertising messages as specified in the Anti-Discrimination Act 1977; (iii) encourage unlawful purchase or excessive consumption of alcohol; or promote anti-social behaviour.		
(15) Council discourages signs that are prone to deterioration and may request removal of redundant, unsafe, unsightly or objectionable signage.	The sign is appropriately designed.	Yes
(16) Council discourages signage on common boundaries where maintenance difficulties could occur and may require provision for maintenance of signage.	The sign can be easily accessed in the location proposed.	Yes
3.4 Traffic and Pedestrian Safety		
(1) Proposed advertising, whether illuminated or not, must not adversely impact the safety of pedestrians, cyclists or motorists on any public road.	Appropriately designed and located.	Yes
(2) Advertising signs must be securely fastened to the structure or building to which they are attached and must comply with all relevant Australian Standards and Building Code of Australia requirements.	Appropriately designed and located.	Yes
(4) Advertising signs must not be liable to interpretation as an official traffic sign, be confused with instructions given by traffic signals or other devices, or obscure the view of traffic signals, signs or road hazards.	Appropriately designed and located.	Yes
3.9 Multiple Advertisements and Advertising Structures		
<p>The number of advertisements displayed on any property will be restricted if in Council's opinion the number or size of advertisements is detrimental to any streetscape or the visual amenity of any public space.</p> <p>Consideration will be given to the following factors:</p> <ul style="list-style-type: none"> • The number of existing signs on the subject premises. • The proportion of solid (wall surface area) to void (window and door openings) space available for signage. • The length of the street frontage to the premises. 	The signage proposed is appropriate for the building.	Yes

Requirement	Proposal	Comply
<ul style="list-style-type: none"> The extent of façade detail and projecting features of the building which should remain unobscured by signage. 		

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Developer Contributions

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

Impacts

Natural Environment

61. The proposed development will not adversely affect the natural environment.

Built Environment

62. 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 B2 Local Centre zoning.

Social Impact

63. No adverse social impacts have been identified as part of the assessment. The proposed development, in principle, will cater for a cross-section of the community and will assist with providing for additional housing in the area.

Economic Impact

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

Suitability of the site

65. The site is zoned B2 Local Centre. The proposal is a permissible form of development in this zone and has been designed to reflect the context of the area.

Submissions and the Public Interest

66. The application was neighbour notified for a period of fourteen (14) days. One submission was received. The amended plans were re-notified and no submissions were received.
67. The issue raised in the submission are addressed below:

Issue	Comment
<i>...while the proposed building itself would appear to be unlikely to block my view, any roof fixtures which project from the roof, such as those visible on 18B Letitia Street, would block the remainder, or</i>	<p>The proposed development will not require any roof fixtures.</p> <p>In addition, the maximum height of the roof is 2.45m lower than the roof of the building at No. 18B Letitia Street. The visual appearance of the proposal is considered to be reasonable.</p>

<i>at least a significant part of, my view. Not only this, but they would also have a visual impact, due to their ugliness.</i>	
<i>I hope the new construction will not be higher than the existing building</i>	The proposal is for alterations and additions to the existing building and the construction of a second floor residential unit. The works are within the 12m height limit for the site.

Referrals

Council Referrals

Development Engineer

68. Council's Development Engineer has raised no objection to the proposal subject to conditions of consent should the application be approved.

Traffic Engineer

69. Council's Traffic Engineer has raised no objection to the proposal subject to conditions of consent should the application be approved.

Environmental Health Officer

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

Consultant Arborist

71. Council's Arborist has raised no objection to the proposal subject to conditions of consent should the application be approved.

External Referrals

Ausgrid

72. The application was referred to Ausgrid in accordance with Clause 45(2) of State Environmental Planning Policy (Infrastructure) 2007. Ausgrid did not raise any objection to the proposal, no conditions recommended.

Conclusion

73. The proposal has been assessed using the matters for consideration listed in Section 4.15 of the Environmental Planning and Assessment Act 1979. The proposal is considered to be a reasonable development form and the scale, bulk and height is considered to be an acceptable planning and design outcome for this site and is consistent with the existing and desired future character of development in the locality.
74. The proposal has been assessed against the provisions of relevant State Environmental Planning Policies, the Kogarah Local Environmental Plan 2012 and Kogarah Development Control Plan 2013 and satisfies the key planning controls and/or objectives of each plan.

Determination and Statement of Reasons

Statement of Reasons

75. The reasons for this recommendation are:
- The proposal is permissible in the zone with development consent.
 - The proposal is an appropriate response to the site and locality.

- The proposed development complies with the requirements of the relevant environmental planning instruments and development control plan except for the car parking requirements of the development which is considered acceptable having regard to the justification provided and assessed in the report above.
- The proposed design has been sensitively considered to be consistent with the anticipated desired future character for development in this area.

Determination

76. Pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act, 1979 (as amended), Development Application DA2021/0007 for demolition works and alterations and additions to a mixed use building containing retail premises and shop top housing on Lot 11 in DP515307 known as 18 Letitia Street, Oatley, is granted Development Consent subject to the following conditions of consent:

Development Details

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

Description	Reference No.	Date	Revision	Prepared by
Site Plan	Sheet 01	25/11/21	B	Innovate Architects
Floor Plans	Sheet 02	25/11/21	B	Innovate Architects
Floor Plans	Sheet 03	25/11/21	B	Innovate Architects
Elevations	Sheet 04	25/11/21	B	Innovate Architects
Sections	Sheet 05	25/11/21	B	Innovate Architects
Shadow Diagrams	Sheet 06	25/11/21	B	Innovate Architects
Calculations	Sheet 07	25/11/21	B	Innovate Architects
Driveway Details	Sheet 09	25/11/21	B	Innovate Architects
Construction Staging/Management Plan	Sheet 10	25/11/21	B	Innovate Architects
Stormwater Plan	Drawing No. 20165-C01	22/11/21	A	CPM Engineering

Separate Approvals Required Under Other Legislation

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

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

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

- (a) Placing or storing materials or equipment;

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

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

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

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

Requirements of Concurrence, Integrated & Other Government Authorities

4. **Electricity Supply** - An application is required to be made to Ausgrid for a network connection. This may require the network to be extended or its capacity augmented. Evidence of this application being lodged with Ausgrid is required to be provided to the Certifying Authority prior to the issue of a Construction Certificate. For further details, you are advised to contact Ausgrid on 13 13 65 or www.ausgrid.com.au (Business and Commercial Services).
5. **Sydney Water - Tap in™** - The approved plans must be submitted to a Sydney Water Tap in™ to determine whether the development application will affect Sydney Water’s sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately endorsed. For details please refer to ‘Plumbing, building and developing’ section of Sydney Water’s web site at www.sydneywater.com.au then see ‘Building’, or telephone 13000 TAP IN (1300 082

746). The Certifying Authority must ensure that a Tap in™ agent has appropriately stamped the plans prior to the issue of the Construction Certificate.

6. **Notice of Requirements for a Section 73 Certificate** - A Notice of Requirements of what will eventually be required when issuing a Section 73 Compliance Certificate under the [Sydney Water Act 1994 <http://legislation.nsw.gov.au/>](http://legislation.nsw.gov.au/) must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the 'Plumbing, building and developing' section of the web site [www.sydneypwater.com.au <http://www.sydneypwater.com.au>](http://www.sydneypwater.com.au) then refer to 'Providers' under 'Developing' or telephone 13 20 92 for assistance.

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

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

Prior to the Issue of a Construction Certificate

7. **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 Letitia Street in accordance with the AS 3500.3: 2015 (as amended).
 - (b) 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.
8. **On Site Detention** - The submitted stormwater plan has been assessed as a concept plan only. Final detailed plans of the drainage system, prepared by a professional engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate. An on-site detention (OSD) facility designed by a professional engineer who specialises in Hydraulic Engineering is to be constructed in accordance with Council's stormwater management policy.
- (a) The OSD volume and the permissible site discharge (PSD) shall comply with the requirement of Table (3) of Council's stormwater management policy.
 - (b) The OSD system is to be provided with an access for future maintenance and show on plan.
 - (c) The OSD system is to be provided with sufficient ventilation.
 - (d) Any OSD tank shall be certified to be structurally adequate by a practicing structural engineer 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.

9. **Strip/Grated Drain- Frederick Street Boundary** - A strip or square grated drain shall be installed at the Frederick Street boundary of the right-of- carriageway (ROC) to collect surface runoff water from the paved area of the ROC and direct it via a sealed pipeline to the kerb and gutter.
Details to be included on the drainage plans submitted with the Construction Certificate.
10. **Structural details** - Engineer's details prepared by a practising consulting Structural Engineer being used to construct all reinforced concrete works including but not limited to structural beams, columns, OSD Tank structures design and other structural members. The details are to be submitted to the Certifier for approval prior to construction of the specified works. A copy shall be forwarded to Council where Council is not the Certifier.
11. **Engineer's Certificate** - A certificate from a professional Engineer specialising in structural engineering certifying the structural adequacy of the existing structure, to support all proposed additional superimposed loads shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate.
12. **Geotechnical report** - The applicant must comply with recommendations of the Geotechnical Report, prepared by Australian Geotechnical Pty Ltd dated 17/12/2020 with the following being submitted before the Construction Certificate being issued:
 - (a) Dilapidation Reports on the adjoining properties including, but not limited to 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.
 - (b) On-site guidance by a vibration specialist during the early part of excavation.
 - (c) 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.
 - (d) 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.
13. **Alternative means of compliance with the BCA- Clause 62 and 64 EP&A Regulation 2021**

- a) Pursuant to Clause 64 of the [Environmental Planning and Assessment Regulation 2021](#), the existing buildings must be brought into total conformity with the Building Code of Australia. In this regard, construction plans that demonstrate compliance with the Building Code of Australia must be submitted to the Certifying Authority with the Construction Certificate application for approval.
- b) Alternatively, if it is found that full compliance cannot be achieved due to the age and/or construction of the existing building, and to achieve full compliance will involve major and costly structural alterations having to be carried out to the existing building, a fire assessment report, to determine an alternative and/or partial compliance with the BCA, must be prepared by an appropriately qualified and accredited fire safety engineer, justifying the non-compliances and detailing an alternative method of compliance with the Building Code of Australia. The report must also detail the measures contained in the building to protect persons using the building, to facilitate their egress in the event of fire as well as protection of fire brigade personnel during firefighting operations, and measures to restrict the spread of fire from the building to other buildings nearby.

14. Construction Vehicle and Pedestrian Plan of Management - Prior to the issuing of a Construction Certificate, a Construction Vehicle and Pedestrian Plan of Management (CVPPM) shall be submitted to Council for the approval of Council's Traffic Engineer. The CVPPM shall be prepared for the various stages of the development and include, but not be limited to, the following:

- (a) Details of the scope of works to be undertaken during the demolition, excavation, construction stages etc., and the duration of each.
- (b) Indicate the consent approved hours of work.
- (c) Identify the routes to be travelled within the Council area for trucks travelling to and from the site.
- (d) Identify other developments occurring concurrently in the area including those within the street and up to 500m from the site.
The developer/builder shall liaise fortnightly with other identified developers/builders to minimize any cumulative traffic impacts.
- (e) Include a plan showing the location of any schools, pre schools and long day care centres within 200m of the site.
- (f) Detail the number of and where construction worker vehicles will be parked during the various stages of the development.
- (g) Identify any proposed temporary road closures, temporary changes to traffic flow and loss of pedestrian or cyclist access likely to occur as a result of works being undertaken during the various work stages.
- (h) Detail the size (including dimensions), number and frequency of trucks movements to and from the site during the various stages of work.
- (i) Include copies of all required Traffic Control Plans (TCPs). All TCP's shall be prepared by RMS accredited persons.
- (j) Provide, if required, swept wheel path drawings for the different types of vehicles accessing the site. The swept wheel path drawings:
 - May be required if it is considered truck movements into and out of the site associated with the various stages of development have the potential to damage public or private infrastructure/property.
 - May be required if it is considered truck movements into and out of the site cannot be carried out without a loss of on street vehicle parking spaces either in close proximity to or removed from the site.

- Shall be prepared by a suitably qualified and experienced traffic engineering consultant.
- (k) Show the location and length of any proposed Works Zones including any adjustments required to Council's infrastructure, parking control signs etc. to implement the zones. **NOTE:** Works Zones require the approval of the Georges River Council Traffic Committee prior to installation.
- (l) Show the locations of where it is proposed to stand trucks remote from the site should they be unable on arrival to immediately enter the site or an approved Works Zone. Double parking, parking in NO STOPPING/NO STANDING zones or across neighboring property driveways is not permitted.

NOTE: A copy of the approved CVPPM must be kept at the site and made available to the Principal Certifying Authority or Council on request:

- 15. Certificate of Adequacy- Existing Driveway/Right-of-Carriageway Paving** - Prior to the issue of a Construction Certificate, a certificate from a suitably qualified and experienced engineering consultant shall be submitted to the Principal Certifying Authority for approval certifying the concrete paving carried out within the site and on the right-of-carriageway at 18A Street, Oatley has been designed and constructed to cater for and withstand the expected wheel loadings for the design life of the paving. Details of the base material, concrete thickness and F'c 28-day strength and a sectional profile of the paving area shall be submitted with the certificate.
- 16. Driveway/Carport Finished Level** - Prior to the issue of a Construction Certificate, a plan shall be submitted to the Principal Certifying Authority for approval showing any changes required to the finished level of the carport floor where it abuts the existing driveway paving.
- 17. Tree Protection and Retention** - The following trees shall be retained and protected:

Tree Species	Location of Tree / Tree No.	Tree Protection Zone (metres) TPZ as per AS4970 -2009
<i>Tristaniopsis laurina</i>	Councils street tree	Trunk wrapping as per 4.5.2 (AS4970 -2009)

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

Tree Protection Measures

- c) All trees on Council property must be protected before site set up and maintained during demolition, excavation and construction of the site adjacent to tree. The tree protection for Councils street tree must be implemented due to the access and carriageway 'A' over 18A Letita Street.

- d) The tree protection measures must be undertaken in accordance AS4970 -2009 *Protection of trees on development sites*.
- e) The engaged AQF 5 Consulting Project Arborist must be present on-site during the stages of site set up, excavation, demolition and construction when works are being undertaken that could impact on the tree canopy or root zone within the tree protection zone of each tree.
- f) The trunk wrapping protection 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 wrapping and must also include the name and contact details of the Project Arborist.
- g) To preserve the Council tree, 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.

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

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

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

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

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

Fee Type	Fee
GENERAL FEES	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See https://portal.longservice.nsw.gov.au/bci/levy/	
Builders Damage Deposit	\$1,900.00
Inspection Fee for Refund of Damage Deposit	\$160.00
DEVELOPMENT CONTRIBUTIONS	
Georges River Council Local Infrastructure Contributions Plan 2021	\$20,000.00

General Fees

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

Development Contributions

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 Georges River Council Local Infrastructure Contributions Plan 2021.

Timing of Payment

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

Further Information

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

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

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

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

20. Site Management Plan -

Minor Development

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

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.

21. **BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No. 1165064S_02 must be implemented on the plans lodged with the application for the Construction Certificate.
22. **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.

23. **Traffic Management - Compliance with AS2890** - All driveways, access ramps, vehicular crossings and car parking spaces shall be designed and constructed in accordance with the current version of Australian Standards, AS 2890.1 (for car parking facilities) and AS 2890.2 (for commercial vehicle facilities).
24. **Allocation of street addresses** - In order to comply with AS/NZS 4819:2011 Rural and Urban Addressing & the NSW Addressing User Manual (Geographical Names Board of NSW) and Georges River Council's requirements, the street addresses for the subject development must be allocated as follows:

Description on DA plan	Location within development	Proposed street address to comply with AS/NZS 4819:2011 and NSW Addressing Manual
Existing café 'Dolce	Ground Floor	18 Letitia Street, Oatley NSW 2223

Expresso'		
Existing Office 'Greg Walsh & Co'	First Floor	1/18 Letitia Street, Oatley NSW 2223
New Unit	Second Floor	2/18 Letitia Street, Oatley NSW 2223

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

- 25. 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.

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

- 26. 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.

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

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

28. **Demolition work involving asbestos removal** - Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 458 of the [Work Health and Safety Regulation 2011](#).
29. **Dial before your dig** - The applicant shall contact “Dial Before You Dig on 1100” to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from “Dial Before You Dig” shall be forwarded to the Principal Certifying Authority (PCA) and Council for their records.
30. **Registered Surveyors Report - During Development Work** - A report must be submitted to the PCA at each of the following applicable stages of construction:
- a) Set out before commencing excavation.
 - b) Floor slabs or foundation wall, before formwork or commencing brickwork.
 - c) Completion of Foundation Walls - Before any construction of flooring, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans.
 - d) Completion of Floor Slab Formwork - Before pouring of concrete/walls construction, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans. In multi-storey buildings a further survey must be provided at each subsequent storey.
 - e) Completion of any Pool Formwork - Before concreting of pool shell, detailing the location of the pool relative to the adjacent boundaries and its height relative to the datum shown on the approved plans.
 - f) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries.
 - g) Completion of all Work - Detailing the location of the structure (including eaves/gutters) relative to adjacent boundaries and its height relative to the datum shown on the approved plans. A final Check Survey must indicate the reduced level of the main ridge.

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

31. **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

- 32. 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.
- 33. Hazardous or Intractable Waste – Removal and Disposal** - Hazardous or intractable waste arising from the demolition or construction process shall be removed and disposed of in accordance with the requirements of SafeWork NSW and the NSW Environment Protection Authority and with the provision of:
- Work Health and Safety Act 2011 (NSW) (as amended);
 - Work Health and Safety Regulation 2011 (as amended);
 - Protection Of the Environment Operations Act 1997 (NSW) (as amended); and
 - Protection of the Environment Operations (Waste) Regulation 2014 (as amended)
- 34. Contaminated Land – Contaminants found during demolition or 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 case 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.
- 35. 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.
- 36. 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.
- 37. Public Utility and Telecommunication Assets** - The owner shall bear the cost of any relocation or modification required to any Public Utility Authority assets including

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

- 38. Worksite traffic and pedestrian control** - Traffic and pedestrian control shall be in accordance with TfNSW 'Traffic Control at Works Sites- Technical Manual' version 6.1.
- 39. Hours of construction for demolition and building work** - Unless authorised by Council:
- a. Building construction and delivery of material hours are restricted to: 7.00 am to 5.00 pm (inclusive) Monday to Saturday and no work on Sundays and Public Holidays.
 - b. Demolition and excavation works are restricted to: 8.00 am to 5.00 pm (inclusive) Monday to Friday only. Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site.
- 40. Ground levels and retaining walls** - The ground levels of the site shall not be excavated, raised or filled, or retaining walls constructed on the allotment boundary, except where indicated on approved plans or approved by Council.
- 41. 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.
- 42. 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.
- 43. Waste Management Facility** - All materials removed from the site as a result of demolition, site clearing, site preparation and, or excavation shall be disposed of at a suitable Waste Management Facility. No vegetation, article, building material, waste or the like shall be ignited or burnt.

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

Prior to the issue of the Occupation Certificate

- 44. Updated easement plan** - The Deposited Plan and terms of the easements affecting the site, being prepared by a Registered Surveyor, shall be updated to reflect any required amendments to the location and/or terms of the easements. This Plan shall be registered at the NSW Land and Property Information, and to the satisfaction of the Certifying Authority, prior to the issue of a final occupation certificate.
- 45. Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the

[Sydney Water Act 1994 <http://legislation.nsw.gov.au/>](http://legislation.nsw.gov.au/) must be submitted to the PCA prior to the issue of the Occupation Certificate.

46. **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.
47. **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.
48. **Soil disposal** - Any soil proposed to be disposed off site must be classified, removed and disposed of in accordance with the *EPA Environmental Guidelines; Assessment, Classification and Management of Liquid and Non-Liquid Wastes 1999* and the *Protection of the Environmental Operations Act 1997*.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Occupation Certificate.

49. **Restriction to User and Positive Covenant for On-Site Detention Facility** - A Restriction on Use of the Land and Positive Covenant shall be created and registered on the title of the property, which places the responsibility for the maintenance of the on-site stormwater management system on the owners of the land. The terms of the instrument are to be in accordance with Council's standard terms and restrictions which are as follows;

Restrictions on Use of Land

The registered proprietor shall not make or permit or suffer the making of any alterations to any on-site stormwater management system which is, or shall be, constructed on the lot(s) burdened without the prior consent in writing of Georges River Council. The expression "on-site stormwater management system" shall include all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to manage stormwater quantity or quality including the temporary detention or permanent retention of stormwater storages. Any on-site stormwater management system constructed on the lot(s) burdened is hereafter referred to as "the system."

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

Positive Covenants

1. *The registered proprietor of the lot(s) hereby burdened will in respect of the system:*
 - a) *keep the system clean and free from silt, rubbish and debris*
 - b) *maintain and repair at the sole expense of the registered proprietors the whole of the system so that it functions in a safe and efficient manner*
 - c) *permit the Council or its authorised agents from time to time and upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land for the compliance with the requirements of this covenant*
 - d) *comply with the terms of any written notice issued by the Council in respect of the requirements of this covenant within the time stated in the notice.*

2. *Pursuant to Section 88F(3) of the Conveyancing Act 1919 the Council shall have the following additional powers:*
 - a) *in the event that the registered proprietor fails to comply with the terms of any written notice issued by the Council as set out above the Council or its authorised agents may enter the land with all necessary materials and equipment and carry out any work which the Council in its discretion considers reasonable to comply with the said notice referred to in part 1(d) above*
 - b) *the Council may recover from the registered proprietor in a Court of competent jurisdiction:*
 - i. *any expense reasonably incurred by it in exercising its powers under subparagraph (i) hereof. Such expense shall include reasonable wages for the Council's employees engaged in effecting the work referred to in (i) above, supervising and administering the said work together with costs, reasonably estimated by the Council, for the use of materials, machinery, tools and equipment in conjunction with the said work.*
 - ii. *legal costs on an indemnity basis for issue of the said notices and recovery of the said costs and expenses together with the costs and expenses of registration of a covenant charge pursuant to section 88F of the Act or providing any certificate required pursuant to section 88G of the Act or obtaining any injunction pursuant to section 88H of the Act. Name of Authority having the power to release vary or modify the Positive Covenant referred to is Georges River Council.*

50. 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.

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

- a. Compliance with conditions of development consent relating to stormwater;
- b. That the works have been constructed in accordance with the approved design and will provide the detention storage volume in accordance with the submitted calculations;
- c. Pipe invert levels and surface levels to Australian Height Datum;

Council's Engineering Services section must advise in writing that they are satisfied with the Works-As-Executed prepared by a Registered Surveyor and duly signed prior to the issue of an Occupation Certificate.

52. Slip Resistance - At completion of work an in-situ (on-site) test, in wet and dry conditions, must be carried out on the pedestrian floor surfaces used in the foyers, public corridors/hallways, stairs and ramps as well as the floor surfaces in wet rooms in any commercial/retail/residential units to ascertain the actual slip resistance of such surfaces taking into consideration the effects of grout, the gradients of the surface and changes from one material to another. The in-situ test must be carried out in accordance with AS/NZS 4663:2002. Proof of compliance must be submitted with the application for the Occupation Certificate for approval.

Operational Conditions (On-Going)

53. **Loading/Unloading of Goods** - There shall be no loading, unloading of goods or standing of vehicles at any time on the right-of-carriageway on 18A Letitia Street, Oatley
54. **Car Space Allocation** - The car space in the carport shall be allocated to and be for the exclusive use of the second-floor residential unit.
55. **Carport- Clear area for Vehicle Maneuvering** - There shall be no storage of goods or materials at any time in the carport in the area required for vehicle maneuvering as shown on drawings marked "B85 Turning Path" contained within the Traffic and Parking Assessment Report prepared by Varga Traffic Planning (ref:21547) dated 11/4/2022.
56. **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).
57. **Tree Protection Measures**
- a) A final certificate of compliance letter, once all building works have been completed, from the engaged AQF 5 Consulting Arborist, that tree protection measures have been installed and maintained for the entirety of the project and report on the condition of the trees that as part of this Consent, were to be protected and retained.
 - b) A copy of the Hurstville City Council's Tree Removal and Pruning Guidelines and Kogarah City Council, Street Tree Management Strategy, Masterplan, and Tree Management Policy 2019, can be downloaded from Council's website www.georgesriver.nsw.gov.au.
58. **Noise Control** - The use of the premises must not give rise to the transmission of offensive noise to any place of different occupancy. Offensive noise is defined in the [Protection of the Environment Operations Act 1997](#) (as amended).
59. **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.
60. **Outdoor Lighting** - To avoid annoyance to the occupants of adjoining premises or glare to motorist on nearby roads, outdoor lighting must comply with AS 4282-1997: Control of the obtrusive effects of outdoor lighting.
61. **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.
62. **Activities and storage of goods outside building** - There shall be no activities including storing or depositing of any goods or maintenance to any machinery external to the building with the exception of waste receptacles.

- 63. Food premises – Garbage Odour** - A waste contractor shall be engaged to remove all waste from the garbage storage area on a regular basis so that no overflow of rubbish will occur. Practical measures are also to be taken to ensure that odour emission from the garbage storage area does not cause offensive odour as defined under the provision of the [Protection of the Environment Operations Act, 1997](#) (as amended).

Operational Requirements Under the Environmental Planning & Assessment Act 1979

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

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

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

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

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

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

A Notice of Commencement Form is attached for your convenience.

- 68. Critical Stage Inspections** - The last critical stage inspection must be undertaken by the PCA. The critical stage inspections required to be carried out vary according to Building Class under the Building Code of Australia and are listed in Clause 162A of the [Environmental Planning and Assessment Regulation 2000](#).
- 69. Notice to be given prior to critical stage inspections** - The principal contractor for a building site, or the owner-builder, must notify the PCA at least 48 hours before each

required inspection needs to be carried out.

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

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

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

An Occupation Certificate Application Form is attached for your convenience.

Prescribed Conditions

- 71. Clause 97A - BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
- 72. Clause 98 – Building Code of Australia & Home Building Act 1989** - Requires all building work to be carried out in accordance with the Building Code of Australia. In the case of residential building work to which the Home Building Act 1989 relates, there is a requirement for a contract of insurance to be in force before any work commences.
- 73. Clause 98A – Erection of Signs** - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the Principal Certifier and the Principal Contractor.
- 74. Clause 98B – Home Building Act 1989** - If the development involves residential building work under the Home Building Act 1989, no work is permitted to commence unless certain details are provided in writing to Council. The name and licence/permit number of the Principal Contractor or Owner Builder and the name of the Insurer by which work is insured under Part 6 of the Home Building Act 1989.
- 75. Clause 98E - Protection & support of adjoining premises** - If the development involves excavation that extends below the level of the base of the footings of a building on adjoining land, this prescribed condition requires the person who benefits from the development consent to protect and support the adjoining premises and where necessary underpin the adjoining premises to prevent any damage.
- 76. Clause 98E - Site Excavation** - Excavation of the site is to extend only to that area required for building works depicted upon the approved plans. All excess excavated material shall be removed from the site.

All excavations and backfilling associated with the erection 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

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

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

2. **Appeal Rights** - Part 8 (Reviews and appeals) of the Environmental Planning and Assessment Act 1979 confers on an applicant who is dissatisfied with the determination of the application a right of appeal to the Land and Environment Court of New South Wales.
3. **Lapsing of Consent** - This consent will lapse unless the development is physically commenced within 5 years from the Date of Operation of this consent, in accordance with Section 4.53 of the Environmental Planning and Assessment Act 1979 as amended.
4. **Access to NSW Legislations (Acts, Regulations and Planning Instruments)** - NSW legislation can be accessed free of charge at www.legislation.nsw.gov.au
5. **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/nqlg.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](http://www.legislation.nsw.gov.au/acts/1997/0001/0001.htm).

Useful links relating to Noise:

- *Community Justice Centres*—free mediation service provided by the NSW Government (www.cjc.nsw.gov.au).
- *Department of Environment and Conservation NSW, Noise Policy Section web page* (www.environment.nsw.gov.au/noise).
- *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).
- *Australian Acoustical Society*—professional society of noise-related professionals (www.acoustics.asn.au/index.php).
- *Association of Australian Acoustical Consultants*—professional society of noise related professionals (www.aaac.org.au).
- *Department of Gaming and Racing* - (www.dgr.nsw.gov.au).

6. **Certified Contaminated Land Consultant** - The Contaminated Land Planning Guidelines, called up by the State Environmental Planning Policy No. 55 requires that a certified contaminated land consultant (in the context of the investigation, assessment, remediation and validation of contaminated land) is a contaminated land consultant, whose qualifications and experience have been confirmed through a recognized certification scheme to have the necessary competencies to carry out work relating to contaminated land to an appropriate standard.

Certification schemes that are recognized by the EPA includes:

- (a) Certified Environmental Practitioner (Site Contamination) (CENVP(SC)) or
- (b) 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 on the NSW EPA webpage: <https://www.epa.nsw.gov.au/your-environment/contaminated-land/>

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

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

8. **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.
9. **Electricity Supply** - This development may need a connection to the Ausgrid network which may require the network to be extended or its capacity augmented. You are advised to contact Ausgrid on 13 13 65 or www.ausgrid.com.au (Business and Commercial Services) for further details and information on lodging your application to connect to the network.
10. **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.

11. **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.

12. **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).

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


- (a) Complete the Stormwater Drainage Application Form which can be downloaded from Georges River Council's website at www.georgesriver.nsw.gov.au.
- (b) In the Application Form, quote the Development Consent No. (eg. DA2018/0***) and reference this condition number (e.g. Condition 23)
- (c) Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Council's adopted Fees and Charges for the administrative and inspection charges associated with stormwater applications.

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

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

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

ATTACHMENTS

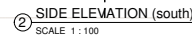
- Attachment [↓1](#)  Site Plan
- Attachment [↓2](#)  Elevations

ALTERATIONS AND
ADDITIONS TO EXISTING
BUILDING AND SIGNAGE
WITH STRATA SUBDIVISION

SITE PLAN

Archite

2713



CERTIFICATE NUMBER: NO 11656545_02

BASIX NOTES

PLEASE READ THIS CERTIFICATE FOR TABLE INFORMATION

FLOOR:
CONCRETE, NO INSULATION REQUIRED

EXTERNAL WALLS:
ALL EXTERNAL WALLS MUST, NO INSULATION TO SIXTY-FOUR
LIGHTWEIGHT METAL CLADDING ON FRAMED WALLS WITH
R-VALUE: 1.41 (TOTAL SYSTEM VALUE: 1.18)
INSULATION: METAL
DETAIL: COLOUR MIMICKLED

GLAZING DOUBLE WINDOW:
GLAZING WINDOW AND DOOR
U-VALUE: 1.41 EQUAL TO OR LOWER THAN: SPIC, SPINNY
GLASS AND FRAME ARE 40% TONAL WINDOW INSULATION
VALUES AND FRAME)

ROOF: GABLE ROOF
ALL ROOFING MUST BE MATCHED BLANKET TO R-2 INSULATION
VALUE

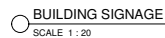
CEILING:
CEILING MUST CEILING WITH F-0.3 INSULATION (R-2)
VALUE: INTERIOR ROOF ABOVE
CEILING: 0.41 (R-2)

CEILING PENETRATIONS:
SEALED DOWN FEATHERS, ONE EVERY 2.5m²

FLOOR OPENINGS:
ALL FLOOR OPENINGS, CARPET TO BEDROOMS & THIRDS
ELSEWHERE

EXTERNAL SKINNO:
AS PER PLANS

VENTILATION:
ALL EXTERNAL DOORS HAVE WEATHER SEALS, ALL EXTERIOR
AND CHIMNEY & FIRE DAMPERS, AND DOWNLIGHTS PROVIDED

[illegible]

B	REVISED DEVELOPMENT APPLICATION	25/11/2021	AJ
A	DEVELOPMENT APPLICATION PLANS	21/12/2020	AY
2020	COUNCILOR	N/A	AY

<p>NAME</p> <p>LAWSEARCH</p>	<p>ADDRESS</p> <p>18 LETITIA STREET, OATLEY</p>
<p>PROJECT</p> <p>ALTERATIONS AND ADDITIONS TO EXISTING BUILDING AND SIGNAGE WITH STRATA SUBDIVISION</p>	<p>PROPOSING CODE</p> <p>ELEVATIONS</p>

Innovate


Suite 50, 32 Frederick Street
Cathy NGW 2222

PC BOX 214 Cathy NGW

• 02 9546 1955
• 02 9546 1944
• info@innovate.com.au
• www.innovate.com.au

REGISTERED ARCHITECTS
Nominated Architects
Certificate 2006
7143

Architect

 UNIVERSITY OF MEMPHIS	Project	BC/AI	Project	AS SHOWN	DEVELOPMENT
	Package	GJ	Order	B	
	Date	NOV 20			
	Job Number	2715	Phase I	04	

REPORT TO GEORGES RIVER COUNCIL LPP MEETING OF THURSDAY, 16 JUNE 2022

LPP029-22

LPP Report No	LPP029-22	Development Application No	DA2021/0002
Site Address & Ward Locality	18A Letitia Street Oatley Blakehurst Ward		
Proposed Development	Demolition works, alterations and additions to a mixed use building containing a retail premises (used as a licensed premises) and shop top housing.		
Owners	Valore Holding No 1 Pty Ltd		
Applicant	Mrs Loredana Trajkovski		
Planner/Architect	Planner – Wynne Planning – Architect – Innovate Architects		
Date Of Lodgement	13/01/2021		
Submissions	One submission		
Cost of Works	\$730,000.00		
Local Planning Panel Criteria	Determination of the application by the Panel is in the public interest.		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Industry and Employment) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, Kogarah Local Environmental Plan 2012, Kogarah Development Control Plan 2013, Georges River Local Environmental Plan 2021.		
List all documents submitted with this report for the Panel's consideration	Architectural Plans, Statement of Environmental Effects, Stormwater Plans, Traffic and Parking Report, BCA Report, Survey Plan, Submission		
Report prepared by	Senior Development Assessment Planner		

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

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

Site Plan



Aerial – site outlined in blue

Executive Summary Proposal

1. This development application (DA) seeks consent for demolition works and alterations and additions to a mixed use building containing retail premises on the ground floor and shop top housing over.
2. The existing building contains a bottle shop on the ground floor fronting Letitia Street and one bedroom residential unit on the first floor.

3. The application proposes excavation below the ground level at the rear of the bottle shop to provide a WC, cellar and storage for the shop. A carport for one vehicle is proposed above the cellar and is to be accessed from Frederick Street at the rear of the site. A new entry from Frederick Street and stairs to access the units on the first and second floors of the development area proposed.
4. The existing unit on the first floor is to be extended toward the rear to create a two bedroom apartment with a balcony facing Letitia Street.
5. A new two bedroom residential unit is proposed on the second floor.
6. New signage for the bottle shop is proposed on the Letitia Street façade above the existing first floor window. The under awning signage on the Frederick Street façade remains as existing.
7. The proposal complies with the height and floor space ratio standards of the Kogarah LEP 2012.

Site and Locality

8. The development site is located on the corner of Frederick Street and Letitia Street. The site is legally identified as Lot 2 in DP203437.
9. The site is irregular in shape. It has a frontage to Letitia Street of 4.495m, a frontage of 2.275m addressing the intersection between Letitia Street and Frederick Street, and a frontage to Frederick Street only of 25.985m and a total site area of 161.1sqm. The land falls gently from the rear of the site to the frontage of Letitia Street.
10. Presently situated on the site is a two storey shop top housing development. The ground (street) level is currently occupied by a shop, specifically a licenced premise (bottle shop). The first floor is currently utilised for residential purposes. The rear of the site also contains a paved area with a metal shed. A right of way servicing 18 Letitia Street is also present at the rear of the site.
11. The site is zoned as B2 Local Centre with a maximum height of 12m and a maximum Floor Space Ratio (FSR) of 2.5:1.
12. The adjacent land to the north, at No. 18 Letitia Street, currently contains a two storey commercial development with a food premise on the ground floor and an office on the first floor.
13. DA2021/0007 on 18 Letitia Street, (north of the subject site) proposes demolition works and alterations and additions to a mixed-use building containing retail premises and shop top housing. The assessment report for DA2021/0007 is also on the agenda of the LPP meeting for 16 June 2022.
14. The adjacent land to the east, at No. 32 Frederick Street, currently contains a commercial development with various retail and commercial uses. Across Frederick Street to the south is a place of public worship.
15. Adjacent sites are zoned as B2 Local Centre whilst the locality also contains sites zoned R4 High Density Residential, R3 Medium Density Residential, and SP2 Educational Establishment.

Zoning and Permissibility

16. The subject site is zoned B2 Local Centre under the provisions of Kogarah Local Environmental Plan 2012 (KLEP 2012). The proposal involves alterations and additions to an existing shop-top housing development which is a permissible use in the zone with development consent.

Submissions

17. The DA was publicly notified to neighbours for a period of fourteen (14) days. One submission was received.

Reason for Referral to the Local Planning Panel

18. This application is referred to the Georges River Local Planning Panel for determination as it is in the public interest in accordance with Council delegations.

Planning and Design Issues

19. The proposal is fully compliant with the maximum height and FSR development standards that apply to the site under KLEP 2012. The proposal is therefore consistent with the desired future built form controls for the site.
20. The application seeks a variation to the car parking requirements for the proposal, which is supported and discussed in detail later in this report.

Conclusion

21. The application has been assessed having regard to the Matters for Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, the provisions of the relevant State Environmental Planning Policies, Local Environmental Plans and Development Control Plans. The proposal is an appropriate response to the site and the locality. As a result, the application is recommended for approval subject to conditions of consent.

Report in Full**DESCRIPTION OF THE PROPOSAL**

22. The proposal seeks consent for demolition works and alterations and additions to an existing shop-top housing development to provide a cellar/storage area below the existing ground floor level, a bottle shop on the ground floor, and two x 2 bedroom residential units on the site known as level 1 and level 2.
23. A detailed description of the proposal is as follows:

Ground Level - Letitia Street: No change to the existing bottle shop other than the removal of walls and the stairs to facilitate the upper level works.

Ground Level – east: Excavation to accommodate a new storage room, WC and cellar for use by the existing bottle shop.

Carport Floor Level – east: Carport for one vehicle, commercial and residential bin storage areas, OSD, new entry from Frederick Street and stair access to the residential levels above.

First Floor – residential: Alterations and additions to the existing unit to create a two bedroom unit.

Second Floor – residential: New residential unit containing two bedrooms one with and ensuite, bathroom, laundry, kitchen, dining area and two balconies one fronting Letitia Street and the other rear facing.

DESCRIPTION OF THE SITE AND LOCALITY

24. The development site is located on the corner of Frederick Street and Letitia Street. The site is legally identified as Lot 2 in DP203437.
25. The site is irregular in shape. It has a frontage to Letitia Street of 4.495m, a frontage of 2.275m addressing the intersection between Letitia Street and Frederick Street, and a frontage to Frederick Street only of 25.985m and a total site area of 161.1sqm. The land falls gently from the rear of the site to the frontage of Letitia Street.
26. Presently situated on the site is a two storey shop top housing development. The ground (street) level is currently occupied by a retail premise which is utilised as a licenced premise (bottle shop). The first floor is currently utilised for residential purposes. The rear of the site also contains a paved area with a metal shed. A right of way easement serving 18 Letitia Street is also present at the rear of the site.

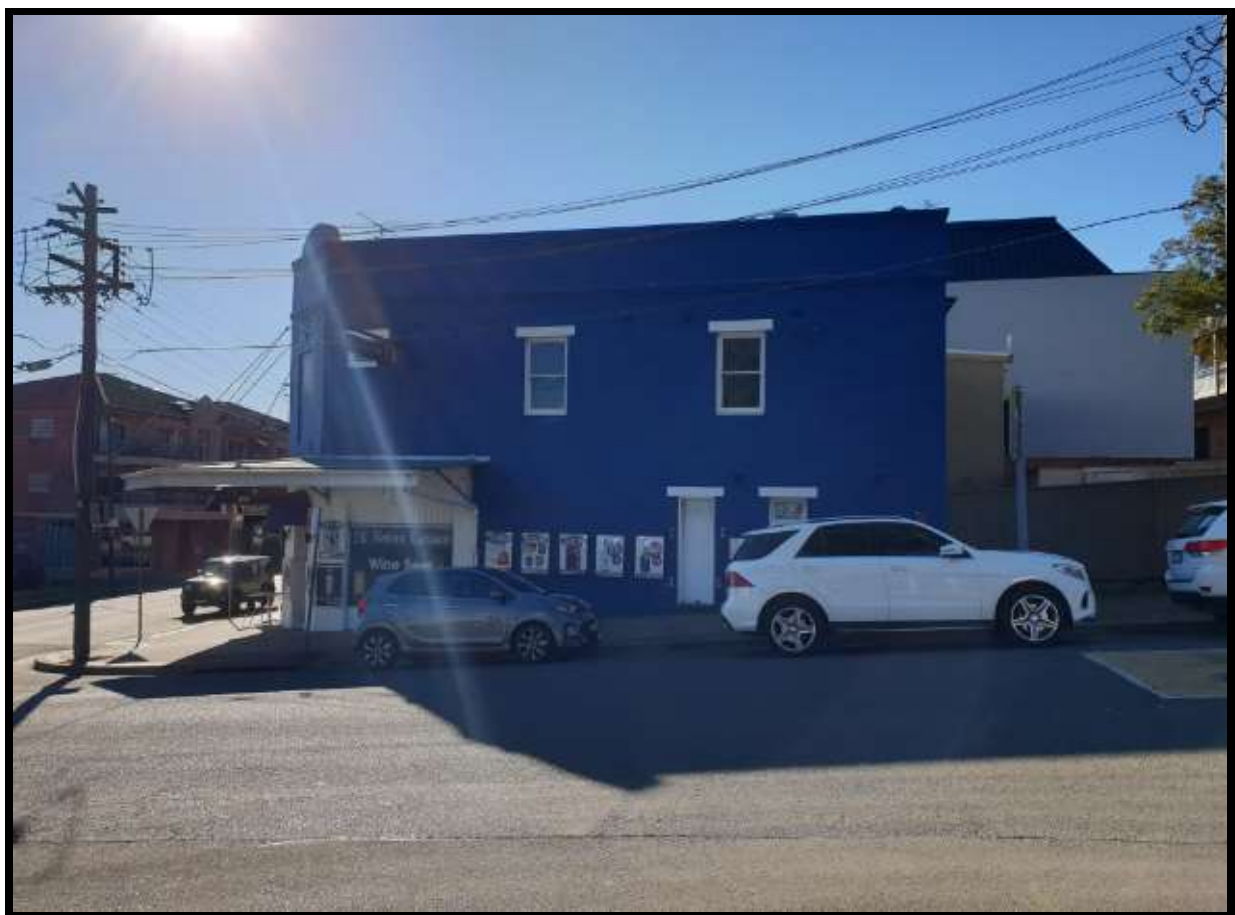


Figure 1: The site viewed from Frederick Street



Figure 2: View of site (corner shop top housing development) from Letitia Street.



Figure 3: Eastern neighbour No. 32 Frederick Street, Oatley

27. The adjacent land to the north, at No. 18 Letitia Street, currently contains a two storey commercial development with a food and drink premise on the ground floor and a commercial tenancy on the first floor.
28. DA2021/0007 on 18 Letitia Street, (north of the subject site) proposes demolition works and alterations and additions to a mixed-use building containing retail premises and commercial on the first floor to accommodate a unit to the second floor resulting in the development being shop top housing. The assessment report for DA2021/0007 is also on the agenda of the LPP meeting for 16 June 2022 as the works to both sites rely upon each other, the sites are not proposed to be amalgamated, but developed at the same time.
29. The adjacent land to the east, at No. 32 Frederick Street, currently contains a commercial development with various retail and commercial uses. Across Frederick Street, to the south at No. 20 Letitia Street is a place of public worship.



Figure 4: Montage of proposed development at 18 Letitia Street and 18A Letitia Street

30. The site is zoned as B2 Local Centre with a maximum height of 12m and a maximum Floor Space Ratio (FSR) of 2.5:1.
31. Adjacent sites are zoned as B2 Local Centre whilst the locality also contains sites zoned R4 High Density Residential, R3 Medium Density Residential, and SP2 Educational Establishment.

State Environmental Planning Policies (SEPPs)

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

State Environmental Planning Policy Title	Complies
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Yes
State Environmental Planning Policy (Resilience and Hazards) 2021	Yes
State Environmental Planning Policy (Transport and Infrastructure)	Yes

2021	
State Environmental Planning Policy (BASIX) 2004	Yes
State Environmental Planning Policy (Industry and Employment) 2021	Yes

State Environmental Planning Policy (Biodiversity and Conservation) 2021

33. The relevant parts of the above Policy that apply to this application are Chapter 2 – Vegetation in non-rural areas, and Chapter 11 – Georges River Catchment.

Chapter 2 - Vegetation in Non-Rural Areas

34. Chapter 2 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.
35. This chapter applies to clearing of:
- *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*
 - *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).*
36. No tree removal is proposed as part of the application.

Chapter 11 – Georges River Catchment

37. 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,*
38. The stormwater design was reviewed by Council's Engineers at lodgement. No objection was raised with respect to the management and disposal of stormwater.
39. The proposal is consistent with the objectives and purpose of Chapter 11 of the SEPP.

State Environmental Planning Policy (Resilience and Hazards) 2021

40. Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 is relevant to the proposal.

41. Chapter 4 aims to promote the remediation of contaminated land in order to reduce the risk of harm to human health or any other aspect of the environment.
42. Clause 4.6 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.
43. A review of historic aerial photography indicates that the site has historically been used for commercial/residential purposes 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.

State Environmental Planning Policy (Transport and Infrastructure) 2021

44. Compliance with SEPP (Transport and Infrastructure) 2021 has been considered. Ausgrid was consulted as required by Chapter 2. No objection was raised and no conditions required.

State Environmental Planning Policy (BASIX) 2004

45. The trigger for BASIX Certification is when the estimated cost of works for residential development (new dwelling(s)/alterations and additions) is equal to or above \$50,000. BASIX Certification is also triggered when proposing a swimming pool with a volume of 40,000 litres.
46. A valid BASIX Certificate has been submitted with the Development Application satisfying the minimum requirements of SEPP (Building Sustainability Index: BASIX) 2004.

State Environmental Planning Policy (Industry and Employment) 2021

47. Chapter 3 of the SEPP applies to advertising and signage. The policy aims to ensure that signage is compatible with the desired amenity and visual character of an area.
48. Part 3.7 of the SEPP states:

3.7 Advertisements to which this Part applies

 - (1) *This Part applies to all signage to which this Chapter applies, other than the following—*
 - (a) *business identification signs,*
 - (b) *building identification signs,*
 - (c) *signage that, or the display of which, is exempt development under an environmental planning instrument that applies to it,*
 - (d) *signage on vehicles.*
 - (2) *Despite subsection (1)(d), section 3.26 applies to signage on a trailer (within the meaning of the [Road Transport Act 2013](#)).*
49. The proposed signage is classified as a business identification sign. The proposed signage is shown in the figure below.

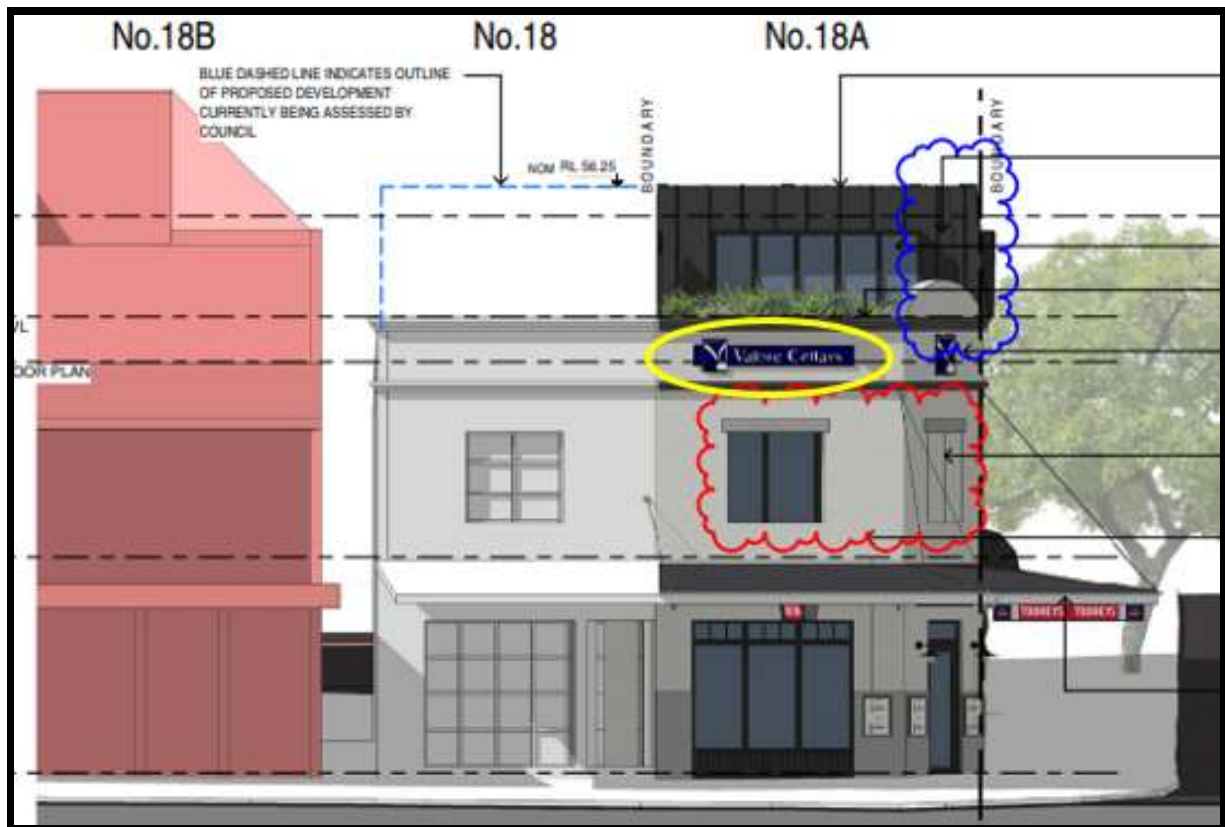


Figure 5: Proposed new signage on Letitia Street elevation

50. There are no controls within the SEPP for business identification signs to consider other than the assessment criteria in Schedule 5. An assessment of the proposal against Schedule 5 of the SEPP is provided in the table below.

Assessment Criteria	Proposal	Compliance
1 Character of the area <ul style="list-style-type: none"> Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located? Is the proposal consistent with a particular theme for outdoor advertising in the area or locality? 	<p>The proposed signage is compatible within commercial signage in this precinct.</p> <p>There is no particular theme in the locality.</p>	<p>Yes</p> <p>Yes</p>
2 Special areas <ul style="list-style-type: none"> Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas? 	<p>The site is not located in a special area.</p>	<p>Yes</p>
3 Views and vistas <ul style="list-style-type: none"> Does the proposal obscure or compromise important views? Does the proposal dominate the 	<p>No as fixed to the façade of the building.</p> <p>No, as fixed to the facade</p>	<p>Yes</p> <p>Yes</p>

Assessment Criteria	Proposal	Compliance
<p>skyline and reduce the quality of vistas?</p> <ul style="list-style-type: none"> Does the proposal respect the viewing rights of other advertisers? 	<p>of the building.</p> <p>Yes, as fixed to the facade of the building.</p>	<p>Yes</p>
<p>4 Streetscape, setting or landscape</p> <ul style="list-style-type: none"> Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape? Does the proposal contribute to the visual interest of the streetscape, setting or landscape? Does the proposal reduce clutter by rationalising and simplifying existing advertising? Does the proposal screen unsightliness? Does the proposal protrude above buildings, structures or tree canopies in the area or locality? Does the proposal require ongoing vegetation management? 	<p>Yes, as fixed to the facade of the building.</p> <p>The signage is appropriate for the streetscape.</p> <p>The sign replaces an existing sign just higher up the façade of the building.</p> <p>NA</p> <p>No, as fixed to the facade of the building.</p> <p>No</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>NA</p> <p>Yes</p> <p>Yes</p>
<p>5 Site and building</p> <ul style="list-style-type: none"> Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located? Does the proposal respect important features of the site or building, or both? Does the proposal show innovation and imagination in its relationship to the site or building, or both? 	<p>Yes the scale, form and height is consistent with surrounding development.</p> <p>The signage is respectfully placed on the façade of the building.</p> <p>The proposal is building identification signage.</p>	<p>Yes</p> <p>Yes</p> <p>NA</p>
<p>6 Associated devices and logos with advertisements and advertising structures</p> <ul style="list-style-type: none"> Have any safety devices, 	<p>NA as fixed to the facade</p>	<p>NA</p>

Assessment Criteria	Proposal	Compliance
platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	of the building.	
7 Illumination <ul style="list-style-type: none"> Would illumination result in unacceptable glare? Would illumination affect safety for pedestrians, vehicles or aircraft? Would illumination detract from the amenity of any residence or other form of accommodation? Can the intensity of the illumination be adjusted, if necessary? Is the illumination subject to a curfew? 	Illumination not proposed. Illumination not proposed. Illumination not proposed. Illumination not proposed. Illumination not proposed.	NA NA NA NA NA
8 Safety <ul style="list-style-type: none"> Would the proposal reduce the safety for any public road? Would the proposal reduce the safety for pedestrians or bicyclists? Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas? 	No, as fixed to the façade of the building. No, as fixed to the façade of the building. No, as fixed to the façade of the building.	Yes Yes Yes

Environmental Planning Instruments

Kogarah Local Environmental Plan 2012 (KLEP 2012)

Zoning

51. The subject site is zoned B2 Local Centre under the provisions of the Kogarah Local Environmental Plan 2012 (KLEP2012). Refer to zoning map below. The proposed development is defined as shop-top housing which is a permissible land use in the zone.

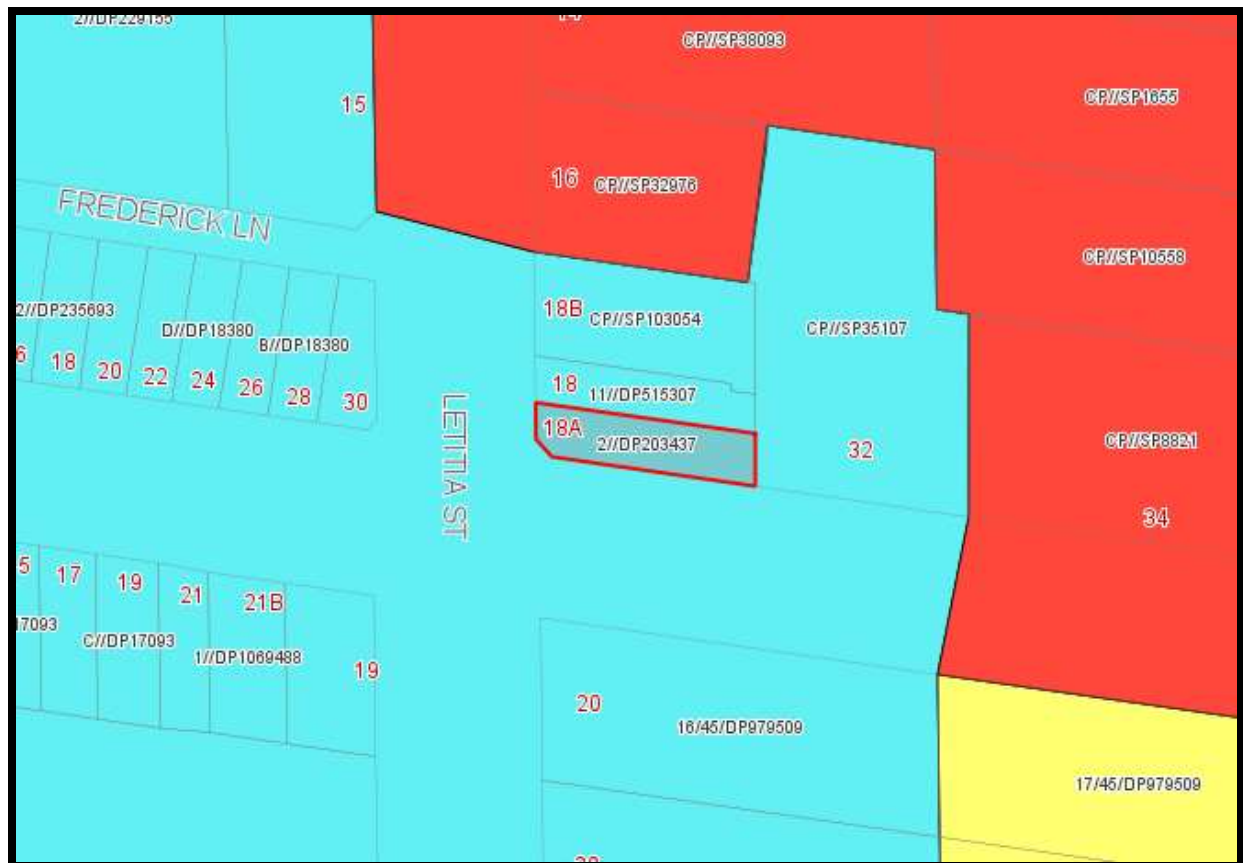


Figure 6: Zoning map the site (KLEP 2012)

52. The objectives of the B2 zone are as follows:
- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
 - *To encourage employment opportunities in accessible locations.*
 - *To maximise public transport patronage and encourage walking and cycling.*
53. The proposal satisfies the objectives of the B2 Zone as it will continue to provide residential and commercial uses in an accessible area.
54. The extent to which the proposal complies with the relevant standards of Kogarah Local Environmental Plan 2012 (KLEP2012) is outlined the table below.

KLEP2012 Compliance Table

Clause	Standard	Proposed	Complies
2.2 Zone	B2 Local Centre	The proposal is a permissible use within the zone.	Yes
2.3 Objectives	Objectives of the Zone	Consistent with the zone objectives.	Yes
4.3 – Height of Buildings	12m as identified on Height of Buildings Map	The maximum height of the building is 10.85m.	Yes
4.4 – Floor Space Ratio	2.5:1 as identified on Floor Space Ratio Map	2.19:1	Yes
4.5 – Calculation of floor	FSR and site area calculated in accordance with	The GFA has been calculated in accordance with this criterion.	Yes

Clause	Standard	Proposed	Complies
space ratio and site area	Cl.4.5		
6.2 Earthworks	To ensure that earthworks do not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land	The proposed development includes excavation and associated earthworks to accommodate an extension of the bottle shop to provide a cellar and store area.	Yes

Georges River Local Environmental Plan 2021

55. The Georges River Local Environmental Plan 2021 was gazetted on 8 October 2021.
56. In relation to this development site the zoning, height and floor space ratio remain unchanged.
57. Consideration is given to the provisions of Georges River Local Environmental Plan 2021 in the assessment this application.
58. In this regard, the provisions have no determining weight because of the operation of Clause “1.8A Savings provisions relating to development applications” of the Draft Plan which provides “If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.”

Development Control Plans

Kogarah Development Control Plan No 2013 (KDCP)

59. The following compliance table is an assessment of the proposal against the relevant Development Control Plan controls.

Kogarah Development Control Plan 2013 Compliance Table		
PART B – GENERAL CONTROLS		
Required	Proposed	Complies
B4 Parking and Traffic		
<u>Residential parking:</u> 2 x 2 bedroom units @ 1.5 spaces per unit = 3 spaces required.	1 space provided	No – refer to discussion below
<u>Visitor parking:</u> 2 total units @ 1 space per 5 units = 1 space required	No visitor parking proposed	No – refer to discussion below
<u>Car wash bay:</u> 1 bay, which can also function as a visitor space	No car wash bay proposed	No – refer to discussion below

<u>Accessible Space</u> For developments with less than 100 car spaces, a minimum of one accessible space must be provided Designated accessible car spaces may be treated as resident car spaces in the calculation of parking requirements.	No accessible space proposed	No – refer to discussion below
<u>Commercial and Industrial</u> <u>Retail Premises</u> <u>Shops</u> 1 space/25m ² of gross leaseable floor area	No existing parking space on site.	No – refer to discussion below
<u>Bicycle Parking:</u> 1 space per 3 dwellings = 1 1 space per 10 dwellings for visitors = 1 spaces Total = 2 spaces required	Bicycle parking provided in carport.	Yes
Car park access and layout to comply with relevant Australian Standards	The report provided details compliance.	Yes

Discussion on car parking

60. The existing and proposed parking arrangements do not comply with the controls in the DCP, there is currently no parking on site for use by the existing commercial or residential tenants. Council's Senior Traffic Engineer has reviewed the proposal having regard to the traffic assessment report and raises no concern with the parking deficiency as the alterations and additions proposed are not substantial in terms of traffic and parking matters.
61. The site is located within walking distance of Oatley railway station and bus stops, and the proposed carport space is to be for the exclusive use of one of the proposed residential units, and a condition of consent is recommended to this effect.
62. A number of conditions of consent have been recommended at the end of this report in relation to traffic and parking, including conditions requiring submission of a construction vehicle and pedestrian plans of management, adequacy of the existing driveway/Right-of-Carriageway paving, driveway/carport finished level, loading/unloading of goods, and car space allocation (the carport space is to be allocated to one of the proposed residential units).

B5 – Waste Management and Minimisation		
Requirement	Proposal	Complies
Submit Waste Management Plan (WMP)	An appropriate WMP was submitted with the DA.	Yes
Provide a dedicated caged area	The carport level contains sufficient	

within the bin room for the storage of discarded bulky items.	bin storage areas for both the residential and commercial occupants.	
B6 – Water Management		
All developments require consideration of Council's Water Management Policy	The proposed method of stormwater management is considered satisfactory subject to conditions.	Yes
B7 – Environmental Management		
Building to be designed to improve solar efficiency and are to use sustainable building materials and techniques	Design, materials, siting and orientation generally optimise solar efficiency, and the development is BASIX compliant.	Yes

Part D1: Development in the B1 Neighbourhood Centres & B2 Local Centre zones

Requirement	Proposal	Comply
3.1 Streetscape		
(1) Infill development is to respect and maintain consistency with the established rhythm and scale of existing shopfronts.	No change to the existing shopfront.	Yes
(2) Parapets are to be utilised for the consistency of street frontage and screening of unsightly roof structures.	No change to the existing parapet.	Yes
(3) Facades are to be ordered and articulated to visually break up the building massing, for example through materials, colour and the design of openings. Large areas of glass curtain walling and blank walls are to be avoided.	The second floor addition complements the existing mansard style second floor of the adjacent building (works the subject of DA2021/0007 also an item on this agenda).	Yes
(4) Enhance pedestrian amenity through the provision of continuous awnings for weather protection.	Existing awning to remain.	Yes
(5) Promote safety and security by providing a high level of activation to the street, employing clear and direct lines of sight between the street and building entries, and using appropriate signage and lighting to enhance the amenity of the public domain.	Complies, the commercial entry remains unchanged by this proposal.	Yes

Requirement	Proposal	Comply
(6) Site and design vehicular access (driveways, parking facilities, service access and garages) away from the main street frontage, from rear lanes or secondary streets.	Existing rear access maintained.	Yes
3.2 Shop-top housing		
(1) The ground floor level of buildings shall maintain active retail/commercial uses facing the street.	No change to the existing ground floor commercial use.	Yes
(2) Levels above ground can sustain mixed uses, including commercial, professional services, and residential, where appropriate.	First floor – residential Second floor – residential	Yes Yes
(3) Site and design non-residential and residential land uses in the same development in a manner that will not adversely affect the future operation of those land uses.	Complies, the ground floor commercial space activates street level.	Yes
(4) Residential uses are only be permitted subject to demonstration of satisfactory amenity for building occupants, particularly in relation to impacts from noise, fumes and vibration on heavily trafficked streets.	The site is located in a suitable area for additional residential development with good internal amenity for the future occupants of the enlarged and new unit.	Yes
3.3 Heritage & Significant Facades – Commercial Precincts		
(5) Respond to requirements for heritage items (Schedule 5 of KLEP 2012) or significant facades as identified in the Commercial Locality Controls.	The site is not a heritage item or within a conservation area.	NA
(6) For the redevelopment of heritage buildings identified in Schedule 5 of KLEP 2012, vertical additions are permitted with an upper level setback, where the parapet becomes the balustrade to		

Requirement	Proposal	Comply
the balcony of a new upper level storey.		
3.4 Building Heights		
(7) Building heights are to be in accordance with the Locality Controls.	Maximum 12m Proposed 10.8m	Yes
(8) Buildings are massed towards the street frontage and step down towards the rear, to be in keeping with the existing retail/commercial built form pattern and compatible with the scale and character of adjacent residential areas.	The building mass, form and scale is suitable for the site and consistent with adjacent development.	Yes
(9) Where allotment adjoins a low density residential area, buildings should be: (i) reduced in height in accordance with the locality controls; and (ii) setback from the adjoining property boundary.	NA – the site adjoins B2 zoned land.	NA
(10) The height of new development at the street boundary is to be no more than the prevailing height of the parapets of any adjacent and neighbouring heritage buildings.	The development aligns with the proposed scale and form of 18 Letitia Street.	Yes
(11) Floor to ceiling heights - min 3m (ground floor) for range of uses (retail, commercial, home offices).	Existing ground floor to remain unchanged.	Yes
(12) Floor to ceiling should be a minimum of 2.7m at the upper storeys of the building, to allow for a range of uses, and to improve the environmental performance and amenity of the building	Proposed second floor is 2.7m floor to ceiling. The extension of level 1 is 2.9m.	Yes Yes

Requirement	Proposal	Comply
3.5 Setbacks		
(13) Buildings adjacent to public roads are generally to align with and be built to the street frontage to provide continuity in the streetscape and encourage active frontages to ground level.	The proposed extension of level one and the second floor is designed in a mansard style roof which is consistent with the adjacent building at 18B Letitia Street.	Yes
(14) Street setbacks at ground level are permitted only: (i) Where the existing footpath is narrow and the provision of additional pedestrian space is desirable (ii) Where the established pattern is setback (for example where there are residential buildings within the locality) (iii) Where the setback enables or enhances visual appreciations of adjacent heritage items.	No change to the existing ground floor setbacks.	Yes
(15) Side setbacks are generally not permitted in order to maintain the continuity of active frontages, unless specified in the locality controls.	Existing side setbacks are to remain.	Yes
(16) Where the locality abuts a residential zone and/or a residential allotment, the side setbacks are generally to be a minimum 3m, except where the locality character is established by the existing footprints and the allotment capacity of the locality would be unreasonably constrained. Refer to the Locality Controls of Part D2 for specific side setback requirements.	NA – the site is adjoined by B2 zoned land.	NA
(17) Rear setbacks are determined by the context including the amenity of neighbouring residential uses and the amenity of any rear lanes. Refer to Locality Controls within Part D2 for	Suitable setbacks to the rear are proposed for the first floor unit extension and the second floor unit – 4.105m.	Yes

Requirement	Proposal	Comply
specific rear setback requirements.		
(18) Setbacks on corner blocks are to enable sufficient sightlines for traffic in accordance with the relevant Australian Standard.	No change to existing vehicular access from Frederick Street.	Yes
(19) Upper level street setbacks are required to any residential component above retail/commercial uses together with building design and apartment layout that satisfactorily mitigates the impacts of noise, fumes and vibration on major roads.	The development does not change the setbacks, however from the front elevation facing Letitia Street the first floor unit will be amended to provide a balcony at this level.	Yes
3.6 Building Design		
3.6.1 Building Facades		
(20) Where appropriate, integrate buildings into the streetscape by adopting a modular form, which reflects the underlying narrow shop width of older buildings. Use vertical elements, such as vertically proportioned windows, exposed party walls, vertical balustrades, attached fins to express this modulation and rhythm. Use horizontal elements such as roofs, parapets, balconies and balustrades to align the building with its neighbours.	The proposed built form is in keeping with the existing and desired character of this development to align with the adjoining development and the incorporation of a mansard style second floor addition.	Yes
(21) Ensure that the facade clearly expresses a bottom, middle and top related to the overall proportion of the building.	The development has been designed accordingly.	Yes
(22) Incorporate design characteristics such as projecting fins, corbelling, balconies with variable materials and finishes, punctuated walls with visually recognisable patterns, decorative features, rhythm and texture and a variable	The development has been designed appropriately.	Yes

Requirement	Proposal	Comply
<p>colour palate to achieve façade modulation and articulation.</p> <p>(23) Avoid curtain walls, large expanses of glass and large expanses of concrete as these do not create well-articulated and harmonious façades.</p> <p>(24) Express important corners by giving visual prominence to parts of the façade, including changes in articulation, material or colour, roof expression or increased height (where identified in the Locality Controls in Part D2).</p> <p>(25) Provide a greater proportion of solid areas to void areas on all façades and incorporate non-reflective materials.</p> <p>(26) Use non-reflective glass or recess glass behind balconies to minimise reflectivity.</p> <p>(27) Windows and openings are to be generally of a vertical character and located within vertical bays.</p> <p>(28) Air-conditioning units/fans/vents/stacks/hoods etc are to be inconspicuously located so as not to be visible from the shopping street and any other major side street.</p>	<p>Not proposed.</p> <p>The arched design feature of the corner is retained.</p> <p>The development has been designed appropriately.</p> <p>Incorporated into the development.</p> <p>The development has been designed appropriately.</p> <p>Appropriate space is available to comply with this criterion.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<p>3.6.2 Active Frontages</p> <p>(1) Provide direct visual connections between footpaths and shops.</p> <p>(2) Wrap shop fronts around corners into side streets to increase the area of active frontage.</p>	<p>The ground floor tenancy with continue to activate the ground floor.</p> <p>No change to the existing ground floor tenancy externally.</p>	<p>Yes</p> <p>Yes</p>

Requirement	Proposal	Comply
(3) Design building openings at the ground floor to be in keeping with the overall building and bay scale and proportions.	Remains unchanged.	Yes
(4) For cafe/dining uses, provide openable window areas in association with seating overlooking the street, to create the effect of outdoor dining. Note: Applications for outdoor dining must comply with Council's Code for Commercial Use of Public Footways.	This use is not proposed.	NA
(5) For commercial uses, avoid blank walls, dark or obscure glass to the street frontage.	Appropriate colours and finishes proposed.	Yes
(6) Incorporate continuous, independent and barrier free access to ground floor commercial entries, including effective signage, sufficient illumination, tactile ground surface indicators and pathways with limited cross-falls, sufficient width, comfortable seating and slip-resistant floor surfaces.	Complies, remains unchanged.	Yes
(7) Open grilles or see-through security screens are preferred to shutters, to optimise the openness of windows and any spill lighting of the footpath. Shutters, if provided, must be minimum 65% visually permeable.	Not proposed.	Yes
(8) Pedestrian access to upper level uses is preferred from the side street or rear lane. If provided from the main street, openings for access are to be between 1.5m and 3m wide.	Access to the upper levels is proposed via the access from Frederick Street.	Yes

Requirement	Proposal	Comply
(9) Recessed shop frontages are not permitted except in the cases of heritage buildings where the recess is sympathetic to the building character.	Not proposed.	Yes
3.6.3 Awnings		
(1) Awnings should retain any original awning features present that contribute to the desired locality character.	The existing awning is to remain unchanged.	Yes
(2) Provide under awning lighting to improve public safety.	Existing to remain unchanged.	Yes
(3) Wrap awnings around the corners of the main commercial street onto side streets.	The existing awning remains unchanged.	NA
(4) Design awnings in the high range 3.6m – 4m and no higher or lower than adjoining awnings.	The existing awning remains unchanged.	Yes
(5) Provide awnings flat or near-flat in shape (not tilted upwards away from the facade), and opaque in finish.	The existing awning remains unchanged.	Yes
3.6.4 Balconies		
(1) Each apartment is to have at least one primary balcony.	Level one unit - 1 Level two unit - 2.	Yes
(2) Primary balconies are to have a minimum depth of 2.5m and a minimum size of 10m ² .	2m to 2.5m – irregular in shape 10sqm	Yes Yes
(3) Design balconies that are recessed into the wall or enclosed with walls, columns or roofs to provide sufficient enclosure and visual firmness.	The balconies are unroofed to provide a front and rear setback to be consistent with the adjacent building to the north.	Yes
(4) Design balustrades that allow for views into, and along the street.	Surveillance of the street will be achieved from the front balconies.	Yes
(5) Employ juliet balconies and French windows to articulate	Not proposed.	NA

Requirement	Proposal	Comply
<p>facades with architectural detail and vertically proportioned windows.</p> <p>(6) Locate balconies adjacent to main living areas to expand the living space of units, where possible.</p> <p>(7) Balconies are to be designed to respond to the local context. In this regard, special attention should be paid to the design of balconies for buildings situated on busy roads and/or adjacent to railway lines. This may be achieved by: (i) layering and recessing balconies to increase noise buffering from busy roads and railway lines; (ii) grouping balcony openings; (iii) providing balconies with operable screens, windows, or operable walls/sliding doors with a balustrade; (iv) recessing balconies in response to acoustic and visual privacy issues; and (v) ensure the privacy of occupants, neighbours, and public is taken into account by careful design and balustrades with a balance of transparent and solid materials.</p>	<p>Appropriately placed.</p> <p>The balconies are not adjacent to the rail corridor or a busy road.</p>	<p>Yes</p> <p>Yes</p>
<p>3.6.5 Materials & Finishes</p> <p>(1) Utilise high quality and durable materials and finishes.</p> <p>(2) Combine different materials and finishes to assist building articulation and modulation.</p> <p>(3) Where the Locality includes a significant facade or streetscape, materials and finishes are to compliment the existing streetscape.</p>	<p>Appropriate materials and finishes proposed.</p> <p>Appropriate materials and finishes proposed.</p> <p>Appropriate materials and finishes proposed.</p>	<p>Yes</p> <p>Yes</p> <p>NA</p>

Requirement	Proposal	Comply
(4) Avoid large unarticulated expanses of any single material to facades.	Not proposed.	Yes
3.6.6 Mobility and Access		
(1) New development and refurbishments are to comply with the requirements of the Building Code of Australia (BCA) and the Australian Standards.	The application has been accompanied by an Access Report.	Yes
(2) All buildings with a residential component that have access to more than two storeys are required to have lift access.	NA – one unit proposed on the first floor and one unit on the second floor.	NA
3.6.7 Public Art		
(1) Development on sites over 1000m ² should, where possible include the provision of high quality artwork within development in a publicly accessible location.	NA	NA
(2) The artwork should be prepared having regard to links between the Locality and details of such artwork and the proposed location are to be submitted with the Development Application.		
3.6.8 Roof forms and Parapets		
(1) Variation to the existing pattern of roof forms may only occur where the parapet line is not disrupted and where the new roof is not visible from the street below or adjacent public areas.	Appropriately designed and is in keeping with adjacent mansard roof of the proposed development at 18 Letitia Street.	Yes
(2) Minimise the bulk and mass of roofs and their potential for overshadowing.	Appropriately designed.	Yes
(3) Design roofs to generate a visually interesting skyline and minimise apparent bulk.	Appropriately designed.	Yes
(4) Conceal lift over runs and plant equipment within well designed roofs.	No lift proposed.	NA
(5) Roof fixtures (such as roof vents, chimneys, aerials, solar collectors, mobile phone	Not proposed.	NA

Requirement	Proposal	Comply
transmitters, satellite dishes) are to be inconspicuously located so as not to be visible from the street (including side streets).		
(6) Television antennae are to be located within the roof space.	Noted.	-
3.6.9 Signage		
(1) Comply with the requirements of Part F1- Advertising and Signage	Refer to relevant table in this report earlier in the report.	Yes
3.7 Vehicular Access & Parking		
Car Parking		
(1) Car parking for the commercial /retail component of a development is to be provided in accordance with the requirements in Part B4.	Refer to earlier discussion.	-
3.8 Dwelling Design – Apartment Mix & Dwelling Size		
(1) Provide a mix of studios, 1, 2 and 3 or more bedroom apartments in varying layouts.	2 x 2B units proposed.	Yes
(2) Dwellings within the residential component of a mixed development must have the minimum internal floor areas (IFA): • Studios - minimum IFA of 40m ² • 1 bedroom unit - minimum IFA of 60m ² • 2 bedroom unit - minimum IFA of 85m ² • 3 bedroom unit - minimum IFA of 100m ² .	Unit 1 - 90sqm Unit 2 – 87sqm	Yes
(3) In all instances the first bedroom is to maintain an internal floor area of 15m ² and the second bedroom is to maintain a minimum internal floor area of 12m ² .	Min. 15sqm Min. 9sqm	Yes Acceptable on merit.
(4) Consider the design needs of those who work from home in the internal configuration of residential apartments.	Noted.	-
3.10 Storage		
(1) All developments must provide a designated secure storage space (in addition to	Provided within each unit.	Yes

Requirement	Proposal	Comply
any areas set aside for off street parking) to a minimum floor area of 4m ² for each dwelling or unit. (2) The storage space may be incorporated as part of the garage.		
3.11 Clothes Drying		
(1) Wherever possible, provide dedicated external clothes drying areas for all apartments that will be utilised by the residents, while being screened from the public view. (2) Additional balconies (i.e. not main balconies) may be considered appropriate for this purpose, provided that they are screened from public areas	Each unit has an appropriately sized balcony to accommodate clothes drying.	Yes
3.12 Amenity		
3.12.1 Visual and Acoustic Privacy <i>Visual Privacy</i>		
(1) Design building separation for parallel ranges of buildings to at least the following standards for the residential component: f 12 metres between habitable rooms/the edge of their balconies f 9 metres between habitable rooms/the edge of their balconies and non-habitable rooms f 6 metres between non-habitable rooms.	NA	NA
(2) Offset facade openings from existing openings in adjacent development to minimise direct overlooking of rooms and private open spaces.	The proposal has been appropriately designed in this regard.	Yes
(3) For street wall buildings, design zero side setbacks to result in zero building separation, providing dual aspect commercial or residential uses with openings to the front (street) and the	Existing external walls to remain.	Yes

Requirement	Proposal	Comply
rear.		
(4) For ground floor retail/commercial uses, provide appropriate rear and side setbacks to adjacent residential uses, and design building layout to avoid overlooking of private spaces.	Existing building envelope at this level is to remain unchanged.	Yes
(5) Utilise design elements to increase levels of privacy such as landscaping, screening, offset windows, recessed balconies, louvres, planter boxes, pergolas or shading devices.	The building has been appropriately designed to address this criterion.	Yes
(6) Development adjacent to the Railway Line or adjacent to road corridor with annual average daily traffic volume of more than 40,000 vehicles.	The site does not adjoining a rail corridor of busy road.	NA
<i>Acoustic Privacy – General</i>		
(7) Design and site buildings adjacent to noise generating land uses to minimise noise impacts, for example through building layout and location and size of openings.	Complies.	Yes
(8) Where appropriate locate individual buildings and groups of buildings to act as barriers to the noise.	NA	NA
(9) Utilise the site and building layout to maximise the potential for acoustic privacy by providing adequate building separation within the development and from neighbouring buildings	The development has been appropriately designed.	Yes
(10) Locate and design all noise generating equipment such as mechanical plant rooms, mechanical ventilation from car parks, driveway entry	The development has been appropriately designed.	Yes

Requirement	Proposal	Comply
shutters, garbage collection areas or similar to protect the acoustic privacy of workers, residents and neighbours. The noise level generated by any equipment must not exceed an L_{Aeq} of 5dBA above background noise at the property boundary.		
(11) Development is to meet or exceed the sound insulation requirements between separating walls and floors of adjoining dwellings of the Building Code of Australia.	Condition imposed.	Yes
(12) With particular regard to timber flooring in the residential component of developments, appropriate insulation between floors is to achieve a minimum sound attenuation of (50Rw)	Noted.	-
(13) Where development is proposed adjacent to the railway line or a classified road corridor compliance with the requirements of the ISEPP.	The site does not adjoin a rail corridor or classified road.	NA
3.12.2 Safety and Security		
(1) Maximise passive surveillance by orienting buildings towards the street, such that building frontages and entries overlook and are clearly visible from the street and provide a sense of address and visual interest.	Appropriately designed.	Yes
(2) Avoid blank walls addressing streets and any public plazas or pocket parks.	Not proposed.	Yes
(3) Clearly design buildings and spaces, and the entries to buildings, to delineate public from private space to provide a clear sense of ownership, minimise ambiguity and discourage illegitimate use.	The ground floor commercial entry remains unchanged. The entry to the residential units is defined and located off Frederick Street.	Yes
(4) Delineate public, semi public	Appropriate designed.	Yes

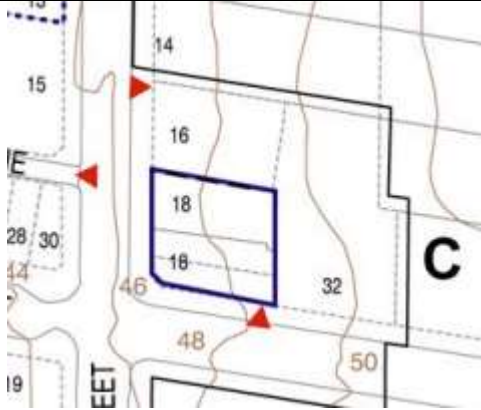
Requirement	Proposal	Comply
and private space through the use of barriers, such as low fences or landscaping, post boxes, lighting and signage.		
(5) Avoid building recesses, alcoves or dense landscaping in places where concealment is possible.	Not proposed	Yes
(6) Design and place facilities such as toilets and parents rooms to maximise opportunities for casual surveillance.	NA	NA
(7) Place services such as Automatic Teller Machines (ATMs) and public telephones in highly visible locations and be accessible and well lit at night.	NA	NA
(8) Solid roller shutters are not permitted as security devices on shop fronts (windows and doors). Open grille security devices may be used on shop fronts if such devices are necessary but should be unobtrusive and sympathetic to the character of the building and the streetscape, with minimum transparency of 65% to provide light spill to the pavement and create a sense of openness to the street.	NA	NA
(9) Development applications for mixed developments containing more than 10 units are required to be referred to the NSW Police Service.	NA	NA
(10) Provide sufficient lighting of public areas, footpaths, and laneways in accordance with the relevant Australian Standard.	NA	NA
(11) Provide sufficient lighting of	As existing.	Yes

Requirement	Proposal	Comply
shopfronts and the area under awnings, in accordance with the relevant Australian Standard.		
3.13 Open Space and Landscaping		
(1) Retain existing, and incorporate new indigenous trees, shrubs and ground cover where appropriate.	NA - no existing landscaping on site.	NA
(2) Maximise deep soil zones to provide for substantial landscaping and mature trees.	NA- no existing landscaping on site.	NA
(3) Submit a landscape plan prepared by a qualified landscape architect.	NA- no existing landscaping on site.	NA
(4) Where development is proposed adjacent to low density residential development, an appropriate landscape buffer is to be planted to provide separation and screening between the proposed development and the existing low density development (Refer to Locality Controls). These areas should be deep soil areas so as to allow for the planting of large/medium trees.	NA – adjoins B2 zoned land.	NA

Part D2.16 - Oatley

an DNR Policy

Requirement	Proposal	Comply								
16.3.2 Preferred Land Use										
(1) The preferred land uses in this locality are as follows: <table><tr><th>Level</th><th>Preferred Land Use</th></tr><tr><td>Ground floor (Level 1)</td><td>Retail</td></tr><tr><td>First floor (Level 2)</td><td>Commercial and/or Residential</td></tr><tr><td>Second floor (Level 3)</td><td>Residential and/or commercial</td></tr></table>	Level	Preferred Land Use	Ground floor (Level 1)	Retail	First floor (Level 2)	Commercial and/or Residential	Second floor (Level 3)	Residential and/or commercial	Ground: retail First: residential Second: residential	Yes
Level	Preferred Land Use									
Ground floor (Level 1)	Retail									
First floor (Level 2)	Commercial and/or Residential									
Second floor (Level 3)	Residential and/or commercial									
16.3.3 Amalgamation										
) All sites are required to be amalgamated as shown in Figure 8.	The proposal is for alteration and addition to each existing building rather than	Acceptable								

Requirement	Proposal	Comply
	<p>demolition and a new build.</p> <p>A DA for similar work is proposed at 18 Letitia Street and will be determined at the same time as this DA.</p> <p>The sites are being development individually at the same time, they are not proposing amalgamation.</p>	
16.3.4 Density		
(1) Density should fit within the required building setbacks.	Complies.	Yes
16.3.5 Pedestrian Entry		
(1) Pedestrian entry should be obtained from the street.	<p>Existing to the commercial tenancy to remain.</p> <p>Access to the residential units is proposed as part of this application from Frederick Street.</p>	Yes
16.3.6 Vehicle Access		
<p>(1) Vehicle access should be obtained from side streets and Frederick Lane and from consolidated entries on Oatley Avenue where no other opportunities exist.</p> <p>(2) No vehicle access is permitted from Frederick Street.</p>	The existing driveway access from Frederick Street is to remain.	Yes
16.3.7 Car Parking		
(1) Off street parking is to be provided for any new development either underground or at the rear of the properties.	At grade parking proposed at the rear of the site.	Yes
(2) Where a basement is provided this is not to protrude more than 1m above natural ground level.	No basement proposed.	NA
16.3.8 Awnings		
(1) Development is to provide a suspended awning across the full frontage of the development and within 20m of the intersection to side streets.	Existing to remain.	Yes
16.6 Block C – Corner of Letitia Street and Frederick Street		

Requirement	Proposal	Comply								
16.6.1 Setbacks										
<p>(1) The front setback to Frederick Street and Letitia Street being as follows:</p> <table><tr><th>Level</th><th>Setback</th></tr><tr><td>Ground floor (Level 1)</td><td>Build to Boundary</td></tr><tr><td>First floor (Level 2)</td><td>Build to Boundary</td></tr><tr><td>Second floor (Level 3)</td><td>N/A</td></tr></table>	Level	Setback	Ground floor (Level 1)	Build to Boundary	First floor (Level 2)	Build to Boundary	Second floor (Level 3)	N/A	First and Second floor: nil to balcony edge.	Acceptable given alterations and additions not a new build.
Level	Setback									
Ground floor (Level 1)	Build to Boundary									
First floor (Level 2)	Build to Boundary									
Second floor (Level 3)	N/A									
<p>(2) The rear setback to No.18 Frederick Street being as follows:</p> <table><tr><th>Level</th><th>Setback</th></tr><tr><td>Ground floor (Level 1)</td><td>Minimum 6m to enable driveway access</td></tr><tr><td>First floor (Level 2)</td><td>Minimum 6m</td></tr><tr><td>Second floor (Level 3)</td><td>N/A</td></tr></table>	Level	Setback	Ground floor (Level 1)	Minimum 6m to enable driveway access	First floor (Level 2)	Minimum 6m	Second floor (Level 3)	N/A	Rear setback to 32 Frederick Street is 4.105m.	Acceptable on merit.
Level	Setback									
Ground floor (Level 1)	Minimum 6m to enable driveway access									
First floor (Level 2)	Minimum 6m									
Second floor (Level 3)	N/A									

Part F1 Advertising and Signage

Requirement	Proposal	Comply
1.4 Advertising signs that are prohibited		
<p>(1) The following types of advertising signs are prohibited in the Kogarah local government area:</p> <ul style="list-style-type: none"> (i) Advertising signs over 45m²; (ii) Advertising signs within navigable waters (except a sign on a vessel that is ancillary to the dominant purpose of the vessel). (iii) Advertising signs on land zoned Residential (but not including a mixed use zone or similar zone), Open Space or Waterways, or in a heritage area, natural or other conservation area or scenic protection area are prohibited, except for advertising signs identified as 'Exempt Development' by the Kogarah Local Environmental Plan 2012 <p>(3) Corporate colours, logos and other graphics are acceptable elements of signs only where they achieve a very high degree of compatibility with the architecture, materials, finishes and colours of the building and the streetscape. In many cases, the corporate colours, logo and other graphics will need to be modified to achieve this compatibility</p>	Not proposed.	Yes
2.2 General Requirements		
Wall Sign		

Requirement	Proposal	Comply
<p>Must comply with all of the following controls, otherwise prohibited:</p> <p>(a) Only one sign per building elevation;</p> <p>(b) Must not have an area greater than: a. 10% of the elevation, if the elevation is > 200m² b. 20m² if the elevation is greater than 100m² but < 200m² c. 20% of the elevation for elevations of < 100m².</p> <p>(c) Must not project above or beyond the wall to which it is attached;</p> <p>(d) Must not extend over a window or other opening, or architectural feature;</p> <p>(e) Must not be located on a building wall if there is an existing building or business identification sign on the building elevation;</p> <p>(f) Size, shape and location determined by facade grid analysis (refer to Section 3.11); and</p> <p>(g) Painted wall signs to be painted at least once every three years, or at the Council's discretion.</p>	<p>This application only seeks consent for one sign on the Letitia Street facing façade.</p> <p>Elevation – 20sqm Sign – 0.96sqm (4.8%)</p> <p>The sign is attached to the façade of the building.</p> <p>Complies.</p> <p>The new sign will replace the existing awning sign. Only one sign on the Letitia Street facing elevation proposed.</p> <p>Complies.</p> <p>Noted.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>-</p>
1.1 All Advertising Signs		
<p>(1) Advertising must relate to the use of the premises and products sold on the premises.</p> <p>(2) Signage must be sympathetic to, and integrated with, the architecture and structure of the supporting building and not be the dominant visual element on a building.</p> <p>(3) The proposed advertising sign must be compatible with the streetscape, setting or landscape, and not dominating in terms of its scale, proportion and form.</p> <p>(4) Lettering, materials and colours must</p>	<p>The sign is for the commercial tenant that occupies the ground floor.</p> <p>Appropriately sized and located.</p> <p>The sign is appropriately designed to be consistent with the locality.</p> <p>Appropriately designed.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

Requirement	Proposal	Comply
complement the existing building or place.		
(5) Signage must not project above any parapet or eave.	Fixed to the building facade.	Yes
(6) Signage must not be located where it will adversely impact views or vistas or cause significant overshadowing.	Fixed to the façade of the building.	Yes
(7) The main facades of buildings between the first floor and parapet must be uncluttered and generally free of signage.	Complies.	Yes
(8) The façade of the host building is to be subdivided into a series of vertical or horizontal panels on which the signage can be placed (Figures 3 and 4).	Complies.	Yes
(9) The cumulative impacts of multiple advertising signs and the number of existing signs on the premises will be considered. Council may require existing inappropriate signage to be removed as a condition of development consent.	Noted. Only one sign proposed by this application. No other signage exists on this façade.	-
(10) All advertising and signage must be displayed in English but may also include a translation in another language. Any translated message must be accurate and complete, and using wording and/or numbering that is not larger than the English message.	Complies.	Yes
(11) Signs must be attractive and professionally sign written.	Complies.	Yes
(13) Where a business or organisation offers a product or service, the name of the business or organisation should have greater dominance over the product or service advertisement.	The sign is advertising the name of the commercial building occupying the ground floor.	Yes
(14) The wording and content of the advertising sign must not: (i) offend nearby sensitive land uses (e.g. places of worship, schools, child care centres); (ii) contain undesirable discriminatory advertising messages as specified in the Anti-Discrimination Act 1977; (iii) encourage unlawful purchase or excessive consumption of alcohol; or promote anti-social behaviour.	The sign details the name of the commercial business on the ground floor. Not proposed.	Yes
(15) Council discourages signs that are prone to	Appropriate materials	Yes

Requirement	Proposal	Comply
deterioration and may request removal of redundant, unsafe, unsightly or objectionable signage.	proposed.	
(16) Council discourages signage on common boundaries where maintenance difficulties could occur and may require provision for maintenance of signage.	Proposed to be attached to the façade of the building.s	Yes
3.4 Traffic and Pedestrian Safety		
(1) Proposed advertising, whether illuminated or not, must not adversely impact the safety of pedestrians, cyclists or motorists on any public road.	Complies.	Yes
(2) Advertising signs must be securely fastened to the structure or building to which they are attached and must comply with all relevant Australian Standards and Building Code of Australia requirements.	Complies.	Yes
(4) Advertising signs must not be liable to interpretation as an official traffic sign, be confused with instructions given by traffic signals or other devices, or obscure the view of traffic signals, signs or road hazards.	Complies.	Yes
3.9 Multiple Advertisements and Advertising Structures		
<p>The number of advertisements displayed on any property will be restricted if in Council's opinion the number or size of advertisements is detrimental to any streetscape or the visual amenity of any public space.</p> <p>Consideration will be given to the following factors:</p> <ul style="list-style-type: none"> • The number of existing signs on the subject premises. • The proportion of solid (wall surface area) to void (window and door openings) space available for signage. • The length of the street frontage to the premises. • The extent of façade detail and projecting features of the building which should remain unobscured by signage. 	Only one sign is proposed as part of this application.	Yes

Developer Contributions

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

Impacts

Natural Environment

64. The proposed development will not adversely affect the natural environment.

Built Environment

65. The proposal represents an appropriate planning outcome for the site with respect to its bulk, scale, density, form, façade articulation and expression and is an appropriate response to the context of the site and its B2 Local Centre zoning.

Social Impact

66. No adverse social impacts have been identified as part of the assessment. The proposed development, in principle, will cater for a cross-section of the community and will assist with providing for additional housing in the area.

Economic Impact

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

Suitability of the site

68. The site is zoned B2 Local Centre. The proposal is a permissible form of development in this zone and has been designed to reflect the context of the area.

Submissions and the Public Interest

69. The application was neighbour notified for a period of fourteen (14) days. One submission was received. The amended plans were re-notified and no submissions were received.
70. The issue raised in the submission are addressed below:

Issue	Comment
<i>...while the proposed building itself would appear to be unlikely to block my view, any roof fixtures which project from the roof, such as those visible on 18B Letitia Street, would block the remainder, or at least a significant part of, my view. Not only this, but they would also have a visual impact, due to their ugliness.</i>	<p>The proposed development will not require any roof fixtures.</p> <p>In addition, the maximum height of the roof is 2.45m lower than the roof of the building at No. 18B Letitia Street. The visual appearance of the proposal is considered suitable.</p>

Referrals

Council Referrals

Development Engineer

71. Council's Development Engineer has raised no objection to the proposal subject to conditions of consent should the application be approved.

Traffic Engineer

72. Council's Traffic Engineer has raised no objection to the proposal subject to conditions of consent should the application be approved.

Environmental Health Officer

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

Consultant Arborist

74. Council's Arborist has raised no objection to the proposal subject to conditions of consent should the application be approved.

External Referrals

Ausgrid

75. The application was referred to Ausgrid in accordance with Clause 45(2) of State Environmental Planning Policy (Infrastructure) 2007. Ausgrid did not raise any objection to the proposal, no conditions recommended.

Conclusion

76. The proposal has been assessed using the matters for consideration listed in Section 4.15 of the Environmental Planning and Assessment Act 1979. The proposal is considered to be a reasonable development form and the scale, bulk, form and height is considered to be an acceptable planning and design outcome for this site and is consistent with the existing and desired future character of development in the locality.
77. The proposal has been assessed against the provisions of the relevant State Environmental Planning Policies, Kogarah Local Environmental Plan 2012 and Kogarah Development Control Plan 2013 and satisfies the key planning controls and/or objectives of each plan.

Determination and Statement of Reasons

Statement of Reasons

78. The reasons for this recommendation are:
- The development is a permissible use in the zone.
 - The proposal is an appropriate response to the site and locality.
 - The proposed development complies with the requirements of the relevant environmental planning instruments and development control plan except for the car parking requirements of the development which is considered acceptable having regard to the justification provided and discussed in the report above.
 - The proposed design has been sensitively considered to be consistent with the anticipated desired future character for development in this area.

Determination

79. 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 DA2021/0002 for demolition works to a mixed use building containing a retail premises (used as a licensed premises) and shop top housing on Lot 2

in DP203437 known as 18A Letitia Street, Oatley, subject to the following conditions of consent:

Development Details

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

Description	Reference No.	Date	Revision	Prepared by
Site Plan	Sheet 01	June 2022	C	Innovate Architects
Ground Floor Plan and Carport Floor Plan	Sheet 02	June 2022	C	Innovate Architects
First Floor Plan and Second Floor Plan	Sheet 03	June 2022	C	Innovate Architects
Elevations	Sheet 04	June 2022	C	Innovate Architects
Sections	Sheet 05	June 2022	C	Innovate Architects
Shadow Diagrams	Sheet 06	June 2022	C	Innovate Architects
Calculations	Sheet 07	June 2022	C	Innovate Architects
Driveway Details	Sheet 09	June 2022	C	Innovate Architects
Construction Staging/Management Plan	Sheet 10	June 2022	C	Innovate Architects
Stormwater Plan	Drawing No. 20164-C01	15.10.21	A	CPM Engineering

Separate Approvals Required Under Other Legislation

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

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

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

- Placing or storing materials or equipment;
- Placing or storing waste containers or skip bins;
- Erecting a structure or carrying out work
- Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;

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

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

3. **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.

4. **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 is to be supported by the use of below ground (cable) anchors that are constructed under Council’s roadways/footways, an application must be lodged with Council under Section 68 of the [Local Government Act 1993](#) and the [Roads Act 1993](#) for approval, prior to commencement of those works. The following details must be submitted.

- (a) That cable anchors will be stressed released when the building extends above ground level to the satisfaction of Council.
- (b) The applicant has indemnified Council from all public liability claims arising from the proposed works, and provide adequate insurance cover to the satisfaction of council.
- (c) Documentary evidence of such insurance cover to the value of \$20 million.
- (d) The applicant must register a non-terminating bank guarantee in favour of Council for the amount of **[\$50,000]**.
The guarantee will be released when the cables are stress released. In this regard it will be necessary for a certificate to be submitted to Council from a structural engineer at that time verifying that the cables have been stress released.
- (e) That in the event of any works taking place on Council’s roadways/footways adjoining the property while the anchors are still stressed, all costs associated with overcoming the difficulties caused by the presence of the ‘live’ anchors will be borne by the applicant.

Requirements of Concurrence, Integrated & Other Government Authorities

5. **Electricity Supply** - An application is required to be made to Ausgrid for a network connection. This may require the network to be extended or its capacity augmented. Evidence of this application being lodged with Ausgrid is required to be provided to the Certifying Authority prior to the issue of a Construction Certificate. For further details, you are advised to contact Ausgrid on 13 13 65 or www.ausgrid.com.au (Business and Commercial Services).
6. **Sydney Water - Tap in™** - The approved plans must be submitted to a Sydney Water Tap in™ to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately endorsed. For details please refer to 'Plumbing, building and developing' section of Sydney Water's web site at www.sydneywater.com.au then see 'Building', or telephone 13000 TAP IN (1300 082 746). The Certifying Authority must ensure that a Tap in™ agent has appropriately stamped the plans prior to the issue of the Construction Certificate.
7. **Notice of Requirements for a Section 73 Certificate** - A Notice of Requirements of what will eventually be required when issuing a Section 73 Compliance Certificate under the [Sydney Water Act 1994 <http://legislation.nsw.gov.au/>](http://legislation.nsw.gov.au/) must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the 'Plumbing, building and developing' section of the web site www.sydneywater.com.au <http://www.sydneywater.com.au> then refer to 'Providers' under 'Developing' or telephone 13 20 92 for assistance.

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

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

Prior to the Issue of a Construction Certificate

8. **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 Letitia Street in accordance with the AS 3500.3: 2015 (as amended).
 - (b) 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.
9. **On Site Detention** - The submitted stormwater plan has been assessed as a concept

plan only. Final detailed plans of the drainage system, prepared by a professional engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate. An on-site detention (OSD) facility designed by a professional engineer who specialises in Hydraulic Engineering is to be constructed in accordance with Council's stormwater management policy.

- (a) The OSD volume and the permissible site discharge (PSD) shall comply with the requirement of Table (3) of Council's stormwater management policy.
- (b) The OSD system is to be provided with an access for future maintenance and show on plan.
- (c) The OSD system is to be provided with sufficient ventilation.
- (d) Any OSD tank shall be certified to be structurally adequate by a practicing structural engineer 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.

- 10. **Strip/Grated Drain- Frederick Street Boundary** - A strip or square grated drain shall be installed at the Frederick Street boundary of the right-of- carriage way (ROC) to collect surface runoff water from the paved area of the ROC and direct it via a sealed pipeline to the kerb and gutter.
Details to be included on the drainage plans submitted with the Construction Certificate.
- 11. **Structural details** - Engineer's details prepared by a practising consulting Structural Engineer being used to construct all reinforced concrete works including but not limited to structural beams, columns, OSD Tank structures design and other structural members. The details are to be submitted to the Certifier for approval prior to construction of the specified works. A copy shall be forwarded to Council where Council is not the Certifier.
- 12. **Engineer's Certificate** - A certificate from a professional Engineer specialising in structural engineering certifying the structural adequacy of the existing structure, to support all proposed additional superimposed loads shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate.
- 13. **Geotechnical report** - The applicant must comply with recommendations of the Geotechnical Report, prepared by Australian Geotechnical Pty Ltd dated 17/12/2020 with the following being submitted before the Construction Certificate being issued:
 - (a) Dilapidation Reports on the adjoining properties including, but not limited to 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.
 - (b) On-site guidance by a vibration specialist during the early part of excavation.

- (c) 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.
- (d) Sides of the excavation are to be pierced prior to any excavation occurring to reinforce the walls of the excavation to prevent any subsidence to the required setbacks and neighbouring sites.

14. Alternative means of compliance with the BCA- Clause 62 and 64 EP&A Regulation 2021

- a) Pursuant to Clause 64 of the [Environmental Planning and Assessment Regulation 2021](#), the existing buildings must be brought into total conformity with the Building Code of Australia. In this regard, construction plans that demonstrate compliance with the Building Code of Australia must be submitted to the Certifying Authority with the Construction Certificate application for approval.
- b) Alternatively, if it is found that full compliance cannot be achieved due to the age and/or construction of the existing building, and to achieve full compliance will involve major and costly structural alterations having to be carried out to the existing building, a fire assessment report, to determine an alternative and/or partial compliance with the BCA, must be prepared by an appropriately qualified and accredited fire safety engineer, justifying the non-compliances and detailing an alternative method of compliance with the Building Code of Australia. The report must also detail the measures contained in the building to protect persons using the building, to facilitate their egress in the event of fire as well as protection of fire brigade personnel during firefighting operations, and measures to restrict the spread of fire from the building to other buildings nearby.

15. Construction Vehicle and Pedestrian Plan of Management - Prior to the issuing of a Construction Certificate, a Construction Vehicle and Pedestrian Plan of Management (CVPPM) shall be submitted to Council for the approval of Council's Traffic Engineer. The CVPPM shall be prepared for the various stages of the development and include, but not be limited to, the following:

- (a) Details of the scope of works to be undertaken during the demolition, excavation, construction stages etc., and the duration of each.
- (b) Indicate the consent approved hours of work.
- (c) Identify the routes to be travelled within the Council area for trucks travelling to and from the site.
- (d) Identify other developments occurring concurrently in the area including those within the street and up to 500m from the site.
- (e) The developer/builder shall liaise fortnightly with other identified developers/builders to minimize any cumulative traffic impacts.
- (f) Include a plan showing the location of any schools, pre schools and long day care centres within 200m of the site.
- (g) Detail the number of and where construction worker vehicles will be parked during the various stages of the development.

- (h) Identify any proposed temporary road closures, temporary changes to traffic flow and loss of pedestrian or cyclist access likely to occur as a result of works being undertaken during the various work stages.
- (i) Detail the size (including dimensions), number and frequency of trucks movements to and from the site during the various stages of work.
- (j) Include copies of all required Traffic Control Plans (TCPs). All TCP's shall be prepared by RMS accredited persons.
- (k) Provide, if required, swept wheel path drawings for the different types of vehicles accessing the site. The swept wheel path drawings:
 - May be required if it is considered truck movements into and out of the site associated with the various stages of development have the potential to damage public or private infrastructure/property.
 - May be required if it is considered truck movements into and out of the site cannot be carried out without a loss of on street vehicle parking spaces either in close proximity to or removed from the site.
 - Shall be prepared by a suitably qualified and experienced traffic engineering consultant.
- (l) Show the location and length of any proposed Works Zones including any adjustments required to Council's infrastructure, parking control signs etc. to implement the zones. **NOTE:** Works Zones require the approval of the Georges River Council Traffic Committee prior to installation.
- (m) Show the locations of where it is proposed to stand trucks remote from the site should they be unable on arrival to immediately enter the site or an approved Works Zone. Double parking, parking in NO STOPPING/NO STANDING zones or across neighboring property driveways is not permitted.

NOTE: A copy of the approved CVPPM must be kept at the site and made available to the Principal Certifying Authority or Council on request:

16. **Certificate of Adequacy- Existing Driveway/Right-of-Carriageway Paving** - Prior to the issue of a Construction Certificate, a certificate from a suitably qualified and experienced engineering consultant shall be submitted to the Principal Certifying Authority for approval certifying the concrete paving carried out within the site and on the right-of-carriageway at 18A Street, Oatley has been designed and constructed to cater for and withstand the expected wheel loadings for the design life of the paving. Details of the base material, concrete thickness and F'c 28-day strength and a sectional profile of the paving area shall be submitted with the certificate.
17. **Driveway/Carport Finished Level** - Prior to the issue of a Construction Certificate, a plan shall be submitted to the Principal Certifying Authority for approval showing any changes required to the finished level of the carport floor where it abuts the existing driveway paving.
18. **Tree Protection and Retention** - The following trees shall be retained and protected:

Tree Species	Location of Tree / Tree No.	Tree Protection Zone (metres) TPZ as per AS4970 -2009
<i>Tristaniopsis laurina</i>	Councils street tree	Trunk wrapping as per 4.5.2 (AS4970 -2009)

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

Arboriculture and who is a current practicing and financial member of an Arboricultural Association or Affiliation, with a letter of engagement forwarded to the nominated PCA.

- b) A certificate of compliance letter from the AQF 5 Arborist must be forwarded to the PCA – Principal Certifying Authority, at three (3) stages being, before works, during works and once all building works have been completed, that tree protection measures have been installed and being maintained during the building process.

Tree Protection Measures

- c) All trees on Council property must be protected before site set up and maintained during demolition, excavation and construction of the site adjacent to tree. The tree protection for Councils street tree must be implemented due to the access and carriageway 'A' over 18A Letita.
- d) The tree protection measures must be undertaken in accordance AS4970 -2009 *Protection of trees on development sites*.
- e) The engaged AQF 5 Consulting Project Arborist must be present on-site during the stages of site set up, excavation, demolition and construction when works are being undertaken that could impact on the tree canopy or root zone within the tree protection zone of each tree.
- f) The trunk wrapping protection 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 wrapping and must also include the name and contact details of the Project Arborist.
- g) To preserve the Council tree, 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.

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

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

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

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

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

Fee Type	Fee
GENERAL FEES	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See https://portal.longservice.nsw.gov.au/bci/levy/	
Builders Damage Deposit	\$3,800.00
Inspection Fee for Refund of Damage Deposit	\$336.00
DEVELOPMENT CONTRIBUTIONS	
Georges River Council Local Infrastructure Contributions Plan 2021	\$20,000.00

General Fees

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

Development Contributions

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 Georges River Council Local Infrastructure Contributions Plan 2021.

Timing of Payment

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

Further Information

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

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

- a) Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development: \$3,800.00
- b) Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee to enable assessment of any damage and repairs where required: \$336.00.
- 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.

21. **Site Management Plan -**

Minor Development

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

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.

22. **BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No. A400991_02 and 1162322S must be implemented on the plans lodged with the application for the Construction Certificate.

23. **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.

24. **Traffic Management - Compliance with AS2890** - All driveways, access ramps, vehicular crossings and car parking spaces shall be designed and constructed in accordance with the current version of Australian Standards, AS 2890.1 (for car parking

facilities) and AS 2890.2 (for commercial vehicle facilities).

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

Description on DA plan	Location within development	Proposed street address to comply with AS/NZS 4819:2011 and NSW Addressing Manual
Existing Bottle Shop	Ground Floor	18A Letitia Street, Oatley NSW 2223
Proposed Unit 1	First Floor	1/32A Frederick Street, Oatley NSW 2223
Proposed Unit 2	Second Floor	2/32A Frederick Street, Oatley NSW 2223

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

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

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

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

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

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

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

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

(a) The developer /builder must notify adjoining residents five (5) working days prior to

demolition. Such notification is to be a clearly written note giving the date demolition will commence, contact details of the developer/builder, licensed asbestos demolisher and the appropriate regulatory authority. Notification is to be placed in the letterbox of every premises (including every residential flat or unit, if any) either side and immediately at the rear of the demolition site.

- (b) Five (5) working days prior to demolition, the developer/builder is to provide written notification to Council advising of the demolition date, details of the SafeWork licensed asbestos demolisher and the list of residents advised of the demolition.
- (c) On demolition sites where buildings to be demolished contain asbestos, a standard commercially manufactured sign containing the words “DANGER ASBESTOS REMOVAL IN PROGRESS” measuring not less than 400mm x 300mm is to be erected in a prominent visible position (from street frontage) on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos material has been removed from the site to an approved waste facility.

29. Demolition work involving asbestos removal - Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 458 of the [Work Health and Safety Regulation 2011](#).

30. Dial before your dig - The applicant shall contact “Dial Before You Dig on 1100” to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from “Dial Before You Dig” shall be forwarded to the Principal Certifying Authority (PCA) and Council for their records.

31. Registered Surveyors Report - During Development Work - A report must be submitted to the PCA at each of the following applicable stages of construction:

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

eaves/gutters) relative to adjacent boundaries and its height relative to the datum shown on the approved plans. A final Check Survey must indicate the reduced level of the main ridge.

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

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

During Construction

- 33. Site sign - Soil & Erosion Control Measures** - Prior to the commencement of works (including demolition and excavation), a durable site sign, issued by Council in conjunction with this consent, must be erected in a prominent location on site. The site sign warns of the penalties which apply to pollution, storing materials on road or footpath and breaches of the conditions relating to erosion and sediment controls. The sign must remain in a prominent location on site up until the completion of all site and building works.
- 34. 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)
- 35. Contaminated Land – Contaminants found during demolition or 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 case 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.

- 36. 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.

37. **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.
38. **Public Utility and Telecommunication Assets** - The owner shall bear the cost of any relocation or modification required to any Public Utility Authority assets including telecommunication lines & cables and restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site.
39. **Worksite traffic and pedestrian control** - Traffic and pedestrian control shall be in accordance with TfNSW 'Traffic Control at Works Sites- Technical Manual' version 6.1.
40. **Hours of construction for demolition and building work** - Unless authorised by Council:
 - a. Building construction and delivery of material hours are restricted to: 7.00 am to 5.00 pm (inclusive) Monday to Saturday and no work on Sundays and Public Holidays.
 - b. Demolition and excavation works are restricted to: 8.00 am to 5.00 pm (inclusive) Monday to Friday only. Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site.
41. **Ground levels and retaining walls** - The ground levels of the site shall not be excavated, raised or filled, or retaining walls constructed on the allotment boundary, except where indicated on approved plans or approved by Council.
42. **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.
43. **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.
44. **Waste Management Facility** - All materials removed from the site as a result of demolition, site clearing, site preparation and, or excavation shall be disposed of at a suitable Waste Management Facility. No vegetation, article, building material, waste or the like shall be ignited or burnt.

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

Prior to the issue of the Occupation Certificate

45. **Updated easement plan** - The Deposited Plan and terms of the easements affecting the site, being prepared by a Registered Surveyor, shall be updated to reflect any required amendments to the location and/or terms of the easements. This Plan shall be registered at the NSW Land and Property Information, and to the satisfaction of the Certifying Authority, prior to the issue of a final occupation certificate.
46. **Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the [Sydney Water Act 1994 <http://legislation.nsw.gov.au/>](http://legislation.nsw.gov.au/) must be submitted to the PCA prior to the issue of the Occupation Certificate.
47. **BASIX Certificate** - All energy efficiency measures as detailed in the approved BASIX Certificate in the plans approved with the Development Consent, must be implemented before issue of any Occupation Certificate.
48. **BASIX Compliance Certificate** - A Compliance Certificate must be provided to the PCA regarding the implementation of all energy efficiency measures as detailed in the approved BASIX Certificate before any Occupation Certificate is issued.
49. **Soil disposal** - Any soil proposed to be disposed off site must be classified, removed and disposed of in accordance with the *EPA Environmental Guidelines; Assessment, Classification and Management of Liquid and Non-Liquid Wastes 1999* and the *Protection of the Environmental Operations Act 1997*.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Occupation Certificate.

50. **Restriction to User and Positive Covenant for On-Site Detention Facility** - A Restriction on Use of the Land and Positive Covenant shall be created and registered on the title of the property, which places the responsibility for the maintenance of the on-site stormwater management system on the owners of the land. The terms of the instrument are to be in accordance with Council's standard terms and restrictions which are as follows;

Restrictions on Use of Land

The registered proprietor shall not make or permit or suffer the making of any alterations to any on-site stormwater management system which is, or shall be, constructed on the lot(s) burdened without the prior consent in writing of Georges River Council. The expression "on-site stormwater management system" shall include all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to manage stormwater quantity or quality including the temporary detention or permanent retention of stormwater storages. Any on-site stormwater management system constructed on the lot(s) burdened is hereafter referred to as "the system."

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

Positive Covenants

1. *The registered proprietor of the lot(s) hereby burdened will in respect of the system:*
 - a) *keep the system clean and free from silt, rubbish and debris*
 - b) *maintain and repair at the sole expense of the registered proprietors the whole of the system so that it functions in a safe and efficient manner*
 - c) *permit the Council or its authorised agents from time to time and upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land for the compliance with the requirements of this covenant*
 - d) *comply with the terms of any written notice issued by the Council in respect of the requirements of this covenant within the time stated in the notice.*

2. *Pursuant to Section 88F(3) of the Conveyancing Act 1919 the Council shall have the following additional powers:*
 - a) *in the event that the registered proprietor fails to comply with the terms of any written notice issued by the Council as set out above the Council or its authorised agents may enter the land with all necessary materials and equipment and carry out any work which the Council in its discretion considers reasonable to comply with the said notice referred to in part 1(d) above*
 - b) *the Council may recover from the registered proprietor in a Court of competent jurisdiction:*
 - i. *any expense reasonably incurred by it in exercising its powers under subparagraph (i) hereof. Such expense shall include reasonable wages for the Council's employees engaged in effecting the work referred to in (i) above, supervising and administering the said work together with costs, reasonably estimated by the Council, for the use of materials, machinery, tools and equipment in conjunction with the said work.*
 - ii. *legal costs on an indemnity basis for issue of the said notices and recovery of the said costs and expenses together with the costs and expenses of registration of a covenant charge pursuant to section 88F of the Act or providing any certificate required pursuant to section 88G of the Act or obtaining any injunction pursuant to section 88H of the Act. Name of Authority having the power to release vary or modify the Positive Covenant referred to is Georges River Council.*

51. 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.

- 52. Stormwater drainage works – Works As Executed** - Prior to the issue of the Occupation Certificate, storm water drainage works are to be certified by a professional engineer specialising in hydraulic engineering, with Works-As-Executed drawings supplied to Council detailing:
- a. Compliance with conditions of development consent relating to stormwater;
 - b. That the works have been constructed in accordance with the approved design and will provide the detention storage volume in accordance with the submitted calculations;
 - c. Pipe invert levels and surface levels to Australian Height Datum;

Council's Engineering Services section must advise in writing that they are satisfied with the Works-As-Executed prepared by a Registered Surveyor and duly signed prior to the issue of an Occupation Certificate.

- 53. Slip Resistance** - At completion of work an in-situ (on-site) test, in wet and dry conditions, must be carried out on the pedestrian floor surfaces used in the foyers, public corridors/hallways, stairs and ramps as well as the floor surfaces in wet rooms in any commercial/retail/residential units to ascertain the actual slip resistance of such surfaces taking into consideration the effects of grout, the gradients of the surface and changes from one material to another. The in-situ test must be carried out in accordance with AS/NZS 4663:2002. Proof of compliance must be submitted with the application for the Occupation Certificate for approval.

Operational Conditions (On-Going)

- 54. Loading/Unloading of Goods** - There shall be no loading, unloading of goods or standing of vehicles at any time on the right-of-carriageway on 18A Letitia Street, Oatley
- 55. Car Space Allocation** - The car space in the carport shall be allocated to and be for the exclusive use of the second-floor unit.
- 56. Carport- Clear area for Vehicle Manoeuvring** - There shall be no storage of goods or materials at any time in the carport in the area required for vehicle manoeuvring as shown on drawings marked "B85 Turning Path" contained within the Traffic and Parking Assessment Report prepared by Varga Traffic Planning (ref:21547) dated 11/4/2022.
- 57. 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).
- 58. Tree Protection Measures**
- a) A final certificate of compliance letter, once all building works have been completed, from the engaged AQF 5 Consulting Arborist, that tree protection measures have been installed and maintained for the entirety of the project and report on the condition of the trees that as part of this Consent, were to be protected and retained.
 - b) A copy of the Hurstville City Council's Tree Removal and Pruning Guidelines and Kogarah City Council, Street Tree Management Strategy, Masterplan, and Tree Management Policy 2019, can be downloaded from Council's website www.georgesriver.nsw.gov.au.
- 59. 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).
- 60. 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.
- 61. Outdoor Lighting** - To avoid annoyance to the occupants of adjoining premises or glare to motorist on nearby roads, outdoor lighting must comply with AS 4282-1997: Control of

the obtrusive effects of outdoor lighting.

62. **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.
63. **Activities and storage of goods outside building** - There shall be no activities including storing or depositing of any goods or maintenance to any machinery external to the building with the exception of waste receptacles.
64. **Food premises – Garbage Odour** - A waste contractor shall be engaged to remove all waste from the garbage storage area on a regular basis so that no overflow of rubbish will occur. Practical measures are also to be taken to ensure that odour emission from the garbage storage area does not cause offensive odour as defined under the provision of the [Protection of the Environment Operations Act, 1997](#) (as amended).

Operational Requirements Under the Environmental Planning & Assessment Act 1979

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

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

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

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

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

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

A Notice of Commencement Form is attached for your convenience.

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

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

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

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

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

An Occupation Certificate Application Form is attached for your convenience.

Prescribed Conditions

72. **Clause 97A - BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
73. **Clause 98 – Building Code of Australia & Home Building Act 1989** - Requires all building work to be carried out in accordance with the Building Code of Australia. In the case of residential building work to which the Home Building Act 1989 relates, there is a requirement for a contract of insurance to be in force before any work commences.
74. **Clause 98A – Erection of Signs** - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the Principal Certifier and the Principal Contractor.
75. **Clause 98B – Home Building Act 1989** - If the development involves residential building work under the Home Building Act 1989, no work is permitted to commence unless certain details are provided in writing to Council. The name and licence/permit number of the Principal Contractor or Owner Builder and the name of the Insurer by which work is insured under Part 6 of the Home Building Act 1989.
76. **Clause 98E - Protection & support of adjoining premises** - If the development involves excavation that extends below the level of the base of the footings of a building on adjoining land, this prescribed condition requires the person who benefits from the development consent to protect and support the adjoining premises and where necessary underpin the adjoining premises to prevent any damage.

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

All excavations and backfilling associated with the erection 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

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

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

- 2. Appeal Rights** - Part 8 (Reviews and appeals) of the Environmental Planning and Assessment Act 1979 confers on an applicant who is dissatisfied with the determination of the application a right of appeal to the Land and Environment Court of New South Wales.
- 3. Lapsing of Consent** - This consent will lapse unless the development is physically commenced within 5 years from the Date of Operation of this consent, in accordance with Section 4.53 of the Environmental Planning and Assessment Act 1979 as amended.
- 4. Access to NSW Legislations (Acts, Regulations and Planning Instruments)** - NSW legislation can be accessed free of charge at www.legislation.nsw.gov.au
- 5. Noise** - Noise related conditions - Council will generally enforce noise related conditions in accordance with the *Noise Guide for Local government* (<http://www.environment.nsw.gov.au/noise/nlg.htm>) and the *Industrial Noise Guidelines* (<http://www.environment.nsw.gov.au/noise/industrial.htm>) publish by the Department of Environment and Conservation. Other state government authorities also regulate the [Protection of the Environment Operations Act 1997](#).

Useful links relating to Noise:

- *Community Justice Centres—free mediation service provided by the NSW Government* (www.cjc.nsw.gov.au).

- *Department of Environment and Conservation NSW, Noise Policy Section web page (www.environment.nsw.gov.au/noise).*
- *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).*
- *Australian Acoustical Society—professional society of noise-related professionals (www.acoustics.asn.au/index.php).*
- *Association of Australian Acoustical Consultants—professional society of noise related professionals (www.aaac.org.au).*
- *Department of Gaming and Racing - (www.dgr.nsw.gov.au).*

6. **Certified Contaminated Land Consultant** - The Contaminated Land Planning Guidelines, called up by the State Environmental Planning Policy No. 55 requires that a certified contaminated land consultant (in the context of the investigation, assessment, remediation and validation of contaminated land) is a contaminated land consultant, whose qualifications and experience have been confirmed through a recognized certification scheme to have the necessary competencies to carry out work relating to contaminated land to an appropriate standard.

Certification schemes that are recognized by the EPA includes:

- (a) Certified Environmental Practitioner (Site Contamination) (CENVP(SC)) or
- (b) 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 on the NSW EPA webpage: <https://www.epa.nsw.gov.au/your-environment/contaminated-land/>

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

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

8. **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.
9. **Electricity Supply** - This development may need a connection to the Ausgrid network which may require the network to be extended or its capacity augmented. You are advised to contact Ausgrid on 13 13 65 or www.ausgrid.com.au (Business and

Commercial Services) for further details and information on lodging your application to connect to the network.

- 10. 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.

- 11. 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.

- 12. 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).

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

- (a) Complete the Stormwater Drainage Application Form which can be downloaded from Georges River Council's website at www.georgesriver.nsw.gov.au.
- (b) In the Application Form, quote the Development Consent No. (eg. DA2018/0***) and reference this condition number (e.g. Condition 23)
- (c) Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Council's adopted Fees and Charges for the administrative and inspection charges associated with stormwater

applications.

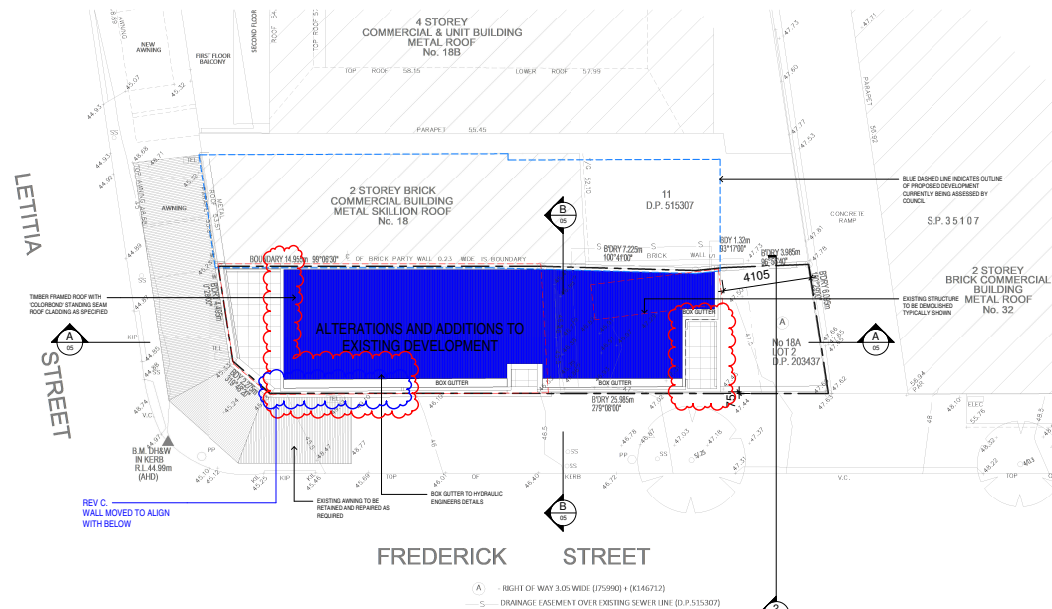
The developer must meet all costs of the extension, relocation or reconstruction of any part of Council's drainage system (including design drawings and easements) required to carry out the approved development.

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

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

ATTACHMENTS

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



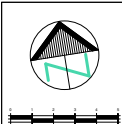
① SITE / ROOF PLAN
SCALE 1 : 100

NOTE:
All existing & overall dimensions are nominal & subject to verification on site, where any discrepancy occurs between new work & existing dimensions - existing dimensions shall take precedence where necessary - otherwise newly provided Architects Pty Ltd.
Detailed drawings provided to be used on site in accordance with local council's requirements, B.C.A. and all relevant Australian Standards.
© Provide directions to comply with requirements of specification 4.7.1 (NDV) for and include details and comply with AS 2708 and be connected to the main power supply.

GENERAL NOTES:
All work to be carried out in accordance with the Building Code of Australia, all Local and State Government Ordinances, relevant Australian Standards, Local Electricity and Water Authorities Regulations and all other relevant Authorities concerned.
All structural work and any change to be subject to Engineer's advice or verification where required by Council. This shall include: i. slab and ceiling, ii. wall and floor beams and columns, and iii. any other structural work to be done, through etc. always state and damage to Council's satisfaction.
All work to be in accordance with AS 1170 and AS 1546, and all other relevant Australian Standards.
© Provide details to comply with requirements of specification 4.7.1 (NDV) for and include details and comply with AS 2708 and be connected to the main power supply.

NOTE:
Do not scale off the drawings unless otherwise stated and use figured dimensions in preference. All dimensions are to be checked and verified on site before the commencement of any work. All dimensions and levels are subject to final survey and set out. No responsibility will be accepted by this firm for any variation in design, builder's method of construction or materials used, deviation from specification without permission or acceptance work practices resulting in inferior construction. Labels and protect all services prior to demolition.
COPYRIGHT NOTICE:
This drawing and design is the property of Innovate Architects Pty Ltd and should not be reproduced in part or whole without the written consent of this firm.

NO.	REVISION/DEVELOPMENT APPLICATION	DATE	BY
1	REVISION/DEVELOPMENT APPLICATION	JUNE 22	AI
2	REVISION/DEVELOPMENT APPLICATION	NOV 21	AI
3	REVISION/DEVELOPMENT APPLICATION	DEC 21	RS
4	REVISION/DEVELOPMENT APPLICATION	DATE	INT




VALORE HOLDINGS PTY LTD No. 1	18A LETITIA STREET, OATLEY
ALTERATIONS AND ADDITIONS TO EXISTING SHOP TOP HOUSING AND SIGNAGE WITH STRATA SUBDIVISION	SITE PLAN

Innovate
Architects
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AV BC	1:100 (A)
GRJ	C
DEC 20	
2707	01
VALORE HOLDINGS PTY LTD-DA	

[illegible]

Address	18A LETITIA STREET, OATLEY
Drawing Title	ELEVATIONS

 M E M B E R O	Address AIBC	AS SHOWN @A1	VALORE HOLDINGS PTY
	Name GRJ	Code C	
	Date DEC 20		
Job Number 2707		Sheet 04	

CERTIFICATE NUMBER: No. A400991_02

BASIX NOTES

REFER TO BASIX CERTIFICATE FOR TABLE INFORMATION

CONSTRUCTION

APPLICANT MUST CONSTRUCT THE NEW OR ALTERED CONSTRUCTION FLOORS, WALLS AND CEILINGS IN ACCORDANCE WITH PAGE 3 OF THE BASIX CERTIFICATE:

- EXTERNAL WALL-BROOK VENEER
- RI-16 (OR RI-17 INCLUDING CONSTRUCTION)

GLAZING REQUIREMENTS

APPLICANT MUST INSTALL THE WINDOWS, GLAZED DOORS AND GLAZED DEVICES IN ACCORDANCE WITH PAGE 4&5 OF THE BASIX CERTIFICATE:

- ALUMINUM, SINGLE LOW-TISOL LOW-E, (U-VALUE: 5.6, SHGC: 0.38)
- STANDARD ALUMINUM, SINGLE CLEAR, (OR U-VALUE: 7.63, SHGC: 0.7

CERTIFICATE NUMBER: NO. 11623225

BASIX NOTES

REFER TO BASIX CERTIFICATE FOR TABLE INFORMATION

FLOOR
CONCRETE BETWEEN LEVELS, NO INSULATION WHERE PORTABLE ROOMS ARE BELOW

EXTERNAL WALLS
SPRUE TYPE 100 WITH R3 INSULATION, 40% (RT TOTAL SYSTEM VALUE 3.0) TO EXTERIOR FACE
UPPER PORTLAND CEMENT BRICKS FRAMED WALLS WITH R3 INSULATION, 40% (RT TOTAL SYSTEM VALUE 3.16)

ROOF
DETAILED COLUMN MODELLED

WALLS WITH WINDOWS
UPPER PORTLAND CEMENT BRICKS, NO INSULATION REQUIRED
SINGLE SLOIN BRICK WITH R2 INSULATION TO WALLS ADJACENT TO WALLS

GLASS ROOFING AND DOORS:
VALU= 1.6, EQ= 0.21, TO LOWEST THAN (SPEC. 3.6, VALU=1)
OVERALL WALL AND GLASS WINDOW SYSTEM VALUES (GLASS AND FRAME)

CEILING FAN TO UNWINDING

ROOF AND CEILING
DETAILED ROOF WITH PLY
PLASTERBOARD CEILING WITH R3 INSULATION (INSULATION ONLY - WALLS AND GLASS ABOVE)

**REPORT TO GEORGES RIVER COUNCIL
LPP MEETING OF THURSDAY, 16 JUNE 2022**

LPP030-22

LPP Report No	LPP030-22	Development Application No	DA2021/0284
Site Address & Ward Locality	17 Planthurst Road Carlton NSW 2218 Kogarah Bay Ward		
Proposed Development	Rear alterations and additions to an existing place of public worship		
Owners	Carlton Methodist Church (NSW) Inc.		
Applicant	Mr. Fabricio Segabinazzi Siqueira		
Planner/Architect	Fab Siueira Architect		
Date Of Lodgement	26/07/2021		
Submissions	Two (2)		
Cost of Works	\$200,000.00		
Local Planning Panel Criteria	General Manager Delegations: Application involving a development application relating to a place of public worship		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, Georges River Local Environmental Plan 2021, Kogarah Local Environmental Plan 2012, Kogarah Development Control Plan 2013, Georges River Development Control Plans 2021		
List all documents submitted with this report for the Panel's consideration	Architectural Plans, Statement of Environmental Effects, Acoustic Report, Traffic Report, Plan of Management, Survey Plan		
Report prepared by	Senior Development Assessment Officer		

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

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

Site Plan



Aerial view of site – outlined in blue

Executive Summary

Proposal

1. Development consent is sought for alteration and additions to the existing place of public worship. The application specifically proposes a first-floor addition at the rear to accommodate an expanded children play area. The application also proposes the addition of a roof shelter and deck, together with ancillary demolition.

Site and Locality

2. The site is known as 17 Planthurst Road Carlton (lot 143 DP2022). The rectangular shaped site observes a 19.2m south-eastern frontage to Planthurst Road, an approximate site depth of 85m, and a site area of 1,658sqm. The site observes a gradual slope to the rear.

3. The site currently accommodates a two-storey brick and rendered place of public worship (Carlton Methodist Church). The front setback area of the site is paved and contains car parking facilities which are accessed by a centralised driveway crossing. The front yard area also contains a few trees and a hydrant assembly. The building's rear portion is single storey in nature. A detached single storey outbuilding sits within the rear yard. The rear yard is landscaped and contains a number of trees along its outer perimeter. A sewer line traverses the site within the rear yard.
4. Adjoining the site to the west are two dwelling houses with the front dwelling being single storey, and the rear dwelling comprising of two storeys. Adjoining the site to the east are two single storey dwelling houses. Adjoining the site to the rear are two single storey dwelling houses.
5. The locality is residential in character with surrounding developments comprising single and two storey dwelling houses. The area is generally low density residential in character. It is noted that a light industrial zoned precinct is located 135m west of the site along Planthurst Road.



Figure 1: Aerial of the site and surrounding lots – site outlined in blue

Zoning and Permissibility

6. The site is zoned R2 – Low Density Residential under the provisions of the Kogarah Local Environmental Plan 2012 (KLEP 2012). The proposal is for alterations and additions to the existing place of public worship. Places of public worship are a permitted use with consent in the zone.

Submissions

7. The application was notified in accordance with Council's neighbour notification policy between 25 August 2021 and 22 September 2021 and two (2) submissions were received raising concerns with regards to the following matters:
 - a. Use and hours of operation
 - b. Landscaping
 - c. Footprint
 - d. Privacy

- e. Car parking
- f. Incorrect plans

Conclusion

8. Having regard to the matters for consideration under section 4.15(1) of the Environmental Planning and Assessment Act 1979 and following a detailed assessment, the proposed Development Application (DA2021/0284) is recommended for approval subject to conditions referenced at the end of this report.

Report in Full Proposal

9. Development consent is sought for alteration and additions to the existing place of public worship. The application specifically proposes the following:
- Alterations and additions to the rear-most portion of the building (used as a children play area) comprising a first-floor addition to accommodate an expanded play area. The existing room will be modified by removing the existing steps and constructing a new staircase leading to the new first floor. Rear internal window opening will be bricked up.
 - Construction of a roofed area between the existing rear façade and the detached outbuilding.
 - Construction of a 3m wide deck and roof attached to the eastern façade of the existing outbuilding. The deck expands into the rear yard.

Use and Operational Details

10. This application has been lodged for alterations and additions to the existing place of public worship. The operations details are as follows:
- **Operating hours:** The entire children play area (ground and first floor) will only be used by children on Sundays during church service hours being: 8:15am – 10:15am, and 10:30am until 12:30pm.
 - **Staff:** Staff are intended to be volunteers of the church. The submitted plan of management lists the character requirements of volunteers.
 - **Number of children:** The area intends to contain a maximum of 35 children including 12 toddlers. The children will be persons attending the church service.
 - **Parking:** Parking facilities will remain as existing. The additional children's area is to accommodate additional children for people attending the church congregation, and to allow for better social distancing as a result of COVID-19.
 - **Accessibility:** The building will required to comply with the requirements of the Building Code of Australia (BCA) / National Construction Code (NCC) 2019. Conditions imposed.
 - **Acoustics:** An acoustic report accompanies the application. The report was supported by Council's Environmental Health Officer subject to conditions.
 - **Waste Management:** Waste management services will remain as existing. The submitted plan of management lists the waste management protocols to be taken care of by existing church arrangements.
 - **Security:** The submitted plan of management lists security measures to be taken care of by the person in charge of this area during its use.

The Site and Locality

11. The site is known as 17 Planthurst Road Carlton (lot 143 DP2022). The rectangular shaped site observes a 19.2m south-eastern frontage to Planthurst Road, an

approximate site depth of 85m, and a site area of 1,658sqm. The observes a gradual slope to the rear.

12. The site currently accommodates a two-storey brick and rendered place of public worship (Carlton Methodist Church). The front setback area of the site is paved and contains car parking facilities which are accessed by a centralised driveway crossing. The front yard area also contains a few trees and a hydrant assembly. The building's rear portion is single storey in nature. A detached single storey outbuilding sits within the rear yard. The rear yard is landscaped and contains a number of trees along its outer perimeter. A sewer line traverses the site within the rear yard.
13. Adjoining the site to the west are two dwelling houses with the front dwelling being single storey, and the rear dwelling comprising of two storeys. Adjoining the site to the east are two single storey dwelling houses. Adjoining the site to the rear are two single storey dwelling houses.
14. The locality is residential in character with surrounding developments comprising single and two storey dwelling houses. The area is generally low density residential in character. It is noted that a light industrial zoned precinct is located 135m west of the site along Planthurst Road.
15. Photos of the site are provided in the figures below.



Figure 2: View of the building from Planthurst Road



Figure 3: View of existing children area



Figure 4: View of rear façade of children area, and eastern façade of outbuilding

Background

16. Development application 2000/496 was approved by Council for alteration and addition to the place of public worship on 13 December 2000.
17. Development application 343/2007 was approved by Council for new carport and front fence to existing Church on 09 November 2007.
18. Development application 7/2013 was approved by Council for alteration and addition to the place of public worship on 13 May 2013.
19. S96 (1)(A) Modification application 7/2013/2 was approved by Council for alteration and addition to the place of public worship on 26 March 2014.

Compliance and Assessment

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

State Environmental Planning Policies

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

State Environmental Planning Policy	Complies
State Environmental Planning Policy (Resilience and Hazards) 2021	Yes
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Yes
State Environmental Planning Policy (Transport and Infrastructure) 2021	Yes

State Environmental Planning Policy (Resilience and Hazards) 2021

22. The Resilience and Hazards SEPP has replaced and repealed the following SEPPs:
 - State Environmental Planning Policy (Coastal Management) 2018;
 - State Environmental Planning Policy No 33—Hazardous and Offensive Development; and
 - State Environmental Planning Policy No 55—Remediation of Land.

Chapter 4 Remediation of Land

23. Chapter 4 of the SEPP relating to remediation of land applies to the site.
24. Chapter 4 aims to promote the remediation of contaminated land in order to reduce the risk of harm to human health or any other aspect of the environment. Clause 4.6 requires contamination and remediation to be considered in determining a development application. The consent authority must not consent to the carrying out of development on land unless it has considered whether or not the land is contaminated.
25. A review of the site history indicates that the site has been used as a place of public worship which is not a development associated with activities that would result in the contamination of the site. The proposed works do not include any change to the use of the land that would result in any concerns with respect to contamination. The development exists and no reported contamination was found during construction. There are limited works affecting the foundation material, in this regard no further investigation

is warranted. There is no indication that the land is contaminated. The criterion of Chapter 4 has been satisfied.

State Environmental Planning Policy (Transport and Infrastructure) 2021

26. The Transport and Infrastructure SEPP has replaced and repealed the following SEPPs:
- *State Environmental Planning Policy (Infrastructure) 2007;*
 - *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017;*
 - *State Environmental Planning Policy (Major Infrastructure Corridors) 2020; and*
 - *State Environmental Planning Policy (Three Ports) 2013.*

Chapter 2 Infrastructure

27. The application was referred to Ausgrid pursuant to clause 2.48 of the SEPP. No objection was received from Ausgrid and one condition was recommended relating to overhead powerlines.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

28. The Biodiversity and Conservation SEPP has replaced and repealed the following SEPPs:
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017;*
 - *State Environmental Planning Policy (Koala Habitat Protection) 2020;*
 - *State Environmental Planning Policy (Koala Habitat Protection) 2021;*
 - *Murray Regional Environmental Plan No 2—Riverine Land;*
 - *State Environmental Planning Policy No 19—Bushland in Urban Areas;*
 - *State Environmental Planning Policy No 50—Canal Estate Development;*
 - *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011;*
 - *Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997);*
 - *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;*
 - *Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment; and*
 - *Willandra Lakes Regional Environmental Plan No 1—World Heritage Property.*

Chapter 2 Vegetation in non-rural areas

29. Chapter 2 of the SEPP relating to vegetation in non-rural areas applies to the site.
30. Chapter 2 regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.
31. Chapter 2 applies to clearing of:
- (a) Native vegetation above the Biodiversity Offset Scheme (BOS) threshold where a proponent will require an approval from the Native Vegetation Panel established under the Local Land Services Amendment Act 2016; and
 - (b) Vegetation below the BOS threshold where a proponent will require a permit from Council if that vegetation is identified in the council's development control plan (DCP).
32. The objectives of the Chapter are to protect the biodiversity values of trees and other vegetation in non-rural areas and preserve the amenity of non-rural areas through the preservation of trees and other vegetation. This policy is applicable pursuant to Clause

2.3 of the SEPP as the site is within both Georges River Council and the R2 Low Density Residential zone.

33. The proposal does not seek to remove any trees or major vegetation. No neighbouring trees are proposed to be removed.

Chapter 11 Georges Rivers Catchment

34. Chapter 11 of the SEPP relating to the Georges Rivers Catchment applies to the site.

35. The application has been assessed by Council's Development Engineer and the application was supported subject to a condition.

Kogarah Local Environmental Plan 2012

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

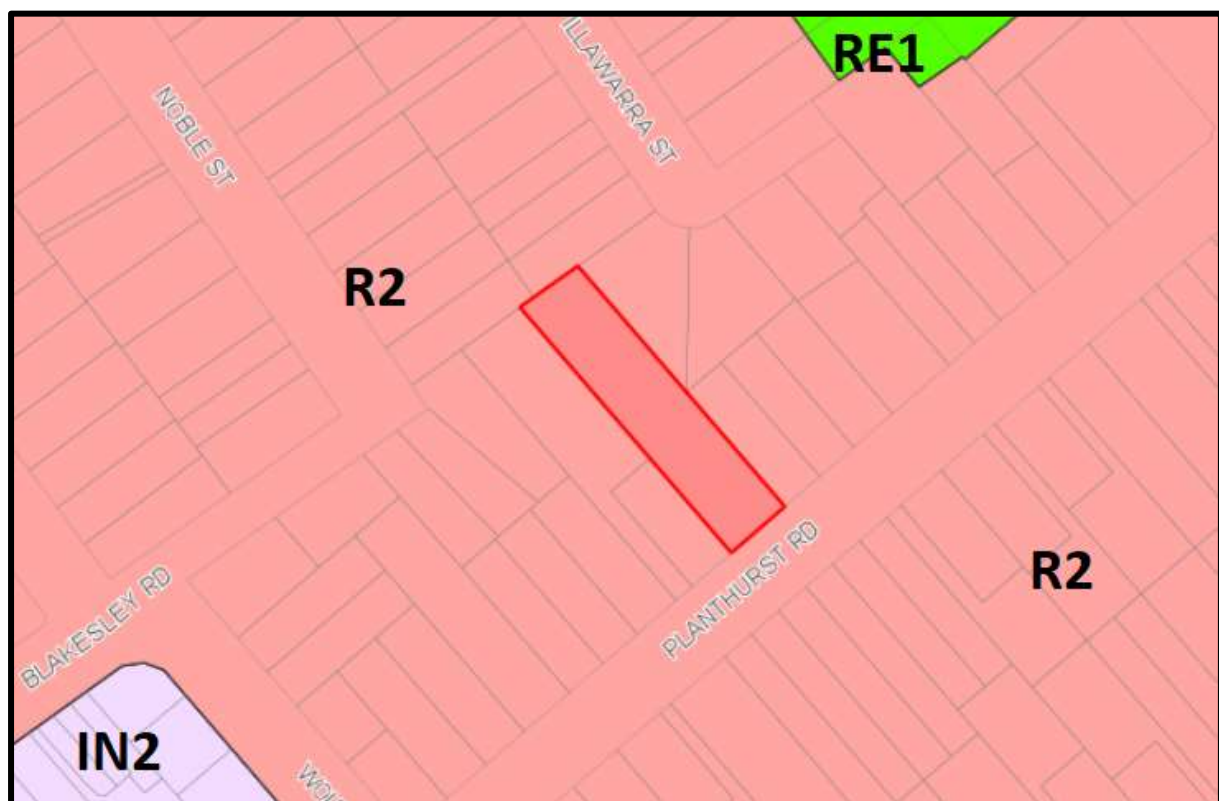


Figure 5: Zoning map with the site outlined in red

Clause	Standard	Proposed	Complies
Part 1 Preliminary			
1.2 – Aims of the Plan	In accordance with Clause 1.2 (2)	The development is consistent with the aims of the plan.	Yes
Part 2 Permitted or prohibited development			
2.3 – Zone objectives and Land Use Table	<p>Meets objectives of R2- Low Density Residential Zone:</p> <ul style="list-style-type: none"> <i>To provide for the housing needs of the community within a low density residential environment.</i> <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i> 	The proposal is permissible in the zone being a place of public worship. The proposal satisfies the relevant zone objectives as the proposal does not prohibit adjoining land uses from meeting the day to day needs of their respective residents.	Yes
Part 4 Principal development standards			
4.3 – Height of Buildings	9m as identified on Height of Buildings Map	7.40m	Yes
4.4 – Floor space ratio	<p>(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.</p> <p>0.55:1</p>	0.46:1 or 761.96sqm	Yes
Part 5 Miscellaneous provisions			
5.10 – Heritage conservation	In accordance with Clause 5.10 (1)	<p>The site is not a heritage item and not located within the vicinity of any heritage items.</p> <p>The site is not in a heritage conservation area.</p>	Yes
5.11 – Bush Fire Hazard Reduction	Bush fire hazard reduction work authorised by the <i>Rural Fires Act 1997</i> may be carried	<p>Noted.</p> <p>The site is not mapped as being affected by bushfire.</p>	Yes

	out on any land without development consent.		
5.21 – Flood planning	As per clause 5.21	The site is not mapped as being affected by flooding.	N/A
Part 6 Additional local provisions			
6.1 – Acid Sulfate Soils	(1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.	Site not mapped as within an area likely containing Acid Sulfate Soils.	N/A
6.2 – Earthworks	(2) Development consent is required for earthworks unless— (a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or	Earthworks proposed are ancillary to the proposed works and are limited to the construction of the deck attached to the outbuilding.	Yes
	(3) Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters— (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,	The proposal was supported by Council's Development Engineer.	Yes
	(b) the effect of the development on the likely future use or redevelopment of the land,	The works are unlikely to impact the future use or redevelopment of the site.	Yes

	(c) the quality of the fill or the soil to be excavated, or both,	The soil quality is anticipated to be acceptable given the historical use of the site.	Yes
	(d) the effect of the development on the existing and likely amenity of adjoining properties,	The earthworks proposed are relatively minor and are unlikely to adversely impact the amenity of adjoining properties.	Yes
	(e) the source of any fill material and the destination of any excavated material,	No fill proposed.	Yes
	(f) the likelihood of disturbing relics,	No known relics exist within the locality.	Yes
	(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,	Works not within vicinity of waterway, drinking water catchment or environmentally sensitive area.	Yes
	(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.	A specific condition imposed to ensure this is met.	Yes, by condition

Georges River Local Environmental Plan 2021

37. Consideration is given to the provisions of the Georges River Local Environmental Plan 2021 in the assessment this application.
38. Places of public worship are prohibited in the R2 zone under the Georges River Local Environmental Plan 2021. However, it is likely that the site will benefit from existing use rights given its historical and documented use as a place of public worship.
39. In this regard, the provisions have no determining weight as a result of the operation of Clause “1.8A Savings provisions relating to development applications” of the Plan which provides “If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.”

Kogarah Development Control Plan 2013

40. The proposed development is subject to the provisions of Kogarah Development Control Plan 2013. The following comments are made with respect to the proposal considering the objectives and controls contained within Kogarah DCP 2013.
41. Kogarah DCP does not contain built form controls specific to places of public worship. In this regard the below assessment has considered the relevant controls.

Kogarah DCP 2013			
Clause	Standard	Proposed	Complies
Part B4 – Parking and Traffic			
Parking Requirements	Place of public worship: 1 space/5 seats, or 1 space/5m ² of public seating, whichever is greater	The proposal does not seek to change the use of the premise or increase the number of seats or public seating area. The additional floor space seeks to be utilised for the children play area, and not for increasing the size of the worship assembly hall. The proposal was accompanied by a traffic report which was assessed and supported by Council's traffic engineer. No additional traffic or parking demand is anticipated as a result of the proposed works.	Yes
B7 - Environmental Management			
	1. Orientation: Building siting and design	The proposal sits above an existing building and seeks to observe similar setback. The new first floor does not include side windows to minimize privacy impacts. The other work is at ground level and is an awning and roof over a walkway.	Yes
	2. Energy efficiency in non-residential developments	The proposal will be required to comply with the provision of the NCC.	Yes, by condition

	3. Water efficiency in non-residential development	The proposal will be required to comply with the provision of the NCC.	Yes, by condition
	4. Materials and Building Components	The building will observe colours and finishes similar to that of the existing building.	Yes

Georges River Development Control Plans 2021

42. In order to ensure the build form is consistent with the future desired character, a guide assessment was undertaken against the provisions of the Georges River DCP 2021 which contains specific controls for places of public worship.

Georges River DCP 2021			
Clause	Standard	Proposed	Complies
4.3 Places of Public Worship			
4.3.1 Locational and Site Requirements	<p>7. The minimum allotment size for a new place of public worship is 800m²</p> <p>8. The minimum allotment width for a new place of public worship is 20 metres (measured at the front building line) and 15 metres for a corner allotment.</p>	The place of public worship is existing. Site is 1,658sqm and the frontage is 19.2m.	As existing
4.3.2 Bulk and Scale	<p>1. The maximum site coverage for places of public worship located within a residential zone is 40%. Site coverage is defined in the Georges River LEP and excludes open decks.</p> <p>3. The minimum setback from the principal street frontage in residential zones is 6 metres.</p> <p>4. Where a place of public worship is to be located immediately adjacent to a property used primarily for residential purposes, a buffer of a minimum of 3 metres must be provided to the side boundaries and a minimum of 6 metres to the rear boundary. This</p>	<p>As existing. Open decks are excluded. Other built form is over existing covered areas.</p> <p>As existing, the work is in the rear.</p> <p><u>Side setback:</u></p> <p>Eastern: 4.45m</p> <p>Western: 2.93m</p>	<p>Yes</p> <p>As existing</p> <p>Yes</p> <p>Acceptable, 0.07m variance is not visually discernible and is being</p>

	setback area shall be landscaped and shall not be used for parking areas, outdoor assembly areas or the like.	<u>Rear setback:</u> 20.6m The proposed awning over the deck is 5.783m and is acceptable as it is not a walled structure and aligns with the existing built form.	built off the existing built form. Yes
4.3.3 Building Design	1. The design of the development must consider the amenity of the surrounding locality, especially sites within or near residential localities.	The design is acceptable and will not be readily visible from the street with the exception of a small portion which is significantly recessed into the site.	Yes
4.3.4 Solar Access	<p>1. At least one living area of dwellings on an adjoining allotment must receive a minimum of three (3) hours sunlight between 9.00am and 3.00pm at the mid-winter. Where this requirement cannot be met, the development must not result in additional overshadowing on the affected living areas of the dwelling.</p> <p>2. A minimum of 50% of the required private open space for each dwelling on an adjoining allotment must receive at least three (3) hours of sunlight between 9.00am and 3.00pm at the mid-winter. Where this requirement cannot be met, the development must not result in additional overshadowing on the open space.</p>	<p>As per submitted shadow diagrams, rear living room windows along the dwelling located directly west will receive the required solar amenity from 12:00pm onwards in midwinter.</p> <p>As per submitted shadow diagrams, the rear private open space area of the dwelling located directly west will receive the required solar amenity from 12:00pm onwards in midwinter.</p>	Yes
4.3.5 Energy Efficiency	As per part 4.3.5	The proposal will be required to comply with the NCC which considers sustainability and thermal efficiency.	Yes, by condition

4.3.6 Traffic, Access and Parking	As per part 4.3.6	The proposal does not seek to change the use of the premise or increase the number of seats or public seating area within the place of worship. The additional floor space seeks to be utilised for the children's play area, and not for increasing the size of the worship assembly hall. The proposal was accompanied by a traffic report which was assessed and supported by Council's traffic engineer. No additional traffic or parking demand is anticipated as a result of the proposed works. The application is acceptable in this regard.	Yes
4.3.7 Amenity Impacts	The location of windows, doors or balconies within a place of public worship must be located to avoid overlooking the private open space of adjoining residential uses.	The existing windows along the side façade of the ground floor are obscure and will remain as existing. No new side façade windows proposed.	Yes
4.3.8 Open Space and Landscaping	8. Development for the purpose of places of public worship must provide deep soil zones in the required setback areas around the boundary of the site. No minimum % of landscaping. Dwellings in R2 zones require to provide 20%.	Side boundary treatments will remain as existing. Landscaping will account to 18.6% (310sqm) of the site and mostly is within the rear yard. The landscaping treatment will remain as existing.	Acceptable
4.3.11 Management of Operations	1. An application for places of public worship must be accompanied by a Plan of Management which provides all details relevant to the operation of the premises. Further details are outlined in Council's Development Application Guide.	A Plan of Management accompanies the application.	Yes, conditions imposed

Impacts***Natural Environment***

43. The development will not result in unreasonable adverse impacts on the natural environment. No trees are proposed to be removed.

Built Environment

44. The proposed development is of a scale and character that is in keeping with other buildings being constructed in the locality. Accordingly, the proposal is not considered to have an unreasonable or significant impact on the built environment of the locality. The bulk and scale of the proposed built form is not dissimilar to other similar developments within the locality.
45. A guide for assessment against the place of public worship provisions of the Georges River DCP 2021 concluded that the proposed is not inconsistent with the desired future character of the area. The envelope is largely similar to what is anticipated for places of public worship in residential zones.
46. As per the submitted shadow diagrams, the proposal will allow adjoining properties to receive the require 3 hrs of solar access in midwinter.
47. No side facade windows are proposed which mitigates potential privacy impacts.
48. The visual impact of the proposal is acceptable. The two storey built form is below the height limit and the proposal will be capable of existing harmoniously with its surroundings, given it is intended that the external colours and finishes match that of the existing building. Although the two storey element is not continuous and does not connect to the main building, the split is not readily visible from the street and will allow for additional solar access to reach adjoining properties and reduce the perceived bulk.

Social and Economic Impact

49. The environmental impacts on the social environment are considered to be reasonable and the application is supported. There is no apparent adverse economic impact that is likely to result within the locality due to the construction of the proposed development.

Suitability of the Site

50. It is considered that the proposed development is of a scale and design that is suitable for the site having regard to its size, height and shape, its topography and relationship to adjoining developments.

Submissions and the Public Interest

51. The application was notified to surrounding neighbours for a period of fourteen (14) days between 25 August 2021 and 22 September 2021 and two (2) submissions were received raising concerns with regards to the following matters:

Concern	Officer comment
Use and noise	<p>Concern was raised with regard to the intended use of the new area, in addition to noise generated by the proposal.</p> <p>The application proposes the rear areas to only be used by children of people attending the two church services on Sundays. The application does not propose to use the new</p>

	area as anything other than a play area for children during Sunday service gatherings. The application was accompanied by a detailed acoustic report which supported the application subject to recommendations including keeping any external openings closed. The application has been referred to Council's Environmental Health team. The proposal was assessed and supported subject to conditions.
Landscaping	<p>Concern was raised with regard to historical landscaping required along portions of the boundaries required under condition 25 of DA2000/496. The submission claims that the condition was never satisfied, and landscaping was cut down after occupation.</p> <p>Condition 25 of DA2000/496 states: <i>"The landscaping plan to be submitted shall incorporate continuous landscaping of 0.9m width along the whole length of the north western boundary and along the north eastern boundary between the northern corner of the property to the rear wall of the extension."</i></p> <p>A final occupation certificate (reference 165720) was issued by Council on 28 May 2003.</p> <p>This matter has been referred to Council's compliance team for investigation as it is a matter for separate consideration.</p>
Car parking	<p>Concern was raised with regard to increased traffic and parking demand as a result of the proposal.</p> <p>The proposal does not seek to change the use of the premise or increase the number of seats or public seating area within the Place of Public Worship area. The additional floor space seeks to be utilised for a children play area, and not for increasing the size of the worship assembly hall. The proposal was accompanied by a traffic report which was assessed and supported by Council's traffic engineer. Conditions have imposed to ensure that the children playing in this space are part of the families worshipping in the Church.</p>
Footprint development of	<p>Concern was raised with regard to the footprint of the proposal.</p> <p>Although no landscaping controls apply to places of public worship under the Kogarah DCP, the proposal provides 18.6% landscaping which is greater than the 15% landscaping a dwelling house in the R2 zone requires to provide.</p> <p>The proposal's floor space ratio (0.46:1 or 761.96sqm) is less than the maximum permitted 0.55:1 (911.9sqm).</p> <p>The proposal was assessed also against the provisions of the Georges River DCP 2021 which includes site coverage controls. The proposed additions and alterations do not</p>

	significantly increase the site coverage given the areas where the proposed additions are to take place already include paved areas, and the open deck is excluded (by definition) from site coverage calculations.
Incorrect plans (survey)	<p>Concern was raised with regards to the survey not accurately interpreting adjoining properties.</p> <p>The submitted survey is dated 20/04/2021 and was considered acceptable to allow for an assessment of the proposal.</p>
Privacy	<p>Concern was raised with regard to adverse privacy impacts arising from the proposal.</p> <p>The proposal does not include any new side facade windows, and the new addition only includes windows facing the rear yard. The existing windows along the ground floor of the rear area appear to be obscure windows as viewed in the site inspection conducted by Council's assessing officer. The proposed deck faces the rear yard and is located close to the existing ground level. Following a detailed assessment of the application, it is considered that the proposal will not in unreasonable privacy impacts.</p>

Referrals

Council Referrals

Drainage Engineering

52. The application has been assessed and endorsed by Council's Drainage Engineer. Stormwater related conditions of consent have been imposed.

Environmental Health

53. The application has been referred to Council's Environmental Health team. The proposal was assessed and supported subject to conditions.

Traffic Engineering

54. The application has been referred to Council's Traffic Engineer. The proposal was assessed and supported subject to conditions.

External Referrals

Ausgrid

55. The application was referred to Ausgrid. Ausgrid did not object to the development and recommended that a condition be imposed with regards to overhead powerlines.

Local Infrastructure Contributions

56. Section 7.12 levies are applicable given the cost of works exceed \$100,000. A condition has been imposed in this regard.

Conclusion

57. The application seeks approval for alterations and additions to a place of public worship at 17 Planthurst Road Carlton.
58. The proposal has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act, 1979. As discussed throughout this report,

the proposal satisfies the R2 zone objectives, in addition to reasonably complying with the relevant State Environmental Planning Policies, Local Environmental Plan and Development Control Plan. Where a variation was present, it has been assessed on merit and against the objectives of the control and found to be acceptable in the circumstances of this development.

59. The proposal will not result in unreasonable impacts on the amenity of adjoining properties subject to the conditions of consent recommended below.
60. The application is recommended for approval subject to conditions.

STATEMENT OF REASONS AND DETERMINATION

Statement of Reasons

61. The statement of reasons are as following:
- The proposed development is permissible in the zone with development consent;
 - The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality;
 - The proposed development is well considered and sensitively designed so that it will not result in unreasonable impact on the natural and built environment.
 - The building will not unreasonably affect the amenity of any immediately adjoining properties in terms of unreasonable overlooking, acoustic impacts, visual impacts, traffic, overshadowing or view loss;
 - The proposed development is a suitable and planned use of the site, its approval is in the public interest.

Determination

62. THAT pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 (as amended) the Georges River Local Planning Panel approves DA2021/0284 for alterations and additions to a place of public worship at 17 Planthurst Road Carlton, subject to the conditions listed below.

Development Conditions

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

Description	Reference No.	Date	Revision	Prepared by
Site Plan	Project 21230 DA 02	21/06/2021	C	Fab Siqueira Architect
Floor Plans	Project 21230 DA 11 and DA12	21/06/2021	C	Fab Siqueira Architect
Roof Plan	Project 21230 DA 15	21/06/2021	C	Fab Siqueira Architect
Elevations Plan	Project 21230 DA 20 and DA 22	21/06/2021	C	Fab Siqueira Architect
Sections Plan	Project 21230 DA 30	21/06/2021	C	Fab Siqueira Architect

Schedule of Colours and Finishes	Project 21230 DA 23	21/06/2021	C	Fab Siqueira Architect
Traffic Report	A211731N version 1A	August 2021	1A	Motion Traffic Engineers
Acoustic Report	5009R2021092 3as17planthurst rdcarlton_da(3)	22 December 2021	V3	Koikas Acoustics Pty Ltd
Plan of Management	17 Planthurst Road Carlton	September 2021	A	Fab Siqueira Architect

LPP030-22

2. Tree Removal & Replacement - No trees are to be removed under this consent.

Separate Approvals Required Under Other Legislation

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

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

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

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

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

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

Requirements of other Concurrence, Integrated & other Government Authorities

5. **Sydney Water – Tap in™** - The approved plans must be submitted to a Sydney Water Tap in™ to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately endorsed. For details please refer to 'Plumbing, building and developing' section of Sydney Water's web site at www.sydneywater.com.au then see 'Building', or telephone 13000 TAP IN (1300 082 746). The Certifying Authority must ensure that a Tap in™ agent has appropriately stamped the plans prior to the issue of the Construction Certificate.
6. **Utility Arrangements** - Arrangements are to be made with utility authorities in respect to the services supplied by those authorities to the development. The cost associated with the provision or adjustment of services within the road and footway areas is to be at the applicant's expense.

Prior to the Issue of a Construction Certificate

7. **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.
8. **Compliance with submitted Acoustic Report**- The Construction Certificate plans shall demonstrate compliance with the Acoustic Report submitted and approved by Council, titled Acoustical report – Place of worship prepared by Koikas acoustics Pty Ltd dated 22/12/2021.
9. **Compliance with National Construction Code** – The development must comply with the relevant provisions of the National Construction Code (previously BCA) through achieving the deemed to satisfy provisions or through performance solutions. This includes fire safety and accessibility provisions (as relevant).
10. **Slip Resistance (children play areas and new outdoor deck)** - All pedestrian surfaces in areas such as foyers, public corridors, common areas, stairs and ramps as well as floor surfaces in all wet rooms including in any residential units must have slip resistance classifications, as determined using test methods in either wet or dry conditions, appropriate to their gradient and exposure to wetting. The classifications of the new

pedestrian surface materials, in wet or dry conditions, must comply with AS/NZS4586:2004 - Slip Resistance Classifications of New Pedestrian Materials and must be detailed on the plans lodged with the application for the Construction Certificate.

- 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).

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).

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

Fee Type	Fee
GENERAL FEES	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See https://portal.longservice.nsw.gov.au/bci/levy/	
Builders Damage Deposit	\$1,900.00
Inspection Fee for Refund of Damage Deposit	\$168.00
Section 7.12 contributions	\$1,000.00

General Fees

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

Timing of Payment

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

Further Information

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

- 12. Site Management Plan** - A Site Management Plan detailing all weather access control points, sedimentation controls, fencing, builder's site sheds office, amenities, materials storage and unloading arrangements must be submitted with the application for the Construction Certificate.
- 13. Damage Deposit - Minor Works** - In order to insure against damage to Council property the following is required:
- Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development: \$1,900.00
 - Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee to enable assessment of any damage and repairs where required: \$168.00

- (c) Submit to Council, before the commencement of work, a photographic record of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal.

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

14. 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.

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

A copy shall be forwarded to Council where Council is not the PCA.

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

17. Stormwater System- A detailed stormwater drainage plan shall be prepared by a qualified person. Final detailed plans of the drainage system, prepared by a qualified

person, shall be submitted for approval with the Construction Certificate.

(a) All stormwater shall drain by gravity to the existing drainage system, in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).

18. **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.
19. **Colours and Finishes**- The external colours and finishes of the new additions at the rear must match the existing colours and finishes of the existing building.
20. **Engineer's Certificate**- A certificate from a professional Engineer specialising in structural engineering certifying the structural adequacy of the existing structure, to support all proposed additional superimposed loads shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

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

21. **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.

22. **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](#).
23. **Dial before your dig** - The applicant shall contact “Dial Before You Dig on 1100” to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from “Dial Before You Dig” shall be forwarded to the Principal Certifying Authority (PCA) and Council for their records.

During Construction

24. **Hours of construction for demolition and building work** - Unless authorised by

Council:

- a) Building construction and delivery of material hours are restricted to: 7.00 am to 5.00 pm (inclusive) Monday to Saturday and no work on Sundays and Public Holidays.
- b) Demolition and excavation works are restricted to: 8.00 am to 5.00 pm (inclusive) Monday to Friday only. Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site.

25. 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.

26. Registered Surveyors Report - During Development Work - A report must be submitted to the PCA at each of the following applicable stages of construction:

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

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

27. Cost of work to be borne by the applicant - The applicant shall bear the cost of all works associated with the construction of the development that occurs on Council property. Care must be taken to protect Council's roads, including the made footway, kerbs, etc., and, where plant and vehicles enter the site, the footway shall be protected against damage by deep-sectioned timber members laid crosswise, held together by hoop iron straps and chamfered at their ends. This construction shall be maintained in a state of good repair and condition throughout the course of construction.

1.
28. 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.

29. Waste Management Facility - All materials removed from the site as a result of

demolition, site clearing, site preparation and, or excavation shall be disposed of at a suitable Waste Management Facility. No vegetation, article, building material, waste or the like shall be ignited or burnt.

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

- 30. Damage within Road Reserve and Council Assets-** The owner shall bear the cost of restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site. This may include works by Public Utility Authorities in the course of providing services to the site.

Prior to the issue of the Occupation Certificate

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

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

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.

- 32. Compliance with submitted Acoustic Report-** Prior to the issue of any Occupation Certificate, a report prepared by a suitably qualified acoustic consultant must be submitted to the PCA certifying that the construction has incorporated the recommendations in the DA Acoustic Report titled Acoustical report – Place of worship prepared by Koikas acoustics Pty Ltd dated 22/12/2021.
- 33. Acoustic Certification-** Prior to the issue of any Occupation Certificate, a suitably qualified acoustic consultant shall certify that the operation of the premises and plant equipment shall not give rise to a sound pressure level at any affected premises that exceeds the acoustic criteria established by the Acoustic Report required by a condition of this consent. The development shall at all times comply with these noise levels post occupation.
- 34. Building - Structural Certificates** - The proposed structure must be constructed in accordance with details designed and certified by the practising qualified structural engineer. In addition, Compliance or Structural Certificates, to the effect that the building works have been carried out in accordance with the structural design, must be submitted to the Principal Certifying Authority prior issue of the Occupation Certificate.
- 35. Mechanical ventilation** – Fixed ceiling fans or an air conditioning system must be installed along the ground and first floor child play areas.

- 36. Signage** - Clear and noticeable signs written in plain English to be installed inside and outside the children play areas and internal hallway leading to the children play areas. The signs are to notify users and visitors with respect to the conditions of use (hours, capacity and maintaining noise attenuation measures) of the nominated children play areas.
- 37. Plan of Management** – The approved Plan of Management shall be amended to the satisfaction of the PCA as follows:
- (a) Section 2.05 on page 4 of the Plan of Management is be amended so that the second session is 10:30am to 12:30pm.
 - (b) Section 2.11 on page 6 of the Plan of Management to include: Staff (volunteers) are to always be present and supervising the children play areas during the nominated hours of use of the children play areas. Staff to ensure that offensive noise is minimised.
 - (c) That the children play areas be not for profit and not require enrolment fees.
 - (d) All windows and doors must remain closed at all time times during the use of the children play areas (along ground and first floor).
 - (e) The prohibition of utilising the area as a child care centre, or early education centre (unless a separate application is granted for the childcare use).
 - (f) The prohibition of amplified and live music in the children play areas.
 - (g) The prohibition of pets or animals in the children play areas.
 - (h) Review mechanism of plan of management with a Section 4.55 modification required should the plan of management require to be amended.

Operational Conditions (On-Going)

38. Ongoing operational details-

- (a) Capacity: Both the rear and first floor children play areas must not contain more than 35 children at any time.
- (b) Hours of use: Both the ground and first floor children play areas shall only be used on Sundays between 8:15am and 10:15am, and 10:30am and 12:30pm.
- (c) Children attending the play areas shall only be children of persons attending the Sunday church service only.
- (d) Children play areas shall be ancillary to the place of public worship. The areas are not to be hired or allowed to be used for private usage.
- (e) All windows and doors must remain closed at all time times during the use of the children play areas (along ground and first floor).

39. Plan of Management - The development at all times must be carried out in accordance

with the Plan of Management (as amended by condition 37).

- 40. Noise Control** - The use of the premises must not give rise to the transmission of offensive noise to any place of different occupancy. Offensive noise is defined in the [Protection of the Environment Operations Act 1997](#) (as amended).
- 41. 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.
- 42. 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.
- 43. Annual Fire Safety Statement** - The owner of the building premises must ensure the Council is given an annual fire safety statement in relation to each essential fire safety measure implemented in the building. The annual fire safety statement must be given:
- (a) Within 12 months after the date on which the fire safety certificate was received.
 - (b) Subsequent annual fire safety statements are to be given within 12 months after the last such statement was given.
 - (c) An annual fire safety statement is to be given in or to the effect of Clause 181 of the [Environmental Planning and Assessment Regulation 2000](#).
 - (d) A copy of the statement is to be given to the Commissioner of Fire & Rescue NSW, and a further copy is to be prominently displayed in the building.
- 44. Outdoor Lighting** - To avoid annoyance to the occupants of adjoining premises or glare to motorist on nearby roads, outdoor lighting must comply with AS 4282-1997: Control of the obtrusive effects of outdoor lighting.
- 45. 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.
- 46. Outdoor areas - Prohibition of live bands, amplified music or speakers-** Live bands, amplified music or loud speakers are not permitted in the outdoor areas or indoor children play areas at any time.
- 47. Maintenance of Sound Attenuation-** Sound attenuation must be maintained in accordance with the Acoustic Report submitted by Koikas acoustics Pty Ltd titled Acoustical report – Place of worship prepared dated 22/12/2021.
- 48. Final Acoustic Report – Verification of Noise report-** Within three months from the issue of an Occupation Certificate, an acoustic assessment is to be carried out by an appropriately qualified acoustic consultant, in accordance with the [EPA's Industrial Noise](#)

[Policy](#) and submitted to Council for consideration. This report should include but not be limited to, details verifying that the noise control measures as recommended in the acoustic report submitted by by Koikas acoustics Pty Ltd titled Acoustical report – Place of worship prepared dated 22/12/2021 are effective in attenuating noise to an acceptable noise level and that the use is not calculated to give rise to ‘offensive noise’ as defined under the provision of the [Protection of the Environment Operation Act 1997](#) (as amended). Acoustic measurements should occur during church service times.

Operational Requirements Under the Environmental Planning & Assessment Act 1979

49. **Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued.
50. **Appointment of a PCA** - The erection of a building must not commence until the applicant has:
 - 1.
 2. (a) appointed a PCA for the building work; and
 - 3.
 4. (b) if relevant, advised the PCA that the work will be undertaken as an Owner - Builder.
 - 5.
 6. If the work is not going to be undertaken by an Owner - Builder, the applicant must:
 - 7.
 8. (a) appoint a Principal Contractor to undertake the building work. If residential building work (within the meaning of the [Home Building Act 1989](#)) is to be undertaken, the Principal Contractor must be a holder of a contractor licence; and
 - 9.
 10. (b) notify the PCA of the details of any such appointment; and
 - 11.
 12. (c) notify the Principal Contractor of any critical stage inspections or other inspections that are required to be carried out in respect of the building work.
 - 13.
 14. An Information Pack is attached for your convenience should you wish to appoint Georges River Council as the PCA for your development.
 - 15.
51. **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.
52. **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.
53. **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](#).

- 54. 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.

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

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

An Occupation Certificate Application Form is attached for your convenience.

Prescribed Conditions

- 56. 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.
- 57. 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.
- 58. Clause 98E - Protection & support of adjoining premises** - If the development involves excavation that extends below the level of the base of the footings of a building on adjoining land, this prescribed condition requires the person who benefits from the development consent to protect and support the adjoining premises and where necessary underpin the adjoining premises to prevent any damage.

END CONDITIONS

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. **Council Appointed as the PCA** - Should the Council be appointed as the Principal Certifier in determining the Construction Certificate, the building must comply with all the applicable deemed to satisfy provision of the 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, including in relation to the provision of egress and the protection of openings etc. must be submitted with the Construction Certificate Application.
5. **FR NSW comments** - Prior to the issue of a Construction Certificate the applicant may be required, under Clause 144 of the Environmental Planning & Assessment Regulation 2000 to seek written comment from FR NSW about any Fire Engineered Solution developed to meet the performance requirements under Category 2 Fire Safety Provisions.

The applicant is also advised to seek written advice from FR NSW on the location and construction of the proposed Fire Control Centre Facility, the location and installation of the sites Fire Indicator/Mimic Panels and the location, use and installation of Hydrant/Sprinkler Booster facilities.

6. **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 Basix Certificate. 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.
7. **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/nqlg.htm>) and the Industrial Noise Guidelines (<http://www.environment.nsw.gov.au/noise/industrial.htm>) publish by the Department of Environment and Conservation. Other state government authorities also regulate the Protection of the Environment Operations Act 1997.

Useful links relating to Noise:

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

- (c) New South Wales Government Legislation home page for access to all NSW legislation, including the Protection of the Environment Operations Act 1997 and the Protection of the Environment Noise Control Regulation 2000 (www.legislation.nsw.gov.au).
- (d) Australian Acoustical Society - professional society of noise-related professionals (www.acoustics.asn.au/index.php).
- (e) Association of Australian Acoustical Consultants - professional society of noise related professionals (www.aaac.org.au).
- (f) Department of Gaming and Racing - (www.dgr.nsw.gov.au).

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

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

9. 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. 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.

11. 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.

- 12. 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).

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

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

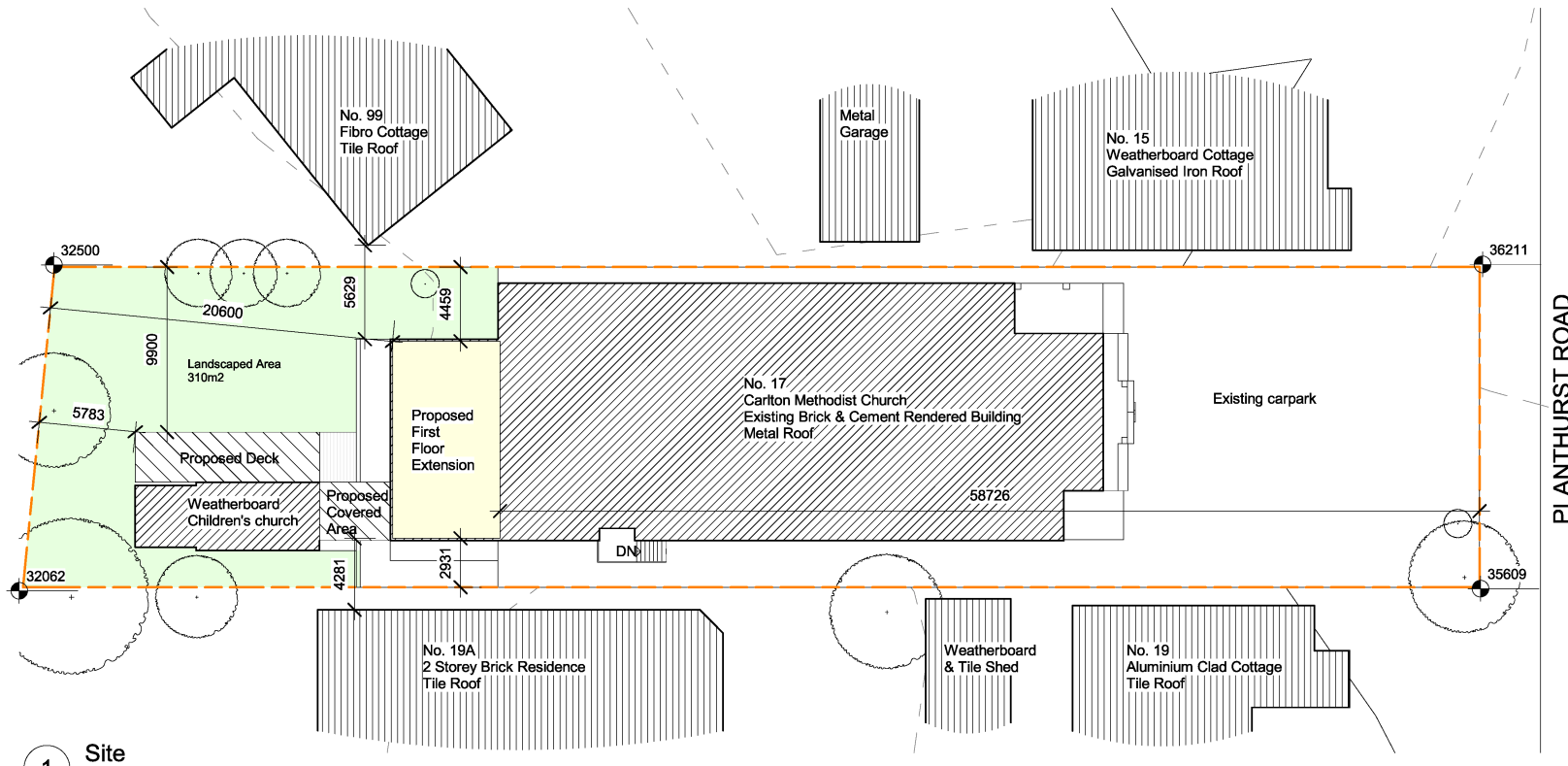
It remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.

"Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost. It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected be entering and leaving the site."

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

ATTACHMENTS

Attachment [1](#)  Architectural plans



1 Site
1 : 250

Total Site Area: 1,658 m²
LEP allowable FSR: 0.55:1

Existing Floor Area (Total): 690.18 m²
Existing FSR: 0.41:1

Proposed Extension: 71.78m²
Proposed Floor Area (Total): 761.96
Proposed FSR: 0.46:1

Area (GFA - Existing)	
Name	Area
Existing Level 1	65.86 m ²
Ground Floor Main Building	583.76 m ²
Small Chapel	40.56 m ²
Grand total	690.18 m ²

Area (GFA - Proposed)	
Name	Area
Existing Level 1	65.86 m ²
Ground Floor Main Building	583.76 m ²
Proposed Extension	71.78 m ²
Small Chapel	40.56 m ²
Grand total	761.96 m ²

Legend

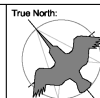
- Proposed Addition
- Existing
- Neighbours
- Balconies & Verandahs
- Landscaped Area



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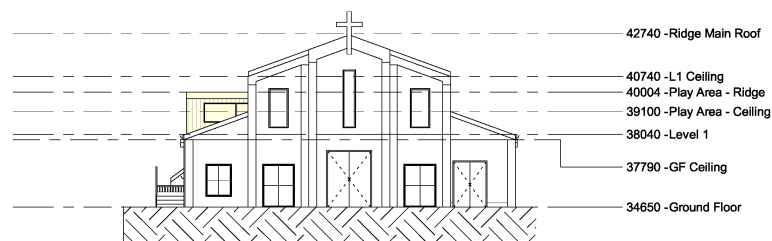
ISSUE	PURPOSE OF ISSUE	DATE
A	FOR PRELIMINARY DISCUSSION ONLY	12/05/2021
B	FOR PRELIMINARY DISCUSSION ONLY	24/05/2021
C	FOR PRELIMINARY DISCUSSION ONLY	21/06/2021

0m 5m 10m 15m 20m 25m
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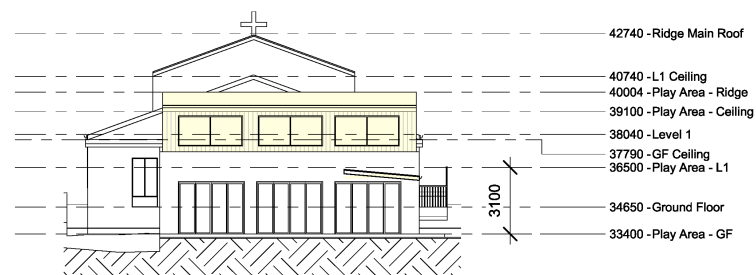


**CARLTON METHODIST CHURCH
ALTERATIONS AND ADDITIONS
17 PLANTHURST ROAD, ALLAWAH**
SITE PLAN
Scale 1:250 Drawn by FS Project no. 21230 Issue C

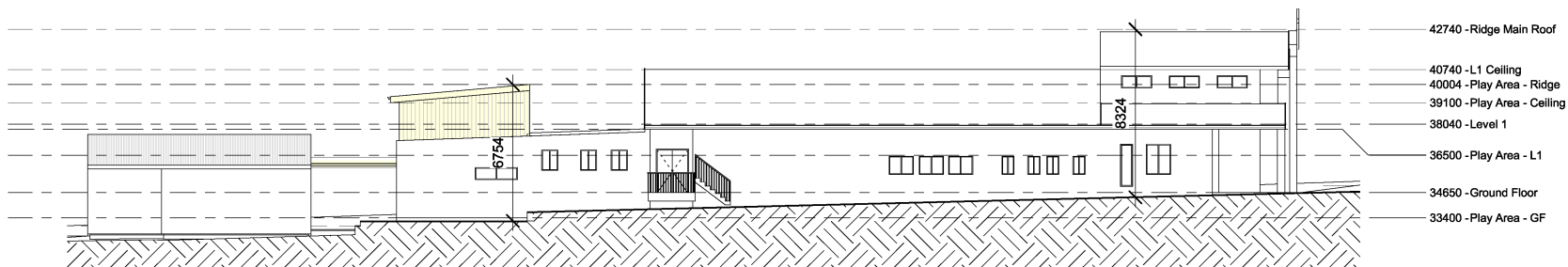
Sheet no.
DA02
22/6/21 6:32:34 PM



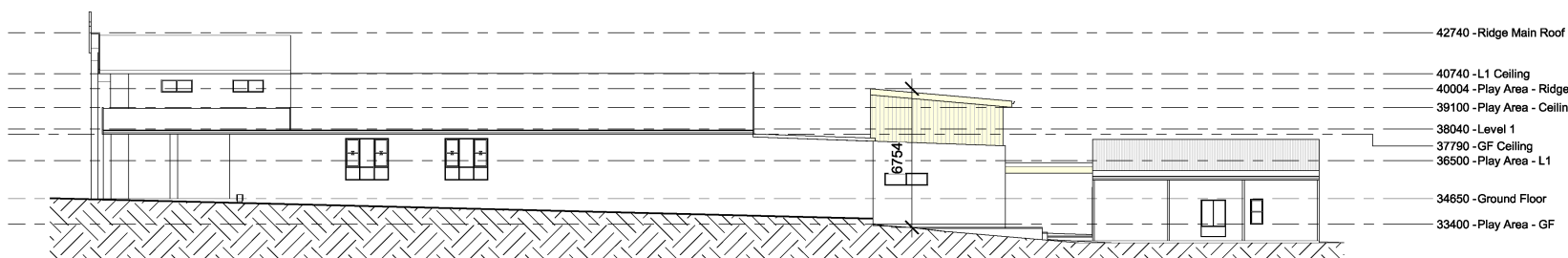
1 East Elevation
1 : 200




2 West Elevation
1 : 200

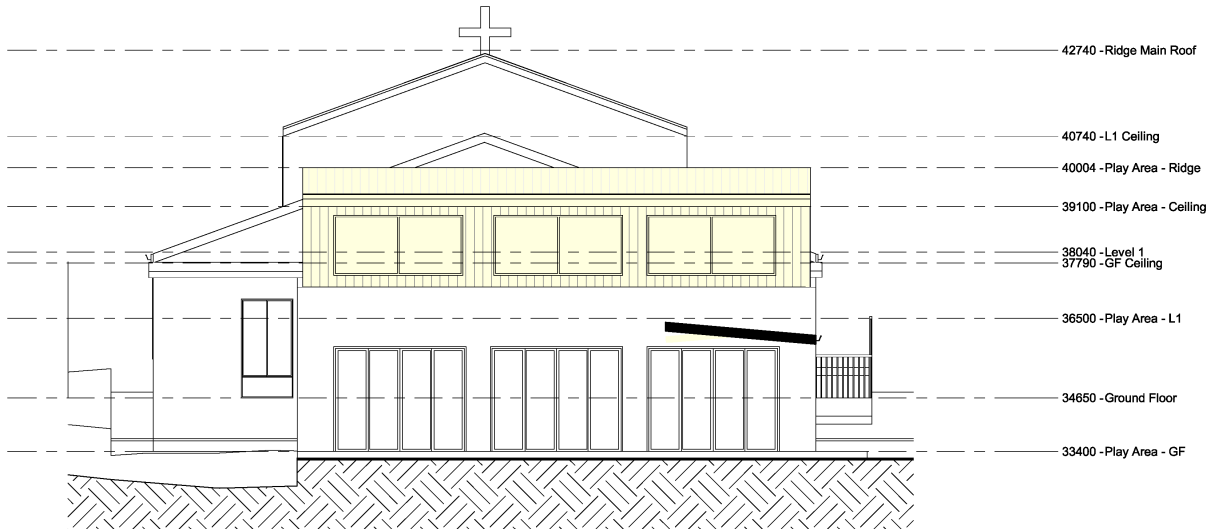


3 South Elevation
1 : 200

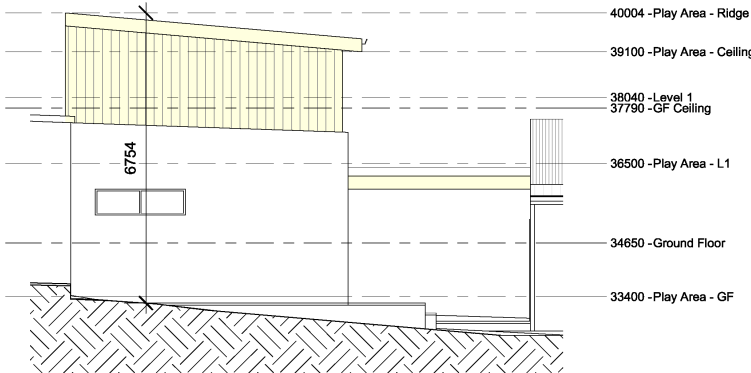


4 North Elevation
1 : 200

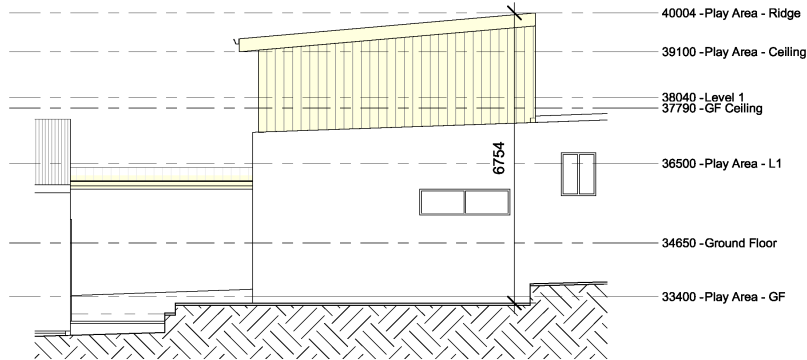
 Fab Siqueira Architect NSW registration No. 8308 E: info@fab1.com.au M: 0431 845 155	ISSUE	PURPOSE OF ISSUE	DATE	0m 4m 8m 12m 16m 20m True North:	CARLTON METHODIST CHURCH ALTERATIONS AND ADDITIONS 17 PLANTHURST ROAD, ALLAWAH ELEVATIONS - PROPOSED Scale 1:200 Drawn by FS Project no. 21230 Issue C	Sheet no. DA20 22/6/21 6:32:38 PM
	A	FOR PRELIMINARY DISCUSSION ONLY	12/05/2021			
	B	FOR PRELIMINARY DISCUSSION ONLY	24/05/2021			
	C	FOR PRELIMINARY DISCUSSION ONLY	21/06/2021			



1 Play Area West Elevation
1 : 100



2 Play Area North Elevation
1 : 100



3 Play Area South Elevation
1 : 100



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ISSUE	PURPOSE OF ISSUE	DATE
A	FOR PRELIMINARY DISCUSSION ONLY	12/05/2021
B	FOR PRELIMINARY DISCUSSION ONLY	24/05/2021
C	FOR PRELIMINARY DISCUSSION ONLY	21/06/2021

0m	2m	4m	6m	8m	10m
True North					
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CARLTON METHODIST CHURCH ALTERATIONS AND ADDITIONS 17 PLANTHURST ROAD, ALLAWAH			
ELEVATIONS - PROPOSED			
Scale	1:100	Drawn by	FS
Project no.	21230	Issue	C

Sheet no.	DA22
22/6/21 6:32:38 PM	



1 3D View 1



ISSUE	PURPOSE OF ISSUE	DATE
A	FOR PRELIMINARY DISCUSSION ONLY	12/05/2021
B	FOR PRELIMINARY DISCUSSION ONLY	24/05/2021
C	FOR PRELIMINARY DISCUSSION ONLY	21/06/2021

DO NOT SCALE FROM THIS DRAWING use given dimensions. Contractor/ Builder is to check all dimensions on site prior to commencement of shop drawings or fabrication. Any discrepancies are to be referred to the architect/ designer prior to commencement of work. This drawing is to be used in accordance with its "purpose of issue" only. No responsibility will be accepted for the improper use of this drawing. Architectural drawings indicate design intent only. Builder is to ensure that all construction is in accordance with all relevant Australian Standards, legislation, Codes and local authority's requirements. Services are not shown on architectural plans - each contractor and consultant are required to make their own enquiries. Copyright (C) Fabricio Siqueira Architect.

True North:

CARLTON METHODIST CHURCH
ALTERATIONS AND ADDITIONS
17 PLANTHURST ROAD, ALLAWAH

Sheet no.

DA40

Scale	Drawn by	FS	Project no. 21230	Issue	C
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**REPORT TO GEORGES RIVER COUNCIL
LPP MEETING OF THURSDAY, 16 JUNE 2022**

LPP031-22

LPP Report No	LPP031-22	Development Application No	MOD2022/0025
Site Address & Ward Locality	2-10 Palmerston Street Kogarah NSW 2217 Kogarah Bay Ward		
Proposed Development	Modification of Consent No: DA9/2017/112/1 for the construction of a residential flat building, commercial unit and serviced apartments over basement parking.		
Owners	AVJennings SPV No 10 Pty Ltd		
Applicant	Mr. Benjamin Whittam		
Planner/Architect	Planner: GLN Planning / Architect: Smith and Tzannes		
Date Of Lodgement	29/01/2022		
Submissions	No submissions		
Cost of Works	\$24,911,188.44		
Local Planning Panel Criteria	Development standard variation by more than 10% (Height of Building) and the Building is Subject to the provisions of SEPP 65.		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, Georges River Local Environmental Plan 2021, Georges River Development Control Plans 2021		
List all documents submitted with this report for the Panel's consideration	Architectural Plans, Statement of Environmental Effects, Traffic Report, Access Report, BASIX, Design Verification Statement, Section J Report, Shadow diagrams, previously approved plans.		
Report prepared by	Senior Development Assessment Officer		

Recommendation	That the application be approved in accordance with the conditions included in this report.
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Summary of matters for consideration under Section 4.15 Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction	

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Not Applicable as this is a modification application
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	Not Applicable
Conditions Have draft conditions been provided to the applicant for comment?	No, conditions can be reviewed when the report is published

Site Plan



Figure 1: Aerial view of site

Executive Summary

Proposal

1. Development consent (DA9/2017/112/1) was granted by the NSW Land and Environment Court (LEC) on 20 September 2018 for the construction of a residential flat building comprising fifty-one (51) residential dwellings and six (6) serviced apartments over three (3) levels of basement parking for sixty-three (63) car parking spaces at 2 – 10 Palmerston Street, Kogarah.
2. A subsequent MOD2019/0116 made under sections 4.55 (2) and (8) of the Environmental Planning and Assessment Act 1979 was granted by the NSW Land and Environment Court (LEC) on 01 July 2020 to modify development consent No. DA9/2017/112/1.
3. The current modification application made under section 4.56 of the Act seek consent to modify DA9/2017/112/1 (as modified) as follows:

Basement 3

- Reduction in the overall basement size by removal of the lowest half storey. Traffic light system incorporated. Level changes.
- General amendments including reconfiguration of car parking layout including storage location, staircase shape, new location for bicycle parking, introduction of motorcycle parking.

Basement 2

- General amendments including reconfiguration of car parking layout and levels including storage location, staircase shape, reduction in bicycle parking, introduction of motorcycle parking, and additional accessible parking provided.

Basement 1

- Addition of building services utility rooms such as hydrant pump room, carpark ventilation room, car wash bay, comms room and removal of building caretaker room;
- General amendments including reconfiguration of car parking layout and levels including storage location, staircase shape, reduction in bicycle parking, introduction of motorcycle parking, and additional accessible parking provided.

Ground Floor

- Addition of building services utility rooms such as hydrant tank room, sprinkler tank room, storage room.
- General amendments including reconfiguration of car parking layout including storage location, staircase shape, redesigned waste room (increased in size).
- Relocation of on-site detention (OSD) tank its approved location underneath the deep soil area adjacent to south-eastern boundary to be over the basement portion along north-eastern boundary.
- Relocation of substation closer to Railway Parade to meet Ausgrid requirements.
- Increase in floor area of ground floor retail unit and reconfiguration from 80sqm to 85sqm, and introduction of a bathroom to the retail unit.

- New bicycle parking along street interface within retail tenancy.

Upper Ground Floor

- Redesigned pedestrian entry from Palmerston Road to serviced apartments floor to allow for accessible entry.
- General reconfiguration of floor layout and unit layout.

Levels 1, 2 and 3

- General reconfiguration of floor layout and unit layout. Services added.

Levels 4 - 9

- General reconfiguration of floor layout and unit layout. Services added.

Levels 10

- General reconfiguration of floor layout and unit layout. Services added.

Levels 11

- General reconfiguration of floor layout and unit layout. Services added.
- Relocation of communal barbeque area, addition of a cleaner storage room, and storage room adjacent to mechanical exhaust room.

Roof

- Overall increase in height by 350mm (to allow for structural requirements).
- Addition of mechanical ducting and sewer ventilation pipe.

Note: Setbacks and unit mix will remain as approved.

Site and Locality

4. The Site is legally described as Lots 51, 52 and 56 in Section A of DP1397, Lot 1 in DP908581 and Lot 1 in DP 908582.
5. The Site is located on the corner of Palmerston Street and Railway Parade, Kogarah and forms part of the Kogarah North Precinct area (discussed below). The Site has a frontage to Palmerston Street of 36.7 meters and a frontage to Railway Parade of 36.57 meters. The total Site area is 1345.7sqm. The Site has a cross fall of up to approximately 5.5 metres running from south to north.
6. The site is currently vacant with a visible step in the topography. A number of onsite and street trees are located along the site's perimeter.
7. Adjoining the Site to the south-east is No. 12 Palmerston Street, Kogarah. This allotment currently accommodates a two (2) storey residential flat building. Adjoining the Site to the north-east is a multi storey residential flat building at Nos. 22–24 Railway Parade, Kogarah as well as a large, open green space associated with St George Girls' High School.
8. To the south-east of the Site, on the opposite side of Palmerston Street, are detached single dwellings as well as a part 2, part 3 storey residential flat building on the corner of Palmerston Street and Railway Parade, Kogarah.

9. To the north/northwest of the Site on the opposite side of Railway Parade is the rail corridor.
10. The Site is located in close proximity to Kogarah Town Centre, Kogarah Railway station, Kogarah High School, St George Girls' High School and St George TAFE.
11. The Site is located approximately 750m from Rockdale Plaza.
12. Following the gazettal of Amendment No. 2 to KLEP 2012 (known as the Kogarah City Plan) on 26 May 2017, the Site is part of an area generally known as the Kogarah North Precinct.

Zoning and Permissibility

13. The Site is zoned R4 – High Density Residential under the provisions of the Georges River Local Environmental Plan 2021. Shop top housing and serviced apartments are permissible uses with consent.

Planning and Design Issues

14. The original development consent was approved with a Clause 4.6 variation request with a variation of 2.14m (6.48% variation) to Clause 4.3 building height development standard of Kogarah Local Environmental Plan 2012. The subsequent approved modification sought to increase the height by 3.68 (11.15% variation) via modification MOD2019/0116 approved 1 July 2020.
15. The currently proposed modification seeks to increase the height by up to 4.03m being a 12.21% variation. A statement in support of this variation has been submitted within the Statement of Environmental Effects.
16. The Georges River LEP 2021 identifies a maximum height of 33m for the site and the proposed modification will result in a maximum height of 37.03m (RL 56.53m AHD). The height breach relates to the lift over run, fire stairs, WC, parapet, roof over barbeque areas, storage rooms, and associated services. The proposal generally satisfies the objectives of the height control development standard.

Submissions

17. The application was notified in accordance with Council's neighbour notification policy between 17 February 2022 and 03 March 2022 and no submissions were received.

Conclusion

18. Having regard to the matters for consideration under sections 4.56 and 4.15(1) of the Environmental Planning and Assessment Act 1979 and following a detailed assessment, the proposed Modification Application (MOD2022/0025) is recommended for approval subject to conditions referenced at the end of this report

Report in Full

Background and Proposal

19. Development consent (DA9/2017/112/1) was granted by the NSW Land and Environment Court (LEC) on 20 September 2018 for the construction of a residential flat building comprising fifty-one (51) residential dwellings and six (6) serviced apartments over three (3) levels of basement parking for sixty-three (63) car parking spaces at 2 – 10 Palmerston Street, Kogarah.

20. A subsequent MOD2019/0116 made under sections 4.55 (2) and (8) of the Environmental Planning and Assessment Act 1979 was granted by the NSW Land and Environment Court (LEC) on 01 July 2020 to modify development consent No. DA9/2017/112/1.
21. The current modification application made under section 4.56 of the Act seek consent to modify DA9/2017/112/1 (as modified) as follows:

Basement 3

- Reduction in the overall basement size by removal of the lowest half storey. Traffic light system incorporated. Level changes.
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- General reconfiguration of floor layout and unit layout. Services added.

Levels 10

- General reconfiguration of floor layout and unit layout. Services added.

Levels 11

- General reconfiguration of floor layout and unit layout. Services added.
- Relocation of communal barbeque area, addition of a cleaner storage room, and storage room adjacent to mechanical exhaust room.

Roof

- Overall increase in height by 350mm (to allow for structural requirements).
- Addition of mechanical ducting and sewer ventilation pipe.

Note: Setbacks and unit mix will remain as approved.

Development Summary

22. A numerical summary of the approved development and the modifications proposed with a comparison between the approved development and the subject Section 4.56 application detailed in the table below.

Element (requirement)	Approved (MOD2019/0016)	Proposed
Site Area	1345.7sqm	1345.7sqm
Gross Floor Area (5,382.8sqm)	5,279sqm	5229sqm
Floor Space ratio (4:1)	3.92:1	3.88:1
Height (33m) – original height approved under DA (35.34m or RL 54.64)	36.68m (RL 56.18)	37.03m (RL 56.53)
Storeys	11 storeys	11 storeys
Apartments (including serviced)	55	55
Apartment Mix	<ul style="list-style-type: none"> • 7 x 1 bedroom • 30 x 2 bedrooms • 14 x 3 bedroom • 4 x Serviced • 1 x retail (80sqm) 	<ul style="list-style-type: none"> • 7 x 1 bedroom • 30 x 2 bedrooms • 14 x 3 bedroom • 4 x Serviced (2 x 2 bedroom, and 2 x 1 bedroom) • 1 x retail (85sqm)
Adaptable apartments	7 (12.5%)	7 (12.5%)
Car parking (66)	75 spaces comprising <ul style="list-style-type: none"> • 58 residential spaces • 11 visitor spaces 	71 spaces comprising: <ul style="list-style-type: none"> • 55 residential

	<ul style="list-style-type: none"> • 2 Retail spaces • 4 Serviced spaces 	spaces <ul style="list-style-type: none"> • 10 visitor spaces • 2 Retail spaces • 4 Serviced spaces
Bicycle Parking (23)	27 spaces	27 spaces
Motorcycle Parking (no requirement)	0	9 spaces
Common Open Space (25% or 336.5sqm)	348sqm (25.8% of the site)	353sqm (26.2% of the site)
Deep Soil Area (7% or 94.22sqm)	211sqm (15.67%)	188sqm (13.97%)
Solar access for apartments (70%)	62% - 2 hours	62% - 2 hours
Cross ventilation for apartments (60%)	78%	78%

The Site and Locality

23. The Site is legally described as Lots 51, 52 and 56 in Section A of DP1397, Lot 1 in DP908581 and Lot 1 in DP 908582.
24. The Site is located on the corner of Palmerston Street and Railway Parade, Kogarah and forms part of the Kogarah North Precinct area (discussed below). The Site has a frontage to Palmerston Street of 36.7 meters and a frontage to Railway Parade of 36.57 meters. The total Site area is 1345.7sqm. The Site has a cross fall of up to approximately 5.5 metres running from south to north.
25. The site is currently vacant with a visible step in the topography. A number of onsite and street trees are located along to the site's perimeter.
26. Adjoining the Site to the south-east is No. 12 Palmerston Street, Kogarah. This allotment currently accommodates a two (2) storey residential flat building. Adjoining the Site to the north-east is a multi storey residential flat building at Nos. 22–24 Railway Parade, Kogarah as well as a large, open green space associated with St George Girls' High School.
27. To the south-east of the Site, on the opposite side of Palmerston Street, are detached single dwellings as well as a part 2 and part 3 storey residential flat building on the corner of Palmerston Street and Railway Parade, Kogarah.
28. To the north/northwest of the Site on the opposite side of Railway Parade is the rail corridor.
29. The Site is located in close proximity to Kogarah Town Centre, Kogarah Railway station, Kogarah High School, St George Girls' High School and St George TAFE.
30. The Site is located approximately 750m from Rockdale Plaza.
31. Following the gazettal of Amendment No. 2 to KLEP 2012 (known as the Kogarah City Plan) on 26 May 2017, the Site is part of an area generally known as the Kogarah North Precinct.



Figure 2:

View of the building from the street corner **Compliance and Assessment**

32. The development site has been inspected and assessed having regard to Matters for Consideration under Sections 4.56 and 4.15(1) of the Environmental Planning and Assessment Act 1979.

Section 4.56 Modification under the Environmental Planning and Assessment Act, 1979

33. The proposal has been considered against the relevant statutory provisions of Section 4.56 as follows:

- (1) *A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the Court and subject to and in accordance with the regulations, modify the development consent if—*
 - (a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
 - (b) *it has notified the application in accordance with—*
 - i. *the regulations, if the regulations so require, and*
 - ii. *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
 - (c) *it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and*
 - (d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

34. The application has been made pursuant to Section 4.56(1) of the Environmental Planning and Assessment Act 1979 to modify Development Consent No. DA9/2017/112/1, seeking consent for internal and external modifications and amendments including changes to the maximum height of the building, new roof top plant, changes to the unit layouts and services, basement layouts and level changes, and changes to the facades of the building.

35. Section 4.56(1) of the EP&A Act 1979 enables the consent authority to modify a development consent upon application being sought by the applicant or any person

entitled to act on the consent, provided that the consent authority is satisfied by the criteria as specified in Section 4.56 being met. This is further discussed below:

(a) It is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and

36. Comment: The proposed development as modified would represent substantially the same development for which consent was originally granted.

37. The application seeks to amend the development through internal and external modifications including changes to the maximum height of the building, changes to the unit and basement layouts and levels, changes to the facades of the building and additional roof top plant. The general building form remains consistent with the approved development type and the use of the building remains as a shop top housing and serviced apartment development and is considered to be 'substantially the same'.

(b) It has notified the application in accordance with:

(i) The regulations, if the regulations so require, and

38. Comment - In accordance with the public notification provisions of Council, the application was placed on neighbour notification. No submissions received.

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

39. Comment - The application was notified in accordance with Council's neighbour notification policy between 17 February 2022 and 03 March 2022 and no submissions were received.

(c) It has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and

40. Comment – The application was notified in accordance with Council's neighbour notification policy between 17 February 2022 and 03 March 2022 and no submissions were received.

(d) It has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

41. Comment – no submissions were received.

(1A) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons

given by the consent authority for the grant of the consent that is sought to be modified.

42. **Comment:** The modification application retains predominantly the same building envelope as the approved development and the fundamental components of the approved layout of the development. The proposed development remains an 11-storey building with basement parking. The amendments to the approved development result in a minor reduction of the approved GFA and level changes. There is a slight 350mm increase to the maximum height of the building and this is discussed in detail later in the report. The changes proposed are generally within the footprint of the building and do not significantly change the external appearance of the building with the exception of the additional roof top plant.
43. The proposal has been considered under the provisions of Section 4.15 of the Act and have been addressed in further detail later in this report.

State Environmental Planning Policies

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

State Environmental Planning Policy	Complies
State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development	Yes
State Environmental Planning Policy (Resilience and Hazards) 2021	Yes
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Yes
State Environmental Planning Policy (Transport and Infrastructure) 2021	Yes
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Yes

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

45. 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 (3) or more storeys in height and containing at least four (4) 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.
46. An amended design verification statement dated 19 November 2021 has been provided by Andrew Nicolle (Registration No.10856) of Smith and Tzannes in accordance with Clause 29 of the Environmental Planning and Assessment Regulation 2021.

Application of SEPP 65

Clause	Standard	Proposal	Complies
3 - Definitions	Complies with definition of “Residential Apartment Development”	The proposal complies with this definition.	Yes
4 - Application	Development involves the erection of a new RFB,	This is a modification of an approved mixed use/shop top	Yes

of Policy	substantial redevelopment or refurbishment of a RFB or conversion of an existing building into a RFB	housing development.	
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47. Clause 29(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 (as modified) when evaluated in accordance with the design quality principles, and*
 - (c) *the Apartment Design Guide.*
48. The modification application was not referred to Council's Urban Designer given the application did not substantially change and still retains largely the same external finishes, footprint, and internal layout. The application has been reviewed having regard to the criterion of the ADG.
49. The proposal satisfactorily satisfies the Design Quality Principles and provisions of the ADG. The tables below provide a comprehensive assessment against the principles, objectives and controls of State Environmental Planning Policy 65 and the ADG.

SEPP 65 - Schedule 1 Design quality principles

Clause	Council's comments	Complies
1 – Context and neighbourhood character	The application seeks to amend the development through internal and external modifications comprising a reduction of the basement size, level changes and amending the internal layout and facades of the building and the addition of roof top plant. There is also an increase to the maximum height of the building. The general building form remains consistent with the approved development type and the use of the building remains as a shop top housing (mixed use) development and serviced apartments.	Yes
2 – Built form and scale	The approved shop top housing development and serviced apartments is located in an area undergoing change and therefore is compatible with the future character of the area given the uplift presently being experienced.	Yes
3 – Density	The proposal complies with the Floor Space Ratio control as per the Georges River LEP 2021.	Yes
4 – Sustainability	The development as modified makes efficient use of natural resources, namely energy and water throughout its full life cycle. The proposal is supported by an amended BASIX certificate. The development as modified is designed to incorporate ESD principles.	Yes
5 – Landscape	The landscaped area although reduced remains compliant with the 7% ADG requirement.	Yes
6 – Amenity	The residential apartments still achieve the amenity	Yes

	objectives and controls as per the AGD.	
7 – Safety	The main entrances to the building remain largely as approved. The serviced apartment entrance is slightly amended for accessibility purposes. The other two entries to the building, being the commercial tenancy and the main entry off Railway Parade have been amended to facilitate a more appropriate connection to the public domain and to accommodate the internal reconfiguration of the development. The new layout retains apartments with a frontage to both streets which aids in providing further opportunities for street surveillance.	Yes
8 – Housing diversity and social interaction	The proposal will retain the existing approved apartment mix being: <ul style="list-style-type: none"> • 7 x 1 bedroom • 30 x 2 bedrooms • 14 x 3 bedroom • 4 x Serviced 	Yes
9 – Aesthetics	It is considered that the proposed addition is consistent with that of the approved shop top housing building and serviced apartments.	Yes

Clause 29 (2)(c) – Consideration of Apartment Design Guide

50. An assessment has been undertaken based on the amended proposal.

Objective	Standard	Proposal	Complies
Part 3 Siting the development			
3D – Communal and Public Open Space	<p>1. Communal open space has a minimum area equal to 25% of the site.</p> <p>- Where it cannot be provided on ground level it should be provided on a podium or roof.</p> <p>The communal open space is to be a minimum of 25% of the site, which equates to 513.6sqm for the subject site.</p> <p>- Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or</p>	The proposal will slightly increase the communal open space area by 4sqm to be 353sqm (26.2% of site).	Yes

	<p>in a dense urban area, they should:</p> <ul style="list-style-type: none"> • provide communal spaces elsewhere such as a landscaped roof top terrace or a common room • provide larger balconies or increased private open space for apartments • demonstrate good proximity to public open space and facilities and/or provide contributions to public open space <p>2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)</p>	<p>The communal open space is located along the upper ground floor and on the rooftop. The rooftop receives adequate levels of solar access given its unobstructed location.</p>	Yes
3E – Deep Soil Zones	<p>1. Deep soil zones are to meet the following minimum requirements:</p> <p>Where site area is between 650sqm and 1500sqm = 3m minimum dimension</p> <p>Deep soil = 7%</p>	<p>The proposal results in a slight decrease in deep soil landscaping to accommodate services, however the amount of deep soil provided still exceeds the 7% requirement being 188sqm (13.97%) and has a dimension of 3m.</p>	Yes
3F – Visual Privacy	<p>1. Separation between windows and balconies is provided to ensure visual privacy is achieved.</p> <p>Minimum required separation distances from buildings to the side and rear boundaries are as</p>		

	<p>follows:</p> <p>Up to 12m (4 storeys) Habitable rooms and balconies = 6m</p>	<p>The distance between the proposed apartments and the adjoining buildings will remain as existing.</p> <p>The proposal involves slight amendments to the external treatment and levels however the building largely will remain as approved when viewed from surround developments.</p>	Yes
3G – Pedestrian access and entries	Building entries and pedestrian access connects to and addresses the public domain	The main building pedestrian entry points still provide a direct connection with the street.	Yes
3H – Vehicle Access	Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes	This element remains unaltered by this proposal. A speed hump was added along the exit way as recommended by Council's Senior Traffic and Parking Assessment Officer.	Yes
3J – Bicycle and car parking	<p>1. For development in the following locations:</p> <p>On sites that are within 800m of a railway station or light rail stop in the Sydney Metropolitan Area;</p> <p>- The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant Council, whichever is less</p> <p>The car parking</p>	<p>The proposal refers to the RMS Guide for Traffic Generating Development (GTTGD) given the site's location less than 800m from a Kogarah Station. The Georges River designates Kogarah as a 'sub-regional' metropolitan centre; thus those rates have been considered:</p> <p><u>Residential</u></p> <p><u>Metropolitan sub-regional centres:</u></p> <p>0.6 spaces per 1 bedroom apartment (5 required in this case)</p> <p>0.9 spaces per 2-bedroom apartment (27 required in this case)</p> <p>1.4 spaces per 3-bedroom apartment (20 required in</p>	Yes

	<p>needs for a development must be provided off street</p>	<p>this case) 1 space per 5 apartments (visitor parking) (10 required in this case)</p> <p>As per the above, the proposal will require 62 car parking spaces for the residential component (excluding serviced apartments).</p> <p>The proposal provides 65 residential car spaces therefore satisfying the residential component for car parking.</p> <p><u>Note:</u> Each of the tandem car spaces in basement 3 will be required to be allocated to an individual unit.</p> <p>51 residential units are proposed, and each unit will be allocated with at least 1 car space. Conditions imposed accordingly.</p> <p><u>Serviced apartments</u></p> <p>The Georges River DCP 2021 requires parking for serviced apartments at a rate of 1 space/ 5 bedrooms.</p> <p>In this case 2 car spaces are required and four (4) have been provided.</p> <p><u>Retail</u></p> <p>The Georges River DCP 2021 requires parking for retail premises at a rate of 1 space / 40sqm of GFA.</p> <p>In this case 2 car spaces are required and 2 have been provided.</p>	
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		In total the development provides 71 car spaces, while the requirement is 66 (5 additional car spaces required to contribute towards FSR as per section 12 (2) of Part 10 of the Georges River DCP 2021. The GFA is compliant.	
Part 4 Designing the building			
4A – Solar Access	<p>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area</p> <p>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter</p>	Solar access to units will remain as approved.	Yes
4B – Natural Ventilation	<p>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.</p> <p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line</p>	Ventilation to units will remain as approved.	Yes
4C – Ceiling Heights	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <p>Habitable rooms = 2.7m</p> <p>Non-habitable rooms = 2.4m</p>	2.7m to all residential units.	Yes
4D 1 –	Apartments are		

Apartment size and layout	<p>required to have the following minimum internal areas:</p> <p>1 bedroom: 50sqm 2 bedrooms: 70sqm 3 bedrooms: 90sqm</p> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each</p> <p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms</p>	<p>All bedroom sizes are compliant.</p> <p>Concern was raised with regard to study rooms within multiple bedrooms such as unit 1.04 (levels 1-3) given it is a habitable room with no window. Given that this aspect of the unit was not modified and was previously approved, it was not required that the layout be changed. The applicant clarified that the door leading to the study room will be glazed for borrowed light.</p> <p>All other residential units have adequate windows.</p>	<p>Yes</p> <p>As approved.</p>
4D 2 – Apartment rooms, location and sizes	<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>	Will largely remain as approved.	Yes
4D 3 – Apartment rooms, location and sizes	<p>Living rooms or combined living/dining rooms have a minimum width of:</p> <p>1. Master bedrooms have a minimum area of 10sqm and other bedrooms 9sqm (excluding wardrobe</p>	Will largely remain as approved.	Yes

	<p>space).</p> <p>2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space).</p> <p>3. Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments 		
4E – Private Open Space and balconies	<p>All apartments are required to have primary balconies as follows:</p> <p>2 bedroom apartments: 10sqm and 2m</p> <p>3+ bedroom apartments: 12sqm 2.4m</p>	Will largely remain as approved.	Yes
4F – Circulation spaces	The maximum number of apartments off a circulation core on a single level is eight	Will largely remain as approved.	Yes
4G – Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <p>1 bedroom – 8m³ 2 bedrooms - 8m³ 3+ bedrooms - 10m³</p> <p>50% of storage to be located within the apartment.</p>	The storage provided is acceptable.	Yes
4K – Apartment Mix	A variety of apartment types is provided	Will largely remain as approved.	Yes

4M – Facades	Facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale.	The façade is well articulated and varied through the use of different materials and finishes.	Yes
4N – Roof Design	Roof treatments are integrated into the building design and positively respond to the street. Opportunities to use roof space for residential accommodation and open space are maximised. Incorporates sustainability features.	The roof design has largely remained as approved, albeit being slightly modified in form and raised by 350mm and the inclusion of additional roof top plant.	Yes
4O – Landscape Design	Landscape design is viable and sustainable, contributes to the streetscape and amenity	The landscape treatment was slightly modified to take into account the modifications made throughout the development. The proposal was referred to Council's Senior Landscape & Arboriculture Assessment Officer and was supported.	Yes
4P – Planting on structures	Planting on structures – appropriate soil profiles are provided, plant growth is optimised with appropriate selection and maintenance, contributes to the quality and amenity of communal and public open spaces.	The extent of planter boxes along the level 11 communal area perimeter were initially reduced to two sides only, however it was required to be reinstated on all four sides of the communal area. Amended plans submitted and were acceptable.	Yes
4Q – Universal Design	Universal design – design of apartments allow for flexible housing, adaptable designs, accommodate a range of lifestyle needs	Design and mix of apartments allows for different occupants with a range of lifestyle needs. Lift access is provided to all apartments.	Yes
4R – Adaptive Reuse	Adaptive reuse as apartment of existing	The proposal is a new development and not an	Yes

	buildings- new additions are contemporary and complementary, provide residential amenity while not precluding future adaptive reuse	adaptive reuse of a building.	
4U – Energy Efficiency	Development incorporates passive environmental design, passive solar design to optimise heat storage in winter and reduce heat transfer in summer, natural ventilation minimises need for mechanical ventilation	The proposal incorporates a compliant BASIX Certificate, with the commitments in the design to provide appropriate energy efficiency features.	Yes
4W – Waste Management	Waste management – storage facilities are appropriately designed, domestic waste is minimised by convenient source separation and recycling	Waste facilities are provided in addition to a waste chute incorporated. The waste room largely remains as originally approved and is compliant.	Yes
4X – Building Maintenance	Building maintenance – building design provides protection from weathering, enables ease of maintenance, material selection reduces ongoing maintenance cost	The building will comprise the same materials as approved in the original DA.	Yes

51. As demonstrated above, the proposal generally complies with State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.

State Environmental Planning Policy (Resilience and Hazards) 2021

52. The Resilience and Hazards SEPP has replaced and repealed the following SEPPs:
- State Environmental Planning Policy (Coastal Management) 2018;
 - State Environmental Planning Policy No 33—Hazardous and Offensive Development; and
 - State Environmental Planning Policy No 55—Remediation of Land.

Chapter 4 Remediation of Land

53. Chapter 4 of the SEPP relating to remediation of land applies to the site.

54. Chapter 4 aims to promote the remediation of contaminated land in order to reduce the risk of harm to human health or any other aspect of the environment. Clause 4.6 requires contamination and remediation to be considered in determining a development application. The consent authority must not consent to the carrying out of development on land unless it has considered whether or not the land is contaminated.
11. The proposed modifications relate to internal and external changes to the already approved built form. The application does not seek to change the approved use of the site. Accordingly, this matter was addressed at the DA stage and the consent authority was satisfied that the site is suitable in its current state for the proposed development.
12. In this regard, no further assessment is warranted with regard to site contamination.

State Environmental Planning Policy (Transport and Infrastructure) 2021

55. The Transport and Infrastructure SEPP has replaced and repealed the following SEPPs:
 - *State Environmental Planning Policy (Infrastructure) 2007;*
 - *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017;*
 - *State Environmental Planning Policy (Major Infrastructure Corridors) 2020; and*
 - *State Environmental Planning Policy (Three Ports) 2013.*

Chapter 2 Infrastructure

56. The application was referred to Ausgrid pursuant to clause 2.48 of the SEPP. No objection was received from Ausgrid and one condition was recommended relating to overhead powerlines.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

57. The Biodiversity and Conservation SEPP has replaced and repealed the following SEPPs:
 - *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017;*
 - *State Environmental Planning Policy (Koala Habitat Protection) 2020;*
 - *State Environmental Planning Policy (Koala Habitat Protection) 2021;*
 - *Murray Regional Environmental Plan No 2—Riverine Land;*
 - *State Environmental Planning Policy No 19—Bushland in Urban Areas;*
 - *State Environmental Planning Policy No 50—Canal Estate Development;*
 - *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011;*
 - *Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997);*
 - *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;*
 - *Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment; and*
 - *Willandra Lakes Regional Environmental Plan No 1—World Heritage Property.*

Chapter 2 Vegetation in non-rural areas

58. Chapter 2 of the SEPP relating to vegetation in non-rural areas applies to the site.
59. Chapter 2 regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.
60. Chapter 2 applies to clearing of:

- (a) Native vegetation above the Biodiversity Offset Scheme (BOS) threshold where a proponent will require an approval from the Native Vegetation Panel established under the Local Land Services Amendment Act 2016; and
- (b) Vegetation below the BOS threshold where a proponent will require a permit from Council if that vegetation is identified in the council's development control plan (DCP).

61. The objectives of the Chapter are to protect the biodiversity values of trees and other vegetation in non-rural areas and preserve the amenity of non-rural areas through the preservation of trees and other vegetation. This policy is applicable pursuant to Clause 2.3 of the SEPP as the site is within both Georges River Council and the R4 High Density Residential zone.
62. The proposal does not seek to remove any additional trees or major vegetation. No neighbouring trees are proposed to be removed. The landscaped areas were slightly reduced in size to accommodate the proposed amendments. The application was referred to Council's Senior Landscape & Arboriculture Assessment Officer and the proposal was supported.

Chapter 11 Georges Rivers Catchment

63. Chapter 11 of the SEPP relating to the Georges Rivers Catchment applies to the site.
64. The application has been assessed by Council's Development Engineer and the application was supported subject to conditions.

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

65. Regulations under the Act have established a scheme to encourage sustainable residential development (the BASIX scheme) under which:
- (a) an application for a development consent, complying development certificate or construction certificate in relation to certain kinds of residential development must be accompanied by a list of commitments by the applicant as to the manner in which the development will be carried out, and
 - (b) the carrying out of residential development pursuant to the resulting development consent, complying development certificate or construction certificate will be subject to a condition requiring such commitments to be fulfilled.
 - (c) The aim of this Policy is to ensure consistency in the implementation of the BASIX scheme throughout the State.
 - (d) This Policy achieves its aim by overriding provisions of other environmental planning instruments and development control plans that would otherwise add to, subtract from or modify any obligations arising under the BASIX scheme.
66. An amended BASIX certificate (1005888M_05) has been provided with the modification application.

Georges River Local Environmental Plan 2021

67. The extent to which the proposed development complies with the Georges River Local Environmental Plan 2021 (GRLEP 2021) is detailed and discussed in the table below.

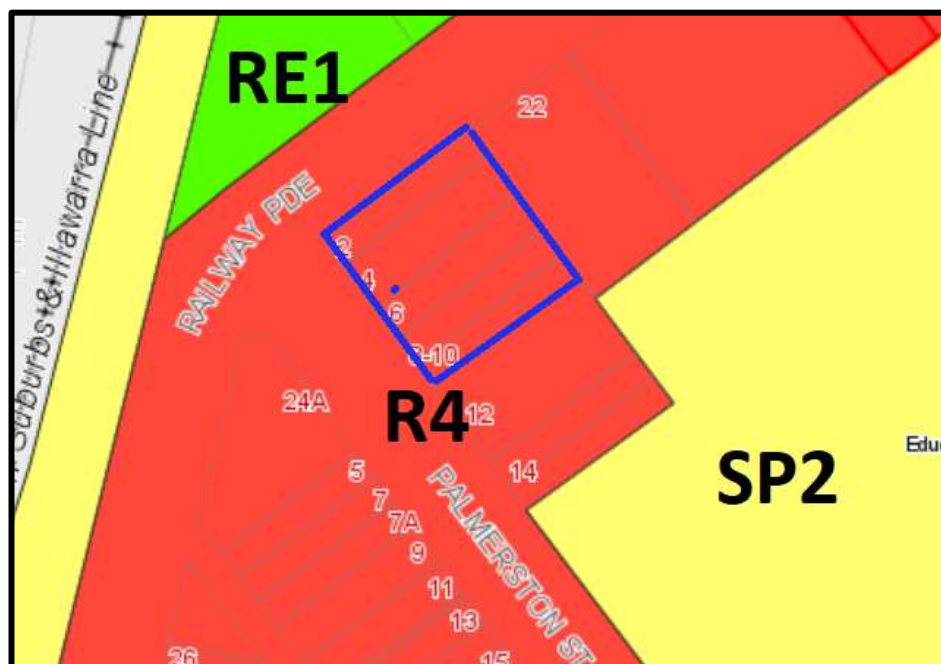


Figure 3: GRLEP Zoning map68.

The objectives of the R4 High Density Residential zone under GRLEP 2021 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.

69. The proposed development for the construction of a multi storey shop top housing building with serviced apartments is consistent with the objectives of the zone in that the development will provide a mix of unit types and additional housing to meet the needs of the community. The building also provides a retail unit along the ground floor which contributes to the vibrancy of the neighbourhood. The modification to the development will still result in the construction of a shop top housing development with serviced apartments and a ground floor commercial tenancy and is not changing. The proposed development satisfies the zone objectives.

70. The extent to which the proposal complies with the relevant standards of Georges River Local Environmental Plan 2021 (GRLEP2021) is outlined in the table below.

Clause	Standard	Proposal	Complies
Part 2: Permitted or Prohibited Development			
2.2 Zoning of Land to which Plan applies	R4 High Density Residential	The proposal is defined as shop top housing and serviced apartments which are permitted uses in the zone under GRLEP 2021 with consent.	Yes
2.7 Demolition	Demolition requires development consent.	Consent for demolition of existing structures was	Yes

		approved as part of the parent DA.	
Part 4: Principal Development Standards			
4.3 Height of Buildings	33m as identified on Height of Buildings Map.	<p>The building exceeds the 33m height limit and achieves an overall height at the highest point of 37.03m.</p> <p>The existing approved development consent has a maximum height of 36.68m. The lift overrun, fire stairs and associated services are the elements which exceed the height control by 4.03m. The proposed modification will result in a variation of 350mm.</p>	Refer to discussion below.
4.4 Floor Space Ratio	4:1 as identified on Floor Space Ratio Map (5,382.8sqm)	The proposal complies with a GFA of 5,229sqm being an FSR of 3.88:1. This represents a 50sqm reduction from that previously approved. This includes 1 additional car space in addition to those reflected on the GFA plans.	Yes.
4.4B Exceptions to floor space ratio—non-residential uses	(3) Development consent must not be granted for development on land in Zone B1 Neighbourhood Centre, Zone B2 Local Centre or Zone B4 Mixed Use unless the non-residential floor space ratio is at least 0.3:1 (403.71sqm)	<p>85sqm or 0.06:1 (Slight 5sqm increase against the previously approved modification).</p> <p>Although the proposal does not achieve the 0.3:1 requirement, the original DA was approved under the Kogarah LEP 2012 which did not have a specific requirement for non-residential FSR.</p>	Acceptable
4.5 Calculations of Floor space and Site area	Floor space to be calculated in accordance with Clause.	Floor space has been calculated in accordance with this clause.	Yes
4.6 Exceptions to Development Standards	The objectives of this clause are as follows— (a) to provide an appropriate degree of flexibility in applying certain development standards to particular	<p>N/A</p> <p>A Clause 4.6 variation to the height development standard is not applicable as this is a modification application.</p>	N/A

	development, (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.		
Part 5: Miscellaneous Provisions			
5.6 Architectural roof features	Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with development consent.	No architectural roof feature proposed.	N/A
5.10 Heritage Conservation	(1) Objectives The objectives of this clause are as follows— (a) to conserve the environmental heritage of the Georges River local government area, (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views, (c) to conserve archaeological sites, (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.	The site is within the vicinity of multiple heritage items however the site does not adjoin any heritage items. The site is not within a heritage conservation area and is not a draft heritage item.	Yes
5.21 Flood planning	As per clause 5.21	The site is not flood affected.	
Part 6: Additional Local Provisions			
6.1 Acid Sulfate Soils (ASS)	The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage	The site is not affected by any Acid Sulfate Soils.	Yes
6.2 Earthworks	To ensure that earthworks do not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items	The proposal includes the provision of three (3) levels of basement car parking. A standard amount of excavation and site works to accommodate a	Yes

	or features of the surrounding land	development of this scale and density are required. The excavation will be slightly less than that originally approved given the half basement proposal along the lowest level has been deleted. The proposed earthworks are not considered to be unreasonable for the development sort.	
6.3 Stormwater management	As per clause 6.3	The application was referred to Council's Senior Development Engineer and was supported subject to conditions.	Yes
6.7 Airspace operations	(2) Development consent must not be granted to development to which this clause applies unless— (a) the consent authority has consulted the relevant Commonwealth body, and (b) the relevant Commonwealth body advises the consent authority that— (i) the development will penetrate the Limitations or Operations Surface but it does not object to the development, or (ii) the development will not penetrate the Limitations or Operations Surface.	Approval has been obtained from the relevant Commonwealth body. Permission was granted for the development to penetrate the obstacle limitation surface subject to specific conditions which have been imposed. Approval issued on 11 May 2022 by Flysafe – Airspace Protection.	Yes
6.9 Essential services	As per clause 6.9	Site has access to all essential services.	Yes
6.10 Design excellence	(5) In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters— (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and	The clause applies to the site as the development observes a height greater than 12m and is within an R4 High Density Residential zone. The original application did not require design excellence given consideration to this clause was not possible given its	Yes

	<p>location will be achieved,</p> <p>(b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,</p> <p>(c) whether the development detrimentally impacts on view corridors,</p> <p>(d) how the development addresses the following matters—</p> <p>(i) the suitability of the land for development,</p> <p>(ii) existing and proposed uses and use mix,</p> <p>(iii) heritage issues and streetscape constraints,</p> <p>(iv) the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,</p> <p>(v) bulk, massing and modulation of buildings,</p> <p>(vi) street frontage heights,</p> <p>(vii) environmental impacts such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity,</p> <p>(viii) pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of pedestrian networks,</p> <p>(ix) the impact on, and proposed improvements to, the public domain,</p> <p>(x) achieving appropriate interfaces at ground level between the building and the public domain,</p>	<p>exclusion from the Kogarah LEP 2012.</p> <p>The application largely retains a similar building exterior with similar steps and façade variations observed. The building also observes similar colours and finishes and the building envelope remains largely as approved, albeit the additional 350mm in height.</p> <p>The bulk and scale of the building remain largely similar to the approved development, and the landscape design is comparable.</p>	
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	<p>(xi) excellence and integration of landscape design,</p> <p>(xii) the provision of communal spaces and meeting places,</p> <p>(xiii) the provision of public art in the public domain,</p> <p>(xiv) the provision of on-site integrated waste and recycling infrastructure,</p> <p>(xv) the promotion of safety through the application of the principles of crime prevention through environmental design.</p>		
6.11 Environmental sustainability	<p>(3) Development consent must not be granted to development on land to which this clause applies if the building is 1,500 square metres in gross floor area or greater unless adequate consideration has been given to the following in the design of the building—</p> <p>(a) water demand reduction, including water efficiency, water recycling and minimisation of potable water usage,</p> <p>(b) energy demand reduction, including energy generation, use of renewable energy and reduced reliance on mains power,</p> <p>(c) indoor environmental quality, including daylight provision, glare control, cross ventilation and thermal comfort,</p> <p>(d) the minimisation of surfaces that absorb and retain heat and the use of surfaces that reflect heat where possible,</p> <p>(e) a reduction in new materials consumption</p>	<p>The original application did not require to observe specific environment sustainability measures given consideration to this clause was not possible given its exclusion from the Kogarah LEP 2012.</p> <p>The application was accompanied by a compliant BASIX certificate which signifies compliance with the minimum sustainability measures.</p>	Acceptable

	and use of sustainable materials, including recycled content in concrete, sustainable timber and PVC minimisation, (f) transport initiatives to reduce car dependence such as providing cycle facilities, car share and small vehicle parking spaces.		
6.12 Landscaped areas in certain residential and environment protection zones	(f) for development in Zone R4 High Density Residential—10% of the site area,	188sqm (13.97%)	Yes

Detailed assessment of variation to Clause 4.3 Height of Buildings.

71. Clause 4.3 of the Georges River Local Environmental Plan 2021 (GRLEP 2021) relates to the maximum permitted building height for a site and refers to the Height of Buildings Map. The relevant map identifies the maximum height of 33m. Building Height is defined as:

“Building height (or height of building) means:

- (a) In relation to the height of a building in metres – the vertical distance from ground level (existing) to the highest point of the building, or*
- (b) In relation to the RL of a building the vertical distance from the Australian Height Datum to the highest point of the building*

Including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.”

72. The maximum height zones within the immediate area is shown below.

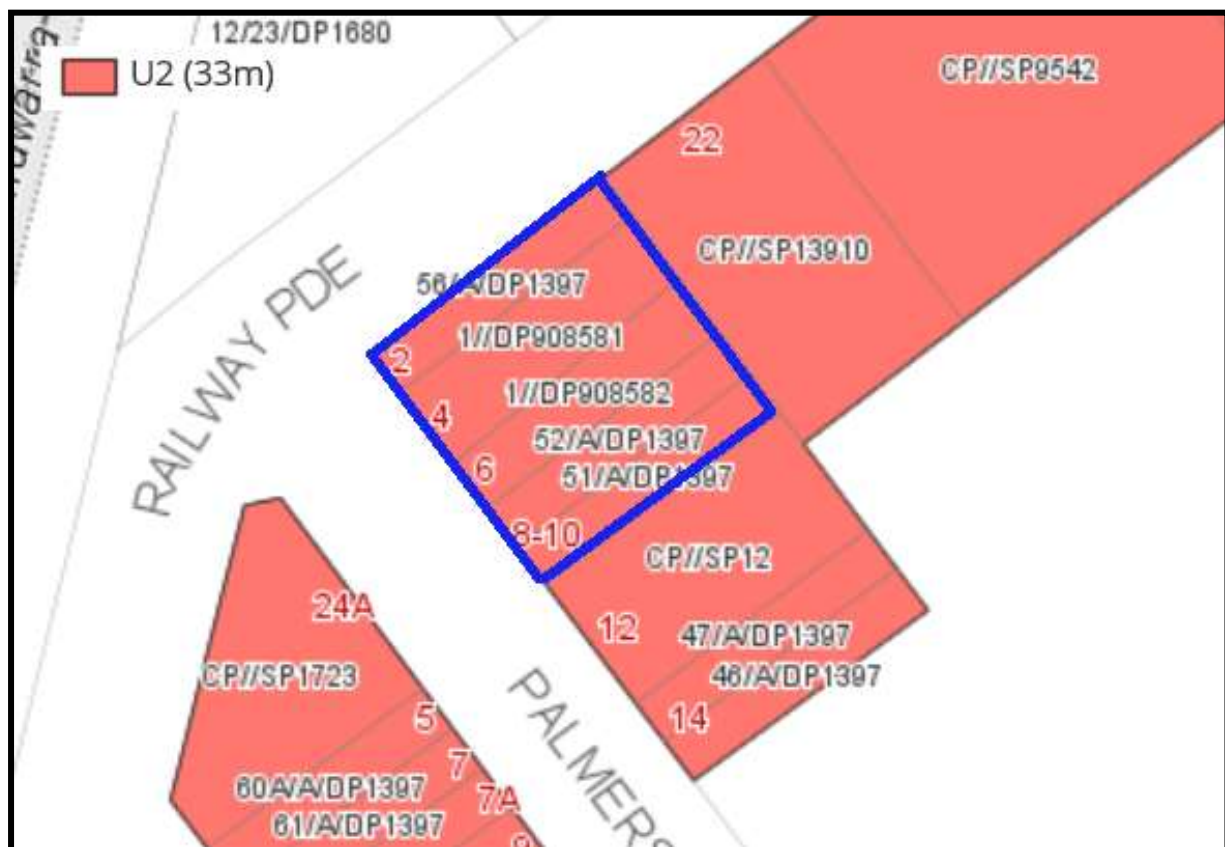


Figure 4: GRLEP 2021 Height of Buildings Map

73. The location and extent of the non-compliance is provided in the images below.

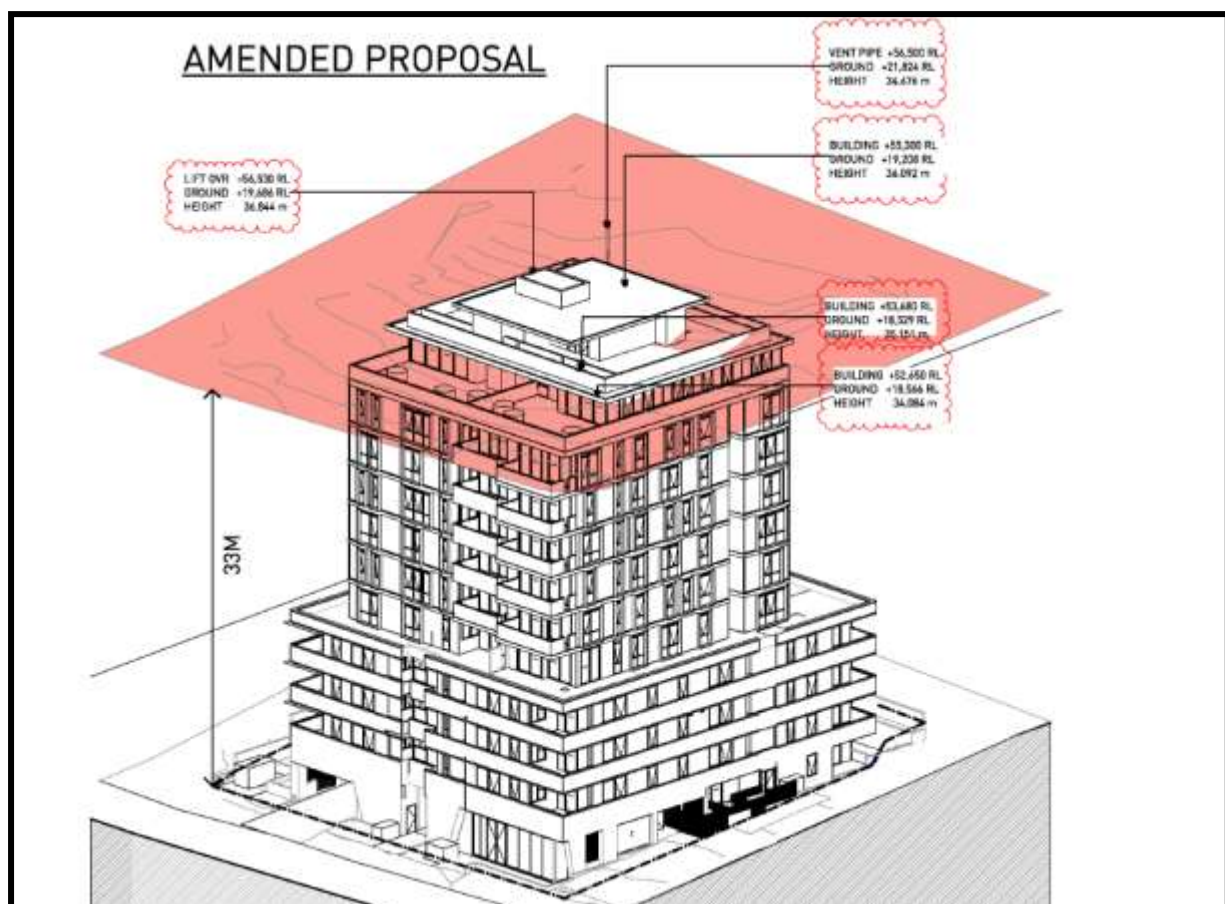


Figure 5: Image showing proposed built form in relation to the maximum 33m line and extent of variation.

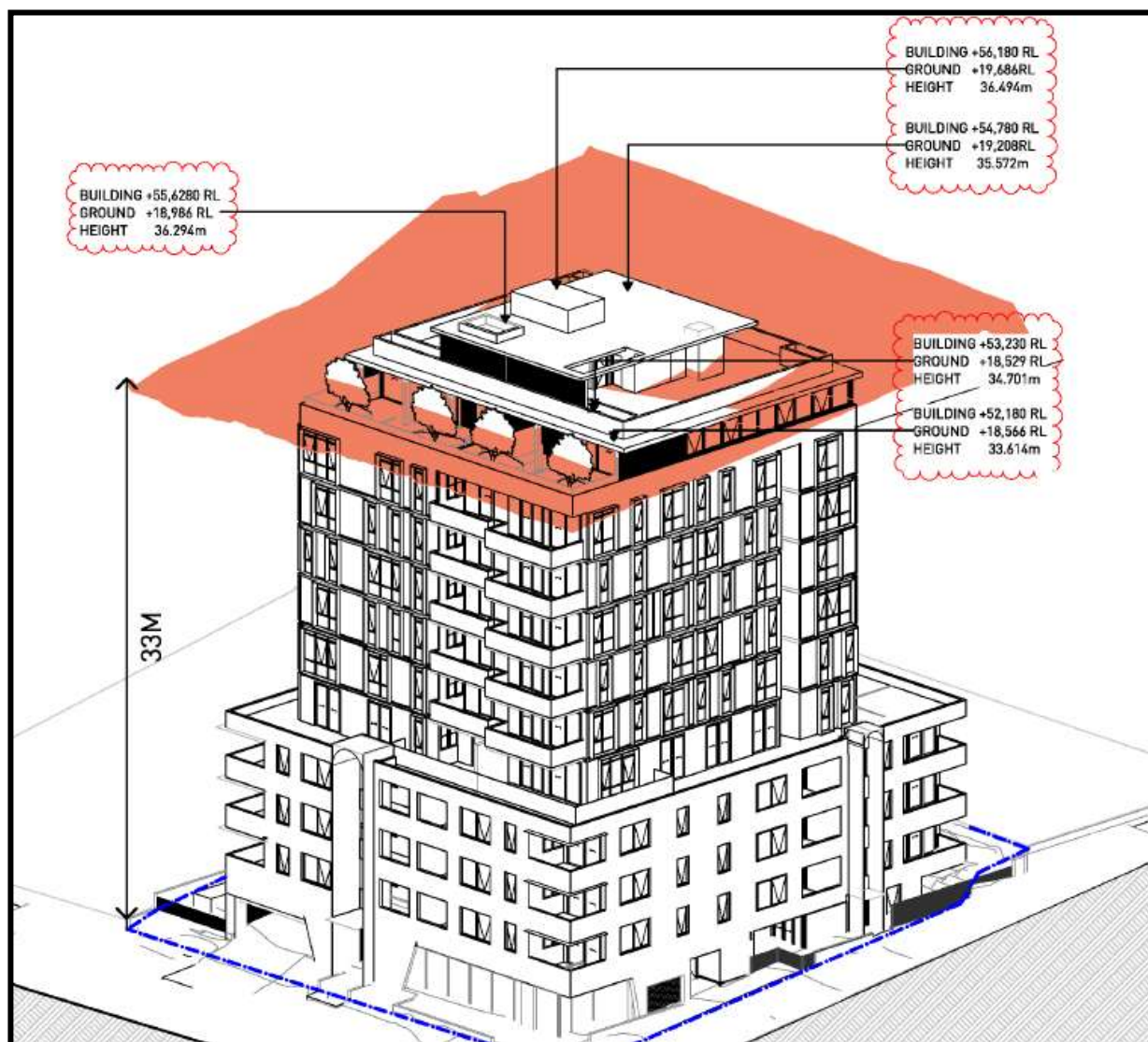


Figure 6: Image showing the approved building form and extent of variation.

74. The approved development included a height variation due to the provision of the roof top communal open space area and associated facilities. The highest point of the approved building is the lift over run which had a maximum height of 36.68m (RL 56.18m AHD), which is a variation to the height of buildings development standard of up to a maximum of 3.68m resulting in an 11.15% variation.
75. The proposed development seeks a further variation to the development standard relating to height (Clause 4.3). The GRLEP identifies a maximum height of 33m for the site and the proposed modification will result in a maximum height of 37.03m (RL 56.53m AHD), which will exceed the height by 4.03m. The height breaches relate to the lift over run, fire stairs, WC, parapet and associated services having a maximum RL of 56.35m AHD resulting in an 12.21% variation.
76. Any variation to a statutory control under a development application can only be considered under Clause 4.6 – Exceptions to Development Standards of the GRLEP. As this application is a modification to an approved development, a Clause 4.6 is not required. The variation has however, been considered against the relevant objectives of the building height development standard and the zone objectives.

77. The applicant has provided the following in support of the additional increase in height.
- *To allow for a structural transfer slab 750mm thick and to allow for adequate height on setback levels for compliant ceiling heights and building services.*
 - *The built form of the modified proposal is consistent with that of the approved development in that the tower steps in and back from site boundaries above a defined podium. This has the effect of reducing the impact and perceived bulk, scale and height from the streetscape and adjoining properties.*
 - *The approved proposal as modified provided an improved built form to create better design outcomes for both residents, adjoining properties and the surrounding streetscape and neighbourhood.*
78. Officer's comment: The non-compliance to the building is relatively minor being 350mm above the envelope previously approved. The scope of works above the height limit remain largely similar to those approved under the previous modification (MOD2019/0116).
79. The amenity impacts associated with the non-compliance have been considered. In terms of visual impact, the structures are generally centrally located which reduces their visual appearance from the immediately adjoining streetscapes. The lift over run and stairs are centrally located. It is considered that in this case the small scale ancillary structures which will not be highly visible or an intrusive element given the scale and proportions of the building are considered acceptable. In respect to the more dominant elements like the lift overrun accessing the roof terrace at the rear, this will be a visible element when viewed from a distance. It will not be readily visible from immediately adjoining properties and streetscapes given that it is centrally located. There will be no significant adverse impacts in terms of overshadowing or overlooking to adjoining properties.
80. New developments of a similar nature have been approved along Regent Street and Victoria Street and have established a precedent for development in the street and immediate precinct. The proposed development is consistent with the pattern of development that is emerging in this precinct and the up zoning to permit development of this scale.
81. The proposed development is considered to satisfy the objectives of the building height development standard set in clause 4.3 for the following reasons:
- The development is largely consistent with the built form envisaged for the Kogarah North Precinct and the R4 High Density Residential zone.
 - Despite the variation, the bulk and scale of the development is compatible with the existing buildings that have been completed and approved within the immediate vicinity.
 - When considered in the context of the development, the variation will not be readily discernible from street level.
 - The height variation will not result in any unreasonable adverse amenity impacts such as overshadowing on neighbouring properties or the public domain.
 - The variation to the height would not result in an unreasonable visual impact on neighbouring properties or the streetscape.
 - The additional breach is supporting the lift overrun and plant needed to service the development.
82. The R4 High Density Residential zone objectives require the development to:

- *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.*

83. The exceedance in the building height control generally satisfies the objectives of the zone for the following reasons:
- The development will provide for the housing needs of the community and the proposed variations will not impede the attainment of this objective.
 - The development is providing for the housing needs of the community with a mix of apartment choices and layouts.
 - The development is located within an accessible location with only a short walk to Kogarah Station and a number of bus stops within close proximity.
 - The development incorporates a diversity of apartment types (offering 1, 2, and 3 bedroom apartments in addition to serviced apartments). The proposal also includes adaptable apartments.
 - The development will provide residential development in addition to a new retail tenancy which will promote street activation.
84. The area of non-compliance is considered to be reasonable and will not establish an undesirable precedent or undermine the objectives of the zone or height control. It will not have any adverse impact on the surrounding locality, which is consistent within the R4 zoned land. The proposal promotes the economic use and development of the land consistent with zone and its purpose.
85. The public benefit of the variation is that it will appropriately facilitate the provision of a high density development on R4 zoned land and will provide for a range of housing stock. The structures which breach the building height are ancillary containing lift over run, fire stairs, mechanical plant and associated services. The lift over run, fire stairs and associated services are all reasonably centrally located and have minimal visual impact.
86. In this case the proposal seeks to establish the preferred and appropriate design and built form outcome for this site with the building complying in large with the height standard. There will not be unreasonable adverse amenity or visual impacts generated by the variation as the proposal satisfies the objectives of the zone and the height of building development standard. In this case the justification to vary the height control is considered to be reasonable and well-founded.
87. The proposed variation satisfies the objectives of the height control as the non-compliant structures, being the lift overrun, fire stairs and plant will not be visually dominating. The additional height is considered to be consistent with other developments in the immediate locality and the scale of the development is sympathetic with the approved adjoining developments.

88. The proposed development is subject to the provisions of the Georges River Development Control Plan 2021 (GRDCP 2021).

GRDCP Part 3 – General Planning Considerations

89. The most relevant sections of Part 3 – General Planning Considerations of GRDCP 2021 are addressed in the table below.

GRDCP 2013 Compliance Table		
Part 3 General Planning Considerations		
Required	Proposed	Complies
3.3 Landscaping		
(a) Contribute to the creation of a distinct landscape character for the Georges River LGA.	The proposal results in a slight decrease in deep soil landscaping, however the amount of deep soil provided still exceed the 7% requirement being 188sqm (13.97%) - dimension 3m.	Yes
(b) Protect existing significant trees and vegetation as outlined in Council's Tree Management Policy	The proposal does not seek to remove any additional trees or major vegetation. No neighbouring trees are proposed to be removed. The application was referred to Council's Senior Landscape & Arboriculture Assessment Officer and the proposal was supported.	
3.8 Views Impacts		
1. Development shall provide for the reasonable sharing of views.	The building will remain in its approved location, and its envelope will largely remain as approved.	Yes
3.11 Ecologically Sustainable Development		
1. All BASIX affected development must comply with SEPP (Building Sustainability Index: BASIX) 2004.	Amended BASIX accompanies the modification.	Yes
3.12 Waste Management		
1. Development must comply with Council's Waste Management requirements regarding construction waste and ongoing management of waste materials	The waste room will largely remain as approved. The original application was accompanied by a waste management plan. An additional waste chute was added which will increase resident amenity.	Yes
3.13 Parking Access and Transport		
<u>Residential flat building:</u> • 1 space per 1 and 2 beds • 2 spaces per 3 beds or more • 1 visitor space per 5 units or part thereof and 1 designated car wash	Parking has been assessed in detail under section 3J – Bicycle and car parking of SEPP 65 above.	Refer to SEPP 65 assessment.

bay which may also be a visitor space		
<u>Retail Premises (Take away food and drink premises)</u> • ≤800m walking distance of Railway station - 1 space per 40m ² (GFA)	Parking has been assessed in detail under section 3J – Bicycle and car parking of SEPP 65 above.	Refer to SEPP 65 assessment.
<u>Hotel or motel accommodation and serviced apartments</u> • 1 space per 5 bedrooms / unit of accommodation plus the requirements of any associated restaurant/function room, etc. • Provision to be made for off street accommodation of buses and taxis.	Parking has been assessed in detail under section 3J – Bicycle and car parking of SEPP 65 above.	Refer to SEPP 65 assessment.
3.17 Universal / Accessible Design		
1. All new building work should comply with the accessibility provisions of the Building Code of Australia (BCA) and the Disability (Access to Premises - Buildings) Standards 2010 where required.	The application provides opportunity for accessible housing and parking spaces. Proposal must comply with the NCC provisions relating to accessibility.	Yes, by condition.

GRDCP Part 6 – Residential Controls

90. The most relevant sections of Part 3 – Residential Controls of GRDCP 2021 are addressed in the table below.

Part 6.3 Residential Flat Buildings and residential components of shop top housing (High Density)		
Required	Proposed	Complies
Section 3 – Street Frontage Height		
6.3.3 Building Setbacks and Street Interface <u>Front setback</u> i. Street setback: up to a building height of four storeys, a minimum setback of 5m is to be provided.	Building setbacks will remain as approved.	As approved.

ii. Corner sites: up to a building height of four storeys, a minimum setback of 5m to both street frontages is to be provided.

iii. Above four storeys, the front setback of the upper building levels is to be increased to a minimum of 8m to the street. The minimum 8m setback also applies to balconies, terraces and balustrades and must be accommodated behind the setback.

iv. On a corner site, both frontages are to provide the increased setback above four storeys.

v. Above level four (ground plus 3 storeys); an increased setback of the upper levels/s may be required depending on the width of the street. The required additional upper level setback for sites fronting a road with a reservation width less than 20m will be determined based on their visual impact in the specific context of the development. If the assessment determines that an additional setback is required, the minimum additional setback will be 2m and up to 3m based on the assessment.

vi. The street setback area needs to be predominantly landscaped and is to accommodate a minimum of two (2) canopy trees to a mature height of at least

6m.		
<u>Side Setbacks</u> i. Minimum setback of 6m from side boundary between ground floor level and up to four storeys. ii. Upper-level setbacks are 9m above four storeys.	Building setbacks will remain as approved.	As approved
<u>Rear setbacks</u> i. Minimum 6m setback from a rear boundary between ground floor level and up to four storeys. ii. Upper level setbacks are 9m above four storeys.	Building setbacks will remain as approved.	As approved
6.3.4 Basement Setbacks		
1. Basements are to be set back a minimum of 3m from the site boundaries	Building setbacks will remain as approved. An increased setback to basement 3's south-eastern façade proposed.	Yes
6.3.5 Façade Treatment and Street Corners		
1. New buildings and additions are to consider the Desired Future Character statement in Part 5 of this DCP 2. Building facades must be clearly articulated and employ high quality materials and finishes that enhance and complement the streetscape character. 3. Street corners must be given prominence by a change in building articulation, materials, colours, form and scale. 5. Services such as substations and fire booster assemblies must be integrated into the design of the façade.	The application largely retains a similar building exterior with similar steps and façade variations observed. The building also observes similar colours and finishes and the building envelope remains largely as approved, albeit the additional 350mm in height and the level changes in the building. The bulk and scale of the building remains largely similar to the approved development, and the landscape design is comparable.	Yes
6.3.6 Landscaped Treatment and Private Open Space		
1. Deep soil is to be provided within the	The proposal results in a slight decrease in deep soil landscaping, however the	Yes

setbacks areas as required in Figures 3, 4, 5 and 6 and consistent with Part 3E of the NSW State Government's Apartment Design Guide. To be included as deep soil as required by Part 3E of the Apartment Design Guide, the deep soil area must have a minimum dimension of 3m on any axis. Planting in the deep soil areas is to include trees that achieve a minimum mature height of 6m.	amount of deep soil provided still exceed the 7% requirement being 188sqm (13.97%) with a dimension 3m.	
6.3.7 Communal Open Space		
1. Communal open space to a minimum area of 25% of the site area and with a minimum dimension of 5m is to be provided.	The proposal will slightly increase the communal open space area by 4sqm to be 353sqm (26.2% of site).	Yes
5. The useable and trafficable area of any rooftop communal open space is to be set back a minimum of 2.5m from the edge of the roof of the floor immediately below with landscape planters provided to prevent close and direct views into adjoining properties.	The extent of planter boxes along the level 11 communal area perimeter were initially reduced to two sides only however it was required to be reinstated on all four sides of the communal area. Amended plans submitted and are acceptable.	Yes
6.3.8 Solar Access		
1. Shadow diagrams are to be submitted for the winter solstice (21 June) to demonstrate impacts at a minimum of 9am, midday and 3pm.	Shadow diagrams submitted. Shadow impacts are largely comparable to those approved. The additional height will slightly increase shadow cast, however properties impacted by the shadow will still receive 3 hours of solar access during midwinter.	Yes
6.3.11 Adaptable Housing		
vi. 51+ units – 6 adaptable units + 10% of additional dwellings beyond 60 (rounded up to the nearest whole number).	7 accessible units provided.	Yes
6.3.12 Universal Design		
1. Developments achieve a benchmark of 20% of the	The proposal when approved under the original DA was not required to achieve	Acceptable

total apartments incorporating the Liveable Housing Guideline's silver level universal design features.	this requirement, given it was approved under the Kogarah DCP which did not require this requirement, the current layout is acceptable as it largely remains as approved.	
6.3.13 Shops, Restaurants and Cafes, and Small Bars in R4 Zones		
1. The maximum gross floor area of any single tenancy to be used as a shop, restaurant or café or small bar in the R4 High Density Residential zone is 120m ² .	The retail tenancy was approved with a GFA of 80sqm. The current modification increases this to 85sqm which is considered an appropriate outcome.	Acceptable.
2. The car parking required for a non-residential land use must be provided on-site in accordance with the requirements of this DCP.	Provided.	Yes
3. Any application for a non-residential use in the R4 High Density Residential zone must be supported by a Plan of Management detailing the hours of operation, waste removal and goods delivery methods. For details refer to the DA Guide.	The retail change of use/fitout will be subject to a future approval. A relevant condition has been imposed requiring a future approval be obtained for the use and fit out of the retail tenancy.	Yes, by condition
4. The maximum hours of operation for non-residential uses in the R4 High Density Residential zone are 7.00am to 10.00pm seven days per week.	The retail change of use/fitout will be subject to a future approval.	N/A

GRDCP Part 10 – Kogarah North Precinct

91. The most relevant sections of Part 10.1 – Kogarah North Precinct of GRDCP 2021 are addressed in the table below.

Part 10.1.6 – Kogarah North Precinct		
Required	Proposed	Complies
Section 3 – Street Frontage Height		
1. Development is to establish a four storey street wall height to provide human scale and	Building retains the four storey podium and centralises the tower above.	Yes, as approved.

set back taller elements above the four storey street wall height. Exceptions to this podium height may be required where a site adjoins a low-scale heritage item.		
Section 5 Trees and Landscape		
1. All development is to be designed to eliminate the impact upon significant trees on site, street trees and trees on adjoining land including public open space and educational establishments. Existing mature trees in good health and condition are to be retained through the appropriate siting of buildings, car parks, basements, pools, ancillary buildings, driveways and hard stand areas.	<p>The landscape design and treatment was assessed by Council's Senior Landscape & Arboriculture Assessment Officer and the proposal was supported.</p> <p>The extent of planter boxes along the level 11 communal area perimeter were initially reduced to two sides only however it was required to be reinstated on all four sides of the communal area. Amended plans have been submitted and are acceptable. A condition has been imposed for amending the landscape plans to be consistent with amended architectural plans.</p>	<p>Yes</p> <p>Yes, by condition.</p>
2. Landscaped areas must be effectively distributed on the site to minimise the dominance of buildings, structures and paving when viewed from the street, public places and surrounding properties.	The landscaping proposed is considered appropriate.	Yes
5. Communal open space on roof tops is encouraged in locations where it does not adversely impact on the residential amenity of surrounding residents. A plan of management will be required for the use of large communal terraces that must be implemented through the Owners Corporation by-laws.	The development includes a roof top communal open space area which includes a covered seating area with BBQ and WC. A condition has been imposed with regards to a plan of management for the rooftop communal area.	Yes, by condition.
6. Deep soil zones are to be located within ground floor setbacks providing screening/interface to the street where large trees will benefit the maximum number of residents and	There are minor changes to the deep soil zones as part of this modification. The amount of deep soil provided and the dimensions proposed complies with the ADG requirements.	Yes

are to be located where they will contribute to the public domain.		
Section 8 – Housing Choice		
1. Developments that propose more than 10 apartments are to provide a mix of dwellings consistent with the following percentage mix: (a) Studio and 1 bed apartments – Minimum of 20% (b) 2 bed apartments – Maximum of 30% (c) 3+ bed apartments – Minimum of 15%	The unit mix will remain as approved.	Yes
Section 9 – Addressing the Street and Public Domain		
1. Landscaping in the public domain is to enhance, complement and reinforce existing streetscape planting themes and patterns. Council will require street tree planting, landscaping and paving of the public footway, for locations including those shown on Figure 5 and this must be included in the Landscape Plan.	The landscape design and treatment has been assessed by Council's Senior Landscape & Arboriculture Assessment Officer and the proposal is supported.	Yes
4. Buildings must be sited to address the street and relate to neighboring buildings. Developments on sites with two or more frontages are to address both frontages.	The building siting largely remains as approved.	Yes
5. Buildings are to be designed to minimise the number of entries, visible internal uses at ground level, and include high quality finishes to enhance the public domain.	The development includes high quality finishes and a well defined spacious entry foyer in addition to a new accessible entry to the serviced apartments. The location of the main entry has been relocated as a result of the internal changes to the building layout.	Yes
Section 12 – Vehicular Access and Car parking		
1. As the Precinct is within 800m of Kogarah Railway Station, the residential parking rate that applies is	Provided. Refer to ADG assessment above.	Yes

in accordance with the Objective 3J-1 of the Apartment Design Guide, which references the RMS Guide to Traffic Generating Development. The applicable rates are those for a Sub-regional Centre.		
4. 1% of all car parking spaces are to be designated “accessible” spaces for people with mobility impairments.	Complies, the 1% accessible car spaces required has been provided.	Yes
5. For car parks between 10 to 99 spaces at least one “accessible” space must be provided	Complies.	Yes
Bicycle parking		
<p>7. Bicycle storage is to be provided at the rate of:</p> <ul style="list-style-type: none"> • 1 secure bicycle storage facility per 2 residential units • 1 bike space per 10 car spaces for the first 200 spaces then 1 space per 20 car spaces thereafter, for commercial and retail land uses. <p><i>55 units proposed. 28 bicycle spaces required</i></p> <p><i>1 retail premise proposed (with two car space). 1 bicycle space required.</i></p>	<p>29 bicycle spaces required.</p> <p>27 bicycle car space provided as approved.</p>	As approved and will not be modified by this application.
Vehicular Access and Driveways		
9. Parking is to be located below ground and access is to be from laneways and side streets.	<p>Basement parking access will remain as approved. A speed hump was added along the exit as required by Council’s Senior Traffic and Parking Assessment Officer.</p> <p>The internal ramps have been relocated and remain compliant.</p>	Yes
Section 13 – Architectural Articulation – Façade, Roof and wall design and private open space		
Facades and Articulation		
1. Large areas of flat facade are to be avoided. Facades should be	The proposal is considered to be a well designed and high quality building that will have a positive contribution to the	Yes

articulated into separate sections, using steps in the facade, expressed entries, panels, bay windows, balconies, pergolas and other architectural elements.	streetscape and precinct.	
2. Articulation elements must be integral with the building design and should consider the whole building- with the building having distinct façade elements being the podium, centre and upper storey/roof.	The design of the proposal includes distinct façade elements between the 4 storey podium and the tower above. Each element has a differing architectural expression which serves to separate each component.	Yes
5. Façades must be articulated and employ materials and finishes to enhance and complement the character of the streetscape.	The building includes a variety and diversity of materials and architectural features and elements that break up the bulk and scale of the built form.	Yes
6. Reinforce a desired pattern characterised by simple, rectilinear building forms, a consistent street wall height, and a balance of horizontal elements (parapet, central area, below-awning area) and vertical elements (subdivision patterns, building bays).	The building includes a variety and diversity of materials, architectural features and elements that break up the bulk and scale of the built form.	Yes
7. Retain the pedestrian scale and give continuity to the 'base' of the built form.	The design of the building is generally consistent with the approved building scale and form and retains the pedestrian scale.	Yes
9. Avoid large expanses of blank walls or glass curtain walls	The building is suitably articulated to avoid large expanses of blank walls.	Yes
10. Conceal meter boxes, fire hydrant boosters, sprinkler valves and the like so that they are not visible from the street.	The hydrant booster, sprinkler valves and the like are located on the Palmerston Street frontage and have been incorporated into the design to soften their impact as much as possible.	Yes
Roofs		
14. Conceal lift over-runs and plant equipment, including satellite dishes, within well designed roof forms.	Lift over runs, fire stairs and plant equipment are centrally located to reduce their visual impact.	Yes
17. Buildings greater than	Roof top communal open space has	Yes

9 storeys are to incorporate green facades or landscaped features (i.e. landscaped communal areas located on podiums and roofs).	been provided.	
18. Roof top areas designed for use as recreation facilities are to have a high standard of finish and design. The design of exterior private open spaces such as roof top gardens must address visual and acoustic privacy, safety, and security and wind effects.	Roof top communal open space has been provided. Visual and acoustic privacy has been addressed through landscaping.	Yes
Balconies		
23. Design building facades and apartment layout so that balconies are functional and responsive to environmental conditions.	Balconies are incorporated into the design and are functional.	Yes
24. Integrate balconies into the overall building form and to enhance the articulation of facades.	Balconies assist in providing articulation for the building.	Yes
25. Design balustrades which allow for views into, and along the street but avoid all glass and all brick balustrades.	The development incorporates a mixture of render and brick balustrades.	Yes
16. Solar Access to Public Domain		
1. Maintain solar access to public open space.	Solar access diagrams demonstrate that the development will not unreasonably impact solar access to neighbouring apartments, beyond that anticipated by the uplift in planning controls for the precinct. Solar access diagrams demonstrate that the increase in height will not result in any meaningful change in relation to overshadowing associated with the approved development.	Yes
2. New development shall maintain solar access to open space, including the open space (including the area currently used for car parking) bounded by Victoria Street, Gladstone Street, Victor Street and	Complies.	Yes

Palmerston Street. This open space is identified by Council as being a future Town Common, for shared use by the school and residents		
Section 17 - Safety and Security		
1. The design of development is to incorporate Crime Prevention Through Environmental Design (CPTD) principles.	These elements have been incorporated into the proposal.	Yes
Section 18 - Waste Minimisation		
2. For buildings more than 3 storeys, provide a waste and recycling chute on each floor such that the total travel distance from any dwelling to a waste chute does not exceed 40m.	A waste chute has been provided.	Yes
3. Where a waste and recycling chute system is used: (a) Chute openings are to open only into a waste service compartment or room for safety purposes; and (b) The waste service compartment or room on each floor must also include space for containers for the intermediate storage of recyclables.	A waste chute has been provided and will terminate within the waste room. No waste room provide on each floor given this was not a requirement when the DA was approved.	Yes
5. An additional room or caged area with a minimum volume of 8m³ is to be allocated and designated with signs for the storage of discarded bulky items and recyclable electronic goods.	Bulky waste room provided within the waste room as approved.	Yes
9. It is preferable for waste trucks to enter the site in a forward direction, but it is permitted for waste trucks to reverse onto a site, where design and site conditions make it safe to	The waste storage area and waste management are to remain as approved.	Yes

do so. It is never acceptable for a truck to reverse out of a site		
Section 19 – Site Facilities		
2. Mailboxes will be located indoors in accordance with Australia Post's requirements.	Mailboxes are located internally within the front foyer.	Yes
9. Any electrical kiosk, fire booster assembly or similar utilities will be in a location that is visible from the main entrance of the development, unable to be obstructed, and readily accessible to vehicles and service staff. Fire booster assemblies are to be a minimum of 10m distance to an electrical kiosk, and housed within the external face of the building structure or in a built enclosure with screen doors. The enclosure is to be integrated with the architectural design of the development and compliant with AS2419. Applicants are encouraged to provide landscaping that will not impede access to, and effective use of, the utilities to reduce the visual impact of the utilities on the streetscape and public domain.	<p>The fire hydrant booster is located along Palmerston Street within the building envelope.</p> <p>The substation along Railway Parade was required to be moved closer to the street to comply with Ausgrid requirements. The substation will be concealed by way of timber louvres and is compliant.</p>	Yes
Section 20 – Maintenance		
2. Buildings must incorporate and integrate building maintenance systems into the design of the building form, roof and facade	Maintenance systems have been integrated in the common circulation areas, basement levels and where applicable integrated into the design when fronting the street.	Yes
4. Appropriate landscape elements and vegetation must be chosen along with suitable irrigation systems.	The landscape plan incorporates these elements.	Yes
Section 21 – Acoustic Privacy		
1. The location of driveways, open space and recreation areas and	The driveway fronts Railway Parade as approved. The siting of the building remains largely as approved.	Yes

ancillary facilities external to the dwelling must be carefully planned to ensure minimal noise impact on adjoining residential properties.		
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Developer contributions

92. The proposal does not result in a reconfiguration of the unit mix and as such the Section 7.11 contributions did not require to be amended.

Impacts***Natural Environment***

93. The proposed development is unlikely to result in adverse impacts on the natural environment. The site does not contain any significant vegetation. A landscape plan has been prepared by a qualified landscape architect showing appropriate deep soil planting to the front and side of the site. The proposed excavation of the site is for the purposes of providing the basement car park and associated facilities. The excavation is consistent with that required for most new developments of this scale and size.
94. Council's Senior Landscape & Arboriculture Assessment Officer has assessed the amended proposal and has supported the amendments subject to an amended landscape plan being provided.

Built Environment

95. The proposed works are not considered to result in any unacceptable built form planning impacts.

Social Impact

96. Limited adverse social impacts have been identified as part of the assessment. The proposed development in principle will cater for a cross section of the community and will assist with providing for additional housing within the area. The construction of a shop top housing development and serviced apartments on the site is consistent with the high density residential zoning of the land.

Economic Impact

97. There is no apparent adverse economic impact that is likely to result within the locality due to the modification of the approved shop top housing development and serviced apartments. It is likely that the construction of this development will have a small positive short term economic impact.

Suitability of the Site

98. The site is zoned R4 – High Density Residential. The proposal is a permissible form of development in this zone and the modifications are not changing the approved use. This immediate precinct is going through a process of change and transition through the increase in FSR and height. The modification of the approved development will not impact the approved building form and remains a suitable development for the reasons outlined in this report.

Submissions and the public interest

99. The application was notified in accordance with Council's neighbour notification policy between 17 February 2022 and 03 March 2022 and no submissions were received.

Referrals**Council Referrals**

Senior Landscape & Arboriculture Assessment Officer

100. Council's Senior Landscape & Arboriculture Assessment Officer has assessed the amended proposal and has supported the proposal subject to the amended landscape plan provided.

Senior Traffic and Parking Assessment Officer

101. The proposal was referred to Council's Senior Traffic and Parking Assessment Officer who raised no objection to the amended plans subject to conditions.

Senior Development Engineer

102. The Council's Senior Development Engineer has reviewed the amended plans and has no objection to the modifications. Amended conditions recommended and imposed.

External Referrals**Ausgrid**

103. The application was referred to Ausgrid pursuant to clause 2.48 of the SEPP. No objection was received from Ausgrid and one condition was recommended relating to overhead powerlines.

Sydney Airport

104. The application was referred to Sydney Airport as the proposed modification resulted in an increase of the overall height of the building by 350mm. Sydney Airport referred the application to the relevant Commonwealth Authority (Flysafe) as the proposed height exceeded the Obstacle Limitation Surface of 51 AHD. Approval was obtained for a maximum height of RL56.53 via correspondence dated 11 May 2022 subject to conditions.

Conclusion

105. The proposal seeks approval to modify development application (DA9/2017/112/1) granted by the NSW Land and Environment Court (LEC) on 20 September 2018 for the construction of a residential flat building comprising fifty-one (51) residential dwellings and six (6) serviced apartments over three (3) levels of basement parking for sixty-three (63) car parking spaces at 2 – 10 Palmerston Street, Kogarah. The current Section 4.56 Modification Application (MOD2022/0025) seeks to modify DA9/2017/112/1 (As modified) including changes to the height of the building, reduction in the lower level basement, level changes, internal and external changes, layout and arrangements of the building, minor amendments to landscaping and the façade.
106. The application has been assessed in accordance with the provisions of Section 4.15 and Section 4.56 of the Environmental Planning and Assessment Act 1979, relevant State Environmental Planning Policies and the provisions of the Georges River Local Environmental Plan 2021 and Georges River Development Control Plan 2021.
107. It is considered that the proposed modification for internal and external amendments will not adversely affect the amenity of neighbouring properties. The development being a shop top housing development and serviced apartments will be substantially the same as that originally approved. Accordingly, the proposed modifications can be supported, and the consent modified as follows:
108. Following a detailed assessment contained within this report, it is considered that MOD2022/0025 should be approved subject to the below amended conditions of consent.

Determination and statement of reasons

Statement of Reasons

109. The reasons for this recommendation are as follows:

- The proposed modification to amend the layout of the shop top housing development and serviced apartments is considered to represent substantially the same development as originally approved.
- The modification remains consistent with the objectives of the zone and the character of the locality by providing housing that meets the needs of the community.
- The proposed increase in height of the building does not result in any unreasonable impacts upon the streetscape character or the amenity of any immediately adjoining properties in terms of unreasonable overlooking, overshadowing or view loss and satisfied the objectives of the height of building development standard.
- The proposed modifications of the development are not considered to be incompatible with surrounding development and surrounding land uses. The development as modified remains consistent with the desired and future character of the Kogarah North Precinct by providing a high-density development consistent with adjoining and approved development.

Determination

110. That pursuant to Section 4.56 of the Environmental Planning and Assessment Act 1979 (as amended) the Georges River Local Planning Panel, grant consent to modification application (MOD2022/0025) seeking internal and external amendments to the approved development being DA9/2017/112/1 (as modified) for the construction of a shop top housing development being a ground floor retail tenancy, residential flat building and serviced apartments comprising fifty-one (51) residential dwellings including four (4) serviced apartments over three (3) levels of basement parking for seventy (70) car parking spaces, 9 motorbike parking spaces and 27 bicycle parking spaces at 2 – 10 Palmerston Street, Kogarah.

111. The following conditions have been modified:

- **Condition 1** – Condition amended in relation to amended plans, and documentation.
- **Condition 7A** – Condition added in relation to Sydney Water Tap In.
- **Condition 11** – Condition amended in relation to fees to paid (index adjusted and slight increase due to increase in retail floorspace).
- **Condition 25** – Condition amended in relation to required amended landscape plans.
- **Condition 28** – Condition amended in relation to stormwater engineering.
- **Condition 28A** – Condition added in relation to stormwater engineering.
- **Condition 37A** – Condition added in relation to the preparation of a Construction Vehicle and Pedestrian Plan of Management as required by Council's Senior Traffic and Parking Assessment Officer.
- **Condition 63** – Condition amended in relation to Sydney Airport approval.
- **Condition 66** – Condition amended in relation to stormwater engineering.
- **Condition 67** – Condition amended in relation to stormwater engineering.
- **Condition 70** – Condition amended in relation to allocation of car and bicycle parking spaces.
- **Condition 82B** – Condition added in relation to a traffic light system for basement 3.
- **Condition 82C** – Condition added in relation to car parking numbering and lining.
- **Condition 82D** – Condition added in relation to bicycle parking.

- **Condition 82E** – Condition added in relation to preparation of a plan of management.
- **Condition 82F** – Condition added in relation to car parking allocation.
- **Condition 82G** – Condition added in relation to compliance with the plan of management.
- **Condition 98A** – Condition added in relation to Ausgrid recommendation relating to overhead powerlines.
- **Condition 98B** – Condition added in relation to use and fitout of retail premise.

Schedule A– Deferred Commencement Conditions

(DEFERRED COMMENCEMENT CONDITION DELETED BY MOD2019/0116)

Schedule B – Site Specific Conditions

GENERAL CONDITIONS

These conditions have been imposed to ensure that the development is carried out in accordance with the approved plans and to ensure that the appropriate fees and bonds are paid in relation to the development.

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

Description	Reference No.	Date	Revision	Prepared by
Site Plan	MOD2-A-010	12 May 2022	-	Smith & Tzannes
Basement 3	MOD2-A-100	12 May 2022	A	Smith & Tzannes
Basement 2	MOD2-A-101	12 May 2022	A	Smith & Tzannes
Basement 1	MOD2-A-102	12 May 2022	A	Smith & Tzannes
Ground Floor	MOD2-A-103	12 May 2022	B	Smith & Tzannes
Upper Ground Floor	MOD2-A-104	12 May 2022	B	Smith & Tzannes
Levels 1 - 3	MOD2-A-105	12 May 2022	A	Smith & Tzannes
Level 4	MOD2-A-106	12 May 2022	A	Smith & Tzannes
Levels 5 - 9	MOD2-A-107	12 May 2022	A	Smith & Tzannes
Level 10	MOD2-A-108	12 May 2022	B	Smith & Tzannes
Level 11	MOD2-A-109	26 May 2022	C	Smith & Tzannes
Roof Plan	MOD2-A-110	12 May 2022	B	Smith & Tzannes
Adaptable Apartments	MOD2-A-111	12 May 2022	A	Smith & Tzannes

Description	Reference No.	Date	Revision	Prepared by
Detailed Section Floor To Ceiling	MOD2-A-207	19 November 2021	-	Smith & Tzannes
Railway Parade Elevation	MOD2-A-200	19 November 2021	-	Smith & Tzannes
Palmerston St Elevation	MOD2-A-201	12 May 2022	A	Smith & Tzannes
NE Elevation	MOD2-A-202	12 May 2022	A	Smith & Tzannes
SE Elevation	MOD2-A-203	12 May 2022	A	Smith & Tzannes
Section 1	MOD2-A-204	26 May 2022	A	Smith & Tzannes
Section 2	MOD2-A-205	12 May 2022	A	Smith & Tzannes
Driveway Section	MOD2-A-206	17 May 2022	-	Smith & Tzannes
Section- DD	MOD-A-208	27 May 2020	C	Smith & Tzannes
Excavation Diagram	MOD2-A-808	17 May 2022	-	Smith & Tzannes
GFA Calculations	MOD2-A-800	12 May 2022	A	Smith & Tzannes
Deep Soil Plan	MOD2-A-805	17 May 2022	B	Smith & Tzannes
Solar and Cross Vent	MOD2-A-803	17 May 2022	-	Smith & Tzannes
Communal Open Space Calculations	MOD2-A-804	26 May 2022	A	Smith & Tzannes
Storage Calculation Diagram	MOD2-A-801	12 May 2022	-	Smith & Tzannes
Storage Calculation Schedule	MOD2-A-802	12 May 2022	-	Smith & Tzannes
Height Plane Diagram	MOD2-A-806	12 May 2022	A	Smith & Tzannes
Fence details	MOD2-A-900	12 May 2022	-	Smith & Tzannes
Landscape Plan	Pages L-01, L-02, L-01, L-03, L-01, L-04, L-05, L-06, L-07	13 May 2022	J	SiteDesign+Studios
BASIX Certificate	1005888M_05	26 November 2021	-	Smith & Tzannes

Description	Reference No.	Date	Revision	Prepared by
Stormwater Concept Plans	Job 200293-SW drawings D1, D2, D3, D4, D5, D6, D7, D8, D9	13 May 2022	C	Quantum Engineers
Access Report	114226-Access-r1	23 November 2021	1	BCA Access
Acoustic Assessment for Modification Application	TK866-01F02	11 April 2019	R2	Renzo Tonin & Associates
Parking Assessment Report	21.373r01v04	14 December 2021	-	Traffix
Traffic and Parking Assessment Report	15054	17 January 2020		Terraffic Pty Ltd
Detail Survey	9767-18 DET	19 September 2018		C & A Surveyors NSW P/L
Survey Plan	9767-18DET	19/9/2018 and 15/3/2019		C & A Surveyors NSW P/L additional levels provided by Boxall Surveys

(CONDITION AMENDED BY MOD2022/0025)

SEPARATE APPROVALS UNDER OTHER LEGISLATION

These conditions have been imposed to ensure that the applicant is aware of any separate approvals required under other legislation, for example: approvals required under the Local Government Act 1993 or the Roads Act 1993.

- 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.
- (m) A concrete median within Railway Parade across the proposed driveway and associated signage to ensure safe operation of the driveway for passing traffic. The median is to physically prohibit right turn entry and exit traffic associated with the proposed basement car park. The works may include prohibition of kerbside parking opposite the site in front of Hogben Park.
- (n) Signage along the Railway Parade frontage between the proposed driveway serving the development site to Palmerston Street to prohibit kerbside parking on domestic waste collection days and time periods required by Council's refuse vehicle.

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.

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 footpath for the full length of the frontages 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 must be in accordance with Council's Specifications applying at the time construction approval is sought.
- (c) Construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontage(s) of the site in 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 must be restored at the expense of the applicant. The work must be carried out in accordance with Council's specification, applying at the time construction approval is sought.
- (e) Construct a concrete median within Railway Parade across the proposed driveway to the extent required to physically prohibit right turn entry and exit traffic in accordance with any approval issued by Council following endorsement by Council's Local Traffic Committee (**LTC**). The works may include prohibition of kerbside parking opposite the site in front of Hogben Park.
- (f) Install “No Parking, 5am to 10am Wednesdays and Fridays”, or as otherwise approval by the LTC, along the frontage of the site between the proposed development driveway and Palmerston Street.

Constructing a vehicular crossing, footpath, “No Stopping” / “No Parking” signage where required and concrete median within Railway Parade across the proposed driveway (if LTC approval is granted) requires separate submission to Council and receipt of formal approval under Section 138 of the Roads Act 1993, prior to the commencement of those works.

4. Building - Hoarding Application - Prior to the commencement of work above ground level, a separate application for the erection of an ‘A class’ (fence type) or a ‘B class’ (overhead type) hoarding or ‘C type’ scaffold, in accordance with the requirements of

SafeWork NSW, must be erected along that portion of the footways/roadway where the building is within 3 metres of the street boundary.

An application for this work under Section 68 of the Local Government Act 1993 and the Roads Act 1993 must be submitted for approval to Council.

The following information is to be submitted with a Hoarding Application under Section 68 of the Local Government Act 1993 and Section 138 of the Roads Act 1993:

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

5. **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.

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

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

REQUIREMENTS OF OTHER GOVERNMENT AGENCIES

These conditions have been imposed by other NSW Government agencies either through their role as referral bodies, concurrence authorities or by issuing General Terms of Approval under the Integrated provisions of the Environmental Planning and Assessment Act 1979.

7. **Geotechnical Report** - Prior to the issue of a Construction Certificate the Applicant must provide Sydney Trains with a Geotechnical Report and structural drawings/report. These reports must provide confirmation that there will be no negative impact on Sydney Trains infrastructure and land. Written confirmation must be provided from Sydney Trains to the Certifying Authority confirming this condition has been satisfied.

7A. **Sydney Water - Tap in™**

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

(CONDITION ADDED BY MOD2022/0025)

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 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. **Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be submitted to the Principal Certifier prior to the issue of the Occupation/Subdivision Certificate.
10. **Electricity Supply** - An application is required to be made to Ausgrid for a network connection. This may require the network to be extended or its capacity augmented. Evidence of this application being lodged with Ausgrid is required to be provided to the Certifying Authority prior to the issue of a Construction Certificate. For further details, you are advised to contact Ausgrid on 13 13 65 or www.ausgrid.com.au (Business and Commercial Services).

PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

These conditions either require modification to the development proposal or further investigation/information prior to the issue of the Construction Certificate to ensure that there is no adverse impact.

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

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

Please contact council prior to the payment of S94 Contributions to determine whether the amounts have been indexed from that indicated below in this consent and the form of payment that will be accepted by Council.

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

- (a) A summary of the fees to be paid are listed below:

Contribution Plan	Description	Section 94 contributions payable
Plan No. 8	Streetscape, Open Space & Public Domain	\$902,197.18
Plan No. 8	Traffic Facilities	\$23,582.75
Plan No. 8	Community Facilities	\$16,018.66
Plan No. 9	Kogarah libraries - buildings component	\$14,929.53
Plan No. 9	Kogarah libraries - books component	\$10,645.27
Total Contributions Currently Payable		\$967,373.39

General Fees

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

Development Contributions

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

Indexation

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

Timing of Payment

The contribution must be paid and receipted by Council:

- prior to the release of the Construction Certificate.

Further Information

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

(CONDITION AMENDED BY MOD2022/0025)

12. **Service Utilities - Land Subdivision Only** - Arrangements must be made to the satisfaction of all Service Utility Authorities in respect to the services supplied by those authorities to the development. All services to any future dwellings erected on the site must be underground.
13. **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 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 excavation) and must remain until works are completed and all exposed surfaces are landscaped/sealed.

14. **Pre-Construction Dilapidation Report - Private Land** - A professional engineer specialising in structural or geotechnical engineering must prepare a Pre-Construction Dilapidation Report detailing the current structural condition of adjoining premises including but not limited to:
- (a) All neighbouring buildings likely to be affected by the excavation as determined by the consulting engineer.

The report must 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 Principal Certifier.

Should the owners of properties (or their agents) refuse access to carry out inspections, after being given reasonable written notice, this must 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.

15. **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 Principal Certifier. Such list must also specify the minimum standard of performance for each essential fire safety measure included in the list. The Council or Principal Certifier will then issue a Fire Safety Schedule for the building.
16. **Structural details** - Engineer's details prepared by a practising Structural Engineer being used to construct all reinforced concrete work, structural beams, columns and other structural members. The details are to be submitted to the Principal Certifying Authority for approval prior to construction of the specified works.

A copy must be forwarded to Council where Council is not the Principal Certifier.

17. **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 and to ensure the construction of the civil works to be complete at the applicant's expense: **\$47,800**
 - (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: **\$150.00**
 - (c) Submit to Council, before the commencement of work, a dilapidation report of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal.

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

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

18. **Commonwealth Disability (Access to Premises) Standard** - The Commonwealth Disability (Access to Premises - Buildings) Standards 2010 (the Premises Standards) applies to all applications (i.e. Construction Certificate). This requires any new building, part of a building and the affected part of the existing building to comply with the Premises Standards, the Building Code of Australia and AS 1428.
19. **Geotechnical report** - Geotechnical Reports: The applicant must submit a Geotechnical Report, prepared by a professional engineer specialising in geotechnical engineering who holds the relevant Certificate of accreditation as required under the Building Professionals Act 2005 in relation to dilapidation reports, all site works and construction. This is to be submitted before the issue of the Construction Certificate and is to include:

- (a) Investigations certifying the stability of the site and specifying the design constraints to be placed on the foundation, any earthworks/stabilization works and any excavations.
- (b) Dilapidation Reports on the adjoining properties 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 Principal Certifier 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 must 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.

20. Site Management Plan

Major Development

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

- (a) location of protective site fencing;
- (b) location of site storage areas/sheds/equipment;
- (c) location of building materials for construction, e.g. stockpiles
- (d) provisions for public safety;
- (e) dust control measures;
- (f) method used to provide site access location and materials used;
- (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 traffic management details.

The site management measures are to be implemented prior to the commencement of any works including 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.

21. **Traffic Management - Compliance with AS2890** - All driveways, access ramps, vehicular crossings and car parking spaces must be designed and constructed in accordance with the current version of Australian Standards, AS 2890.1-2004 (for car / motorbike parking facilities), AS 2890.2-2002 (for commercial vehicle facilities), AS 2890.6-2009 (Off-street parking for people with disabilities) and AS 2890.3-2015 (bicycles). A “*Detailed Design*” certificate, prepared by a tertiary qualified and experienced traffic engineer that fully addresses this condition, must be submitted to the Principal Certifier with the Construction Certificate Application. An “*As Constructed*” certificate, prepared by a tertiary qualified and experienced traffic engineer that fully

addresses this condition, must be submitted to the Principal Certifier with the Occupation Certificate Application. The certificates must also confirm:

- (a) that all vehicles can and are to enter and leave the site in a forward direction, that the required parking;
- (b) that car and bicycle parking complies with the required quantum as required by Condition 84;
- (c) that car space dimensions for the different user classes are in accordance with *Figure 2.2 of AS2890.1-2004* and with *Clauses 2.2 and 2.4 of AS2890.6-2009*, where relevant;
- (d) That no individual parking spaces are enclosed by side walls or separate garage doors

22. 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;
- (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.

23. SEPP 65 Design Verification Statement - A design verification statement, prepared by a qualified designer, must be submitted to the Certifying Authority **prior to the issue of any Construction Certificate** 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.

(CONDITION AMENDED BY MOD2019/0116)

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

As per the plan of the bin room. The 3 X 1100L garbage bins will be provided an wheel in wheel out service where the contractor will take to kerbside empty and return to the bin room.

The 9 X 240L recycling bins will have to be taken to kerbside for collection by the cleaner and returned to the bin room.

No Parking signs will need to be installed along Railway Pde nth for collection days. No Parking Wednesday and Friday between 5am and 10am.

25. Landscape Plans – The landscape plans shall be amended to be consistent with the approved level 11 floor plans in relation to the perimeter planter boxes. The planter boxes along the north-eastern and south-western sides of level 11 shall observe similar characteristics and contain similar species to the planter boxes along the north-western

and south-eastern sides.

All landscape works must be carried out in accordance with the approved landscape plans. The landscaping must be maintained in accordance with the approved plans in perpetuity.

(CONDITION AMENDED BY MOD2022/0025)

25A. **(CONDITION DELETED BY MOD2019/0116)**

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

- (a) Longitudinal and cross sections, gradients, access serving the proposed basement car park, type of construction materials designed in accordance with Council's driveway engineering 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).

27. Stormwater Plan. The submitted stormwater plan has been assessed and approved as a concept plan only. No detailed assessment of the design has been undertaken. A Detailed Stormwater Plan and supporting information of the proposed on-site stormwater management system is to be submitted. The required details in this Plan and the relevant checklist are presented in the document 'Water Management Policy. Kogarah Council. August 2006'

The design parameters and the general concept of the proposed on-site stormwater management system are to be the same as documented in the approved Concept Stormwater Plan for the proposed development. Any conceptual variations to the stormwater design will require written approval from Council and will require to be justified and supported by appropriate details, calculations and information to allow for proper assessment.

The Detailed Stormwater Plan is to address the following issue(s):

- (a) A suitably qualified engineer is to certify that appropriate design measures have been taken to ensure that the ground floor and basement levels have been protected from flooding in the case of the On-site Detention system malfunctioning or reaching capacity.

The Detailed Stormwater Plan is to be certified by a professional engineer specialising in hydraulic engineering. A Statement that the stormwater system has been designed in accordance with the document 'Water Management Policy. Kogarah Council. August 2006' and satisfies the provisions and objectives of that policy along with the requirements stated above must be included with the Detailed Stormwater Plan.

28. On-site Detention. A 26.5m³ On-Site Detention system with a Maximum Site Discharge of 25 Litres per Second is to be provided in accordance with the Stormwater Concept Plan and associated Design Assessment Report. The overflow is to be directed to the site drainage system.

(CONDITION AMENDED BY MOD2022/0025)

28A. Basement Pump Sump.

An additional 900x900mm square heavy duty grate must be placed at the opposite corner of the existing proposed grate for conducting visual inspection from the basement and maintenance accessibility purposes.

(CONDITION ADDED BY MOD2022/0025)

29. **Oil/Silt Separator** – An oil/silt separator sized to the catchment area must be specified on the Stormwater Detailed Plans and located downstream of the proposed basement car park and prior to discharge to councils stormwater system.
30. **Roof/Surface Water** - All roof water and surface water from paved or concreted areas are to be disposed of in accordance with the Stormwater Plan by means of a sealed pipeline constructed in accordance with AS/NZS 3500.3:2015.
31. **Council Property Shoring** - Prior to the issue of the Construction Certificate, plans and specifications prepared by a professional engineer specialising in practising structural engineering must detail how Council's property must 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, must be included on the plans. Where the shoring cannot be removed, the plans must detail that the shoring will be cut to 150mm below footpath level and the gap between the shoring and any building must be filled with a 5MPa lean concrete mix.

32. **Health - Acoustic Certification - Mechanical Plants and Equipment -**
The Construction Certificate plans must be accompanied by a certificate from a professional acoustic engineer certifying that noise from the operation of mechanical plant and equipment will not give rise to offensive noise as defined under the provision of the *Protection Of the Environment Operations Act 1997 (as amended)* and will comply with the noise intrusion criteria as defined under the *NSW Industrial Noise Policy published by the NSW Environment Protection Authority*. If sound attenuation is required, this must be detailed on the plans lodged with the Construction Certificate.
33. **Health – Acoustic Validation** - The plans submitted to the Principle Certifying Authority with the construction certificate must incorporate the recommended level of acoustic and vibration mitigation methods as detailed in the Acoustic Assessment report prepared by Renzo Tonin & Associates dated **11 April 2019**, reference **TK866-01F02** Acoustic Report for DA **Modification (R2)**) including the further assessment recommended in the report. The report and the plans are to comply with the requirements of the State Environmental Planning Policy (Infrastructure) 2007, relevant Australian Standards and NSW Industrial Noise Policy.
(CONDITION AMENDED BY MOD2019/0116)
34. **Health - Regulated Systems - Details and Fit out** - Details of any regulated system must be submitted to the Principal Certifying Authority. Such details must demonstrate compliance with the following:

Public Health Act 2010 (as amended)

Public Health Regulation 2012 (as amended)

AS/NZS 3666.1:2002 Air-handling and water systems of buildings - Microbial control - Design, installation and commissioning (as amended)

35. **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 must 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.

36. BASIX Commitments - All energy efficiency measures as detailed in the approved BASIX Certificate must be implemented on the plans lodged with the application for the Construction Certificate.

37. Public Domain Works. A public domain plan is to be submitted to Council in accordance with the requirements of the Kogarah North Public Domain Strategy/Plan prepared by Atlas Urban on behalf of Council. The plan is to address the design criteria, including but not limited to:

- Retain and protect existing Tallowoods.
- Rationalise on street greenery outside school and balance trees and circulation needs of people.
- All ages play.
- Porous paving in parking lane.
- Plant small trees adjacent to large Tallowoods.
- Plant large trees in parking lane on western side.
- Trees to have kerb inlet for passive irrigation and contribute to water quality.
- Remove existing bottle brush and underground powerlines.
- Realign street corners to make crossing safer for pedestrians and reduce vehicle entry speeds for Railway Parade.
- Provide street side seating adjacent secondary entrance to SGGHS.
- Formalise and extend landscape street address adjacent to SGGHS entrance.
- Biofiltration basins in parking lanes and kerb extensions
- WSUD tree pits.

Please contact Council for further details.

37A Construction Vehicle and Pedestrian Plan of Management - Construction Vehicle and Pedestrian Plan of Management (CVPPM) shall be submitted to Council for the approval of Council's Traffic Engineer. The CVPPM shall be prepared for the various stages of the development and include, but not be limited to, the following:

- (a) Details of the scope of works to be undertaken during the demolition, excavation, construction stages etc., and the duration of each.
- (b) Indicate the consent approved hours of work.
- (c) Identify the routes to be travelled within the Council area for trucks travelling to and from the site.
- (d) Identify other developments occurring concurrently in the area including those within the street and up to 500m from the site.

The developer/builder shall liaise fortnightly with other identified developers/builders to minimize any cumulative traffic impacts.

- (e) Include a plan showing the location of any schools, preschools and long day care centres within 200m of the site.
- (f) Detail the number of and where construction worker vehicles will be parked during the various stages of the development.
- (g) Identify any proposed temporary road closures, temporary changes to traffic flow and loss of pedestrian or cyclist access likely to occur as a result of works being undertaken during the various work stages.
- (h) Detail the size (including dimensions), number and frequency of trucks movements to and from the site during the various stages of work.
- (i) Include copies of all required Traffic Control Plans (TCPs). All TCP's shall be prepared by RMS accredited persons.
- (j) Provide, if required, swept wheel path drawings for the different types of vehicles accessing the site. The swept wheel path drawings:
 - May be required if it is considered truck movements into and out of the site associated with the various stages of development have the potential to damage public or private infrastructure/property.
 - May be required if it is considered truck movements into and out of the site cannot be carried out without a loss of on street vehicle parking spaces either in close proximity to or removed from the site.
 - Shall be prepared by a suitably qualified and experienced traffic engineering consultant.
- (k) Show the location and length of any proposed Works Zones including any adjustments required to Council's infrastructure, parking control signs etc. to implement the zones.

NOTE: Works Zones require the approval of the Georges River Council Traffic Committee prior to installation.

- (l) Show the locations of where it is proposed to stand trucks remote from the site should they be unable on arrival to immediately enter the site or an approved Works Zone. Double parking, parking in NO STOPPING/NO STANDING zones or across neighboring property driveways is not permitted.

NOTE: A copy of the approved CVPPM must be kept at the site and made available to the Principal Certifying Authority or Council on request:

(CONDITION ADDED BY MOD2022/0025)

PRIOR TO THE COMMENCEMENT OF WORK (INCLUDING EXCAVATION)

These conditions have been imposed to ensure that all pre-commencement matters are dealt with and finalised prior to the commencement of work.

- 38. Dial before your dig** - The applicant must 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" must be forwarded to Council's Engineers for their records.
- 39. Dilapidation Report on Public Land - Major Development Only** - Prior to the commencement of works (including excavation), a dilapidation report must be prepared for the Council infrastructure adjoining the development site, including:

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

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

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

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

40. Registered Surveyors Report - During Development Work - A report must be submitted to the Principal 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 must 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 must indicate the reduced level of the main ridge.

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

41. 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.

42. Structural Engineers 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 must be submitted to the satisfaction of Council.

43. Tree Removal – Permission is granted for the removal of the onsite trees as shown on

the approved drawings.

General Tree Removal Requirements

- (a) All tree removal must be carried out by a certified 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.

- 44. Tree Protection.** Prior to the commencement of any works on the site the tree protection measures required for the established Tree Protection Zone (TPZ) of the trees to be retained must be installed in accordance with Section 4 - *Australian Standard AS 4970-2009 - Protection of trees on development sites*.

Unless otherwise specified in AS 4970-2009 a protective fence consisting of 1.8m high fully supported chainmesh must be erected around the base of the tree. The distance of the fence from the base of each tree is to be in accordance with the TPZ listed below. A layer of organic mulch 100 millimetres thick must be placed over the protected area and no soil or fill should be placed within the protection area.

There must be no services installed within the drip line TPZ of the tree. This fence must be kept in place during construction and also have a sign displaying "Tree Protection Zone" attached to the fence, this must also include the name and contact details of the Project Arborist.

- 45. Tree Retention – Arborist Report-** The trees identified for retention in the Level 5 Arborist Report dated 25th May 2016 by Russell Kingdom of Advanced Treescape Consulting listed below must be protected in accordance with the above report and the requirements of Section 4 - *Australian Standard AS 4970-2009 - Protection of trees on development sites*.

Tree Species	Tree No / Location on site	TPZ
Tree 1 <i>Eucalyptus microcorys</i>	2 – 10 Palmerston Street	9.0m
Tree/s 2, 3, 4, 19 – 22	2 – 10 Palmerston Street	As per arborist report

Note: Tree 1 *Eucalyptus microcorys* is to be retained which supersedes what was stated in the Level 5 Arborist report dated 25th May 2016 by Russell Kingdom of Advanced Treescape Consulting.

- 46. Tree Protection – Excavation.** Excavations around the trees to be retained on site or the adjoining properties (including those trees on 12 Palmerston Street) must be supervised by the Project Arborist to ensure that the root system will not adversely be affected.
- 47.** Where the Tree Protection Zone (TPZ) of trees on site or adjoining sites become compromised by any excavation works, the Project Arborist must be consulted to establish the position of any major roots and determine the necessary measures to protect these roots. The recommendations of the Arborist must be submitted to Council

prior to any further construction works taking place.

48. Tree Protection Zone (TPZ) around the trees to be retained are not to have soil level changes 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.
49. **Tree Removal.** The trees identified in the table below may be removed as recommended in the Level 5 Arborist Report dated 28th March 2017 by Russell Kingdom of Advanced Treescape Consulting.

Tree Species	Tree No / Location on site	Work Required
Tree/s 5 – 18	2 – 10 Palmerston Street	Remove

All tree removals are to be carried out by a certified 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).

Note: Tree 20 *Tristanopsis Laurina* identified for retention in the Level 5 Arborist report dated 25th May 2016 by Russell Kingdom of Advanced Treescape Consulting is to be removed pursuant to the amended Landscape Plans dated 10 January 2020.

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

(CONDITION AMENDED BY MOD2019/0116)

DURING WORK

These conditions have been imposed to ensure that there is minimal impact on the adjoining development and surrounding locality during the construction phase of the development.

50. **Site sign - Soil & Erosion Control Measures** - Prior to the commencement of works (including 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.
51. **Cost of work to be borne by the applicant** - The applicant must 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 must be protected against damage by deep-sectioned timber members laid crosswise, held together by hoop iron straps and chamfered at their ends. This construction must be maintained in a state of good repair and condition throughout the course of construction.
52. **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.
53. **Hours of construction for building work** - Any work activity or activity associated with the development consent that requires the use of any tools (including hand tools) or any power operated plant and machinery that creates noise on or adjacent to the site must

not be performed, or permitted to be performed, except between the hours of 7.00 am to 5.00 pm, Monday to Saturday inclusive. No work or ancillary activity is permitted on Sundays, or Public Holidays.

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

54. **Tree Protection – Excavation** - Excavations around the tree(s) to be retained on site or the adjoining properties must be supervised by the Project Arborist to ensure that the root system will not adversely be affected.
Where the Tree Protection Zone (TPZ) of trees on site or adjoining sites become compromised by any excavation works, the Project Arborist must be consulted to establish the position of any major roots and determine the necessary measures to protect these roots. The recommendations of the Arborist must be submitted to Council prior to any further construction works taking place.
Tree Protection Zone (TPZ) around the trees to be retained are not to have soil level changes 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.
55. **Stormwater to Kerb** - Any stormwater connections to the kerb and gutter are to be in accordance with Council's *'Specification for Construction by Private Contractors'*.
56. **Redundant Driveway** - All existing vehicular crossings adjacent to the subject premises that have become redundant must be removed and the footway and kerb and gutter reinstated at the developer/applicants expense.
57. **Damage within Road Reserve & Council Assets** - The owner must 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.
58. **Public Utility & Telecommunication Assets** - The owner must 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.
59. **Works Zone** - The installation of a "Works Zone" for the site will require the approval from the Traffic Advisory Committee. As a result, the applicant must provide a formal request to Council's Traffic Section with the duration and exact location of the required "Works Zone" at least 6 weeks prior to its required installation date. All costs associated with the installation of a "Works Zone" will be at the applicants expense.
60. **Waste Management Facility** - All materials removed from the site as a result of site clearing, site preparation and, or excavation must be disposed of at a suitable Waste Management Facility. No vegetation, article, building material, waste or the like must be ignited or burnt.
61. Copies of all receipts for the disposal, or processing of all such materials must be submitted to the Principal Certifier and Council, where Council is not the Principal Certifying Authority.
62. **Hazardous or Intractable Waste – Removal and Disposal.** Hazardous or intractable waste arising from the construction process must 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)

63. Conditions from Department of Infrastructure, Regional Development and Cities

- The building must not exceed a maximum height of 56.53 metres AHD, inclusive of all lift over-runs, vents, chimneys, aerials, antennas, lightning rods, any roof top garden plantings, exhaust flues etc.
- Separate approval must be sought under the Regulations for any construction equipment (i.e. cranes) required to construct the building. Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Regulations. Therefore, it is advisable that approval to operate construction equipment (i.e. cranes) be obtained prior to any commitment to construct.
- The Proponent must advise Airservices Australia at least three business days prior to the controlled activity commencing by emailing ifP@airservicesaustralia.com and quoting YSSY-CA-592 P2 dated 11 May 2022.
- On completion of construction of the building, the Proponent must provide Sydney Airport Corporation Limited (SACL) with the surveyed height of building.
- A separate assessment and approval under the regulations will be required for any further addition to the building's height (e.g. the installation of additional aerials, antennas, etc.) as it will increase the building's penetration of the OLS.

(CONDITION AMENDED BY MOD2022/0025)

PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

These conditions have been imposed to ensure that all works have been completed in accordance with the Development Consent prior to the issue of the Occupation Certificate.

- SEPP 65 Design Verification Statement** - The Principal Certifier must not issue an Occupation Certificate to authorise a person to commence occupation of the residential flat development unless the Principal Certifier 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.
- Restriction to User and Positive Covenant for On-Site Detention Facility** - A Restriction on Use of the Land and Positive Covenant must 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 must not make or permit or suffer the making of any alterations to any on-site stormwater management system which is, or must be, constructed on the lot(s) burdened without the prior consent in writing of Georges River Council. The expression “on-site stormwater management system” must include all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to manage stormwater quantity or quality including the temporary detention or permanent retention of stormwater storages. Any on-site stormwater management system constructed on the lot(s) burdened is hereafter referred to as “the system”.

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

Positive Covenants

1. *The registered proprietor of the lot(s) hereby burdened will in respect of the system:*
 - a) *keep the system clean and free from silt, rubbish and debris*
 - b) *maintain and repair at the sole expense of the registered proprietors the whole of the system so that it functions in a safe and efficient manner*
 - c) *permit the Council or its authorised agents from time to time and upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land for the compliance with the requirements of this covenant*
 - d) *comply with the terms of any written notice issued by the Council in respect of the requirements of this covenant within the time stated in the notice.*
2. *Pursuant to Section 88F(3) of the Conveyancing Act 1919 the Council must 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 must 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.*

66. **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 must outline the required maintenance works, how and when these will be done and who will be carrying out these maintenance works. A copy of the approved maintenance schedule shall be submitted to Council for record.

(CONDITION AMENDED BY MOD2022/0025)

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

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

The works-as-executed drainage plan must be prepared and signed jointly by a professional engineer specialising in hydraulic engineering and a Registered Surveyor with registration numbers and qualifications as outlined which include the following details:

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

(CONDITION AMENDED BY MOD2022/0025)

- 68. Consolidation of Site** - The site must be consolidated into one allotment and by a Plan of Consolidation being prepared by a Registered Surveyor. This Plan must be registered at the NSW Land and Property Information prior to the issue of a final occupation certificate.
- 69. Requirements prior to the issue of the Occupation Certificate** - The following must be completed and or submitted to the Principal Certifier prior to the issue of the Occupation Certificate:
- (a) All the stormwater/drainage works must 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) must 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 must be issued and submitted to the Principal Certifier prior to the issue of the Occupation Certificate.
 - (f) Work as Executed Plans prepared by a Chartered Professional Engineer or a Registered Surveyor when all the site engineering works are complete must be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.

70. 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 where required;
- (f) Relocation/provision of street signs where required;
- (g) New or replacement street trees where required;
- (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 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.

71. 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 including:

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, and
- (d) The full name and signature of the professional engineer.

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

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

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

72. Fire Safety Certificate before Occupation or Use - In accordance with Clause 153 of the Environmental Planning and Assessment Regulation 2000, on completion of building works and prior to the issue of an Occupation Certificate, the owner must cause the issue of a Final Fire Safety Certificate in accordance with Clause 170 of the aforesaid Regulation. The Fire Safety Certificate must be in the form or to the effect of Clause 174

of the Environmental Planning and Assessment Regulation, 2000. In addition, in relation to each essential fire or other safety measure implemented in the building or on the land on which the building is situated, such a Certificate is to state:

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

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

- 73. Acoustic Validation** - Documentation from suitably qualified acoustic consultant certifying that the noise control measures as recommended in the Acoustic Assessment report prepared by Renzo Tonin & Associates (dated 11 April 2019, reference TK866-01F02 Acoustic Report for DA Modification (R2)) have been completed must be submitted to the Certifying Authority.

(CONDITION AMENDED BY MOD2019/0116)

- 74. Acoustic Certification** - Prior to the issue of any Occupation Certificate, a suitably qualified acoustic consultant must certify that the operation of the premises and plant equipment must not give rise to a sound pressure level at any affected premises that exceeds the relevant acoustic criteria. The development must at all times comply with these noise levels post occupation.

- 75. Health – Regulated Systems – Inspection, Certification and Registration** - Certification by a 'competent person' as defined under the Public Health (Microbial Control) Regulation 2000 must be submitted that verifies that the regulated system has been installed in accordance with:

- (a) Public Health Act 2010 (As amended)
- (b) Public Health Regulation 2012 (As amended)
- (c) AS/NZS 3666.1:2002 Air-handling and water systems of buildings - Microbial control - Design, installation and commissioning (as amended)

and can operate as required by Clause 9 of the Public Health (Microbial Control) Regulation, 2000 (as amended).

- 76. 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.

- 77. BASIX Compliance Certificate** - A Compliance Certificate must 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.

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

- 79. Allocation of car and bicycle parking spaces** – A total of 70 car parking spaces and a minimum of 27 bicycle parking spaces associated with the development is to be provided

for users of the premises and be allocated as follows:

- (a) 54 resident car spaces.
- (b) 10 visitor car spaces including 1 car wash bay.
- (c) 2 commercial car spaces.
- (d) 4 serviced apartment car parking spaces.
- (e) 9 Motorcycle spaces.
- (f) 27 bicycle spaces.

(CONDITION AMENDED BY MOD2022/0025)

80. Electricity Supply - Evidence must be provided demonstrating that the development has been connected to the Ausgrid, if required.

81. Acoustic Compliance – General Operation of Premises. The proposed use of the premises and the operation of all plant and equipment must 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 must certify that the operation of the plant equipment must 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 must be assessed as an LAeq, 15 min in accordance with the NSW Environment Protection Authority's "Noise Policy for Industry".

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

82. Public Domain Works – Compliance. The works in the approved Public Domain Plan lodged in accordance with the requirements of the Kogarah North Public Domain Strategy/Plan prepared by Atlas Urban on behalf of Council are to be completed prior to issue of the occupation certificate.

82A. 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 any of the properties identified in the preconstruction dilapidation report prepared for this development. 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.

82B. Traffic Light System

A traffic light system shall be installed and operational on the single vehicle ramps on Basement B2 and B3 to prevent two (2) vehicles being on the ramps at the same time. Details shall be submitted to the Principal Certifying Authority for approval.

(CONDITION ADDED BY MOD2022/0025)

82C. Car Space Delineation and Numbering

All resident, resident visitor, disabled, commercial, waiting bay and motorcycle parking spaces shall be clearly delineated, numbered and marked, where required, to comply with the relevant Australian Standard.

(CONDITION ADDED BY MOD2022/0025)

82D. Bicycle Parking- Provision of Racks

All bicycle parking spaces shall be fitted with racks complying with the requirements of AS 2890.3:2015 Parking facilities, Part 3 – Bicycle parking. Details of the racks shall be submitted to the Principal certifying Authority.

(CONDITION ADDED BY MOD2022/0025)

82E. Plan Of Management (Communal Open Space) -

A Plan of Management (POM) for use of rooftop open space must be submitted to and approved by the PCA prior to the issue of the Occupation Certificate, with a copy stamped as received by the PCA provided to Council. The POM must outline the:

- (i) hours of use of the rooftop communal open space which shall be restricted to between 8am to 10pm;
- (ii) maximum number of 25 users at any one time;
- (iii) provisions that no amplified music to be played; and
- (iv) identify other measures to ensure that the amenity and safety of persons within the development and in nearby existing and future development is maintained.
- (v) Location and type of signage to be installed in the building to notify residents and visitors in respect to the use of this space.
- (vi) 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.

(CONDITION ADDED BY MOD2022/0025)

ONGOING CONDITIONS

These conditions have been imposed to ensure that the use or operation of the development does not adversely impact on the amenity of the neighbourhood or environment.

82F. Car Parking Allocation

Each residential unit must be allocated with at least one car space.

Each tandem/stacked carspace in Basement 3 shall be allocated to the same unit/strata title.

(CONDITION ADDED BY MOD2022/0025)

82G. Plan Of Management (Communal Open Space) -

The development must at all times be carried out in accordance with the approved plan of management (as per condition 82E) relating to the use of the rooftop communal open space area.

(CONDITION ADDED BY MOD2022/0025)

- 83. 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).
- 84. Lighting - General Nuisance** - Any lighting on the site must 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.
- 85. Amenity of the neighbourhood** - The implementation of this development must 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.
- 86. Smoking-** The premises must comply with the Smoke Free Environment Act 2000.
- 87. Activities and storage of goods outside buildings** - There must 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.
- 87A. Noise from Roof Top area.** There is to be no live bands, amplified music or speakers live bands permitted in the roof top area of the building.
- 88. 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.
- 89. Loading & Unloading of vehicles** - All loading and unloading of vehicles in relation to the commercial use of the premises must take place wholly within the commercial car parking spaces. A sign restricting the height of vehicles to 2.2m must be installed at the car park entry.
- 90. Annual Fire Safety Statement** - The owner of the building premises must ensure the Council is given an annual fire safety statement in relation to each essential fire safety measure implemented in the building. The annual fire safety statement must be given:
- (a) Within 12 months after the date on which the fire safety certificate was received.
 - (b) Subsequent annual fire safety statements are to be given within 12 months after the last such statement was given.
 - (c) An annual fire safety statement is to be given in or to the effect of Clause 181 of the Environmental Planning and Assessment Regulation 2000.
 - (d) A copy of the statement is to be given to the Commissioner of Fire & Rescue NSW, and a further copy is to be prominently displayed in the building.
- 91. Responsibility of Owners Corporation** - The Owners Corporation must be responsible for presenting all approved waste and recycling receptacles for collection, and returning all receptacles to the Main Waste Collection Room, as soon as practicable after they have been serviced.

The Owners Corporation must 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.

92. **Site Safety Fencing** - Site fencing must 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 must be erected before the commencement of any work and maintained throughout any construction work.

A high risk work license may be required from SafeWork NSW (see www.SafeWork.nsw.gov.au).

93. **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.

94. **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.

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

96. **Disability Discrimination Act** - This application has been assessed in accordance with the Environmental Planning and Assessment Act 1979. No guarantee is given that the proposal complies with the Disability Discrimination Act 1992. The applicant is responsible to ensure compliance with this and other anti-discrimination legislation. The Disability Discrimination Act 1992 covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which refers to AS1428.1-Design for Access and Mobility.

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

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

The interest rate applied to bonds is set at Council's business banking facility rate as at 1

July each year. Council will accept a bank guarantee in lieu of a deposit.

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

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

- (a) Complete the Driveway Crossing on Council Road Reserve Application Form which can be downloaded from Georges River Council's Website at www.georgesriver.nsw.gov.au.
- (b) In the Application Form, quote the Development Consent No. (eg. 2012/DA) and reference this condition number (e.g. Condition 23)
- (c) Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Council's adopted Fees and Charges for the administrative and inspection charges associated with Vehicular Crossing applications.

An approval for a new or modified vehicular crossing will contain the approved access and/or alignment levels which will be required to construct the crossing and/or footpath. Once approved, all work must 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.

ADVISORY CONDITIONS

98A. Overhead Powerlines

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

The "as constructed" minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website, www.ausgrid.com.au. It remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.

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

generally at the developers cost.

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

Should you have any enquiries, please contact Ausgrid at development@ausgrid.com.au
(CONDITION ADDED BY MOD2022/0025)

98B. Use and Fitout of Retail Premises

Future development consent (via DA or CDC) must be obtained for the use and fit out of the retail tenancy unless the works are exempt development as per State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

(CONDITION ADDED BY MOD2022/0025)

Schedule C – Prescribed Conditions

Prescribed conditions are those which are mandated under Division 8A of the *Environmental Planning and Assessment Regulation 2000* and given weight by Section 80A (11) of the *Environmental Planning and Assessment Act 1979*.

Detailed below is a **summary** of all the prescribed conditions which apply to development in New South Wales. Please refer to the full details of the prescribed conditions as in force, at www.legislation.nsw.gov.au.

It is the responsibility of the beneficiary of this consent to determine which prescribed conditions apply.

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

Clause 98 – Building Code of Australia - Requires all building work to be carried out in accordance with the Building Code of Australia.

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

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.

Schedule D – Operational & Statutory Conditions

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

It is the responsibility of the beneficiary of this consent to determine which operational and statutory conditions apply.

Requirement for a Construction Certificate - The erection of a building must not commence until a Construction Certificate has been issued by the consent authority, the Council (if the Council is not the consent authority) or an accredited certifier.

An application form for a **Construction Certificate** is attached for your convenience.

Appointment of a Principal Certifying Authority - The erection of a building must not commence until the beneficiary of the development consent has:

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

If the work is not going to be undertaken by an Owner-Builder, then the beneficiary of the consent must:

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

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.

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.

Subdivision Work – Construction Certificate & Appointment of Principal Certifying Authority - Subdivision work in accordance with a development consent cannot commence until:

- (a) A Construction Certificate has been issued by the consent authority, the council (if not the consent authority) or an accredited certifier; and
- (b) The beneficiary of the consent has appointed a Principal Certifying Authority for the subdivision work.

No later than two (2) days before the subdivision 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 subdivision work.

Subdivision work – 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 subdivision works.

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

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

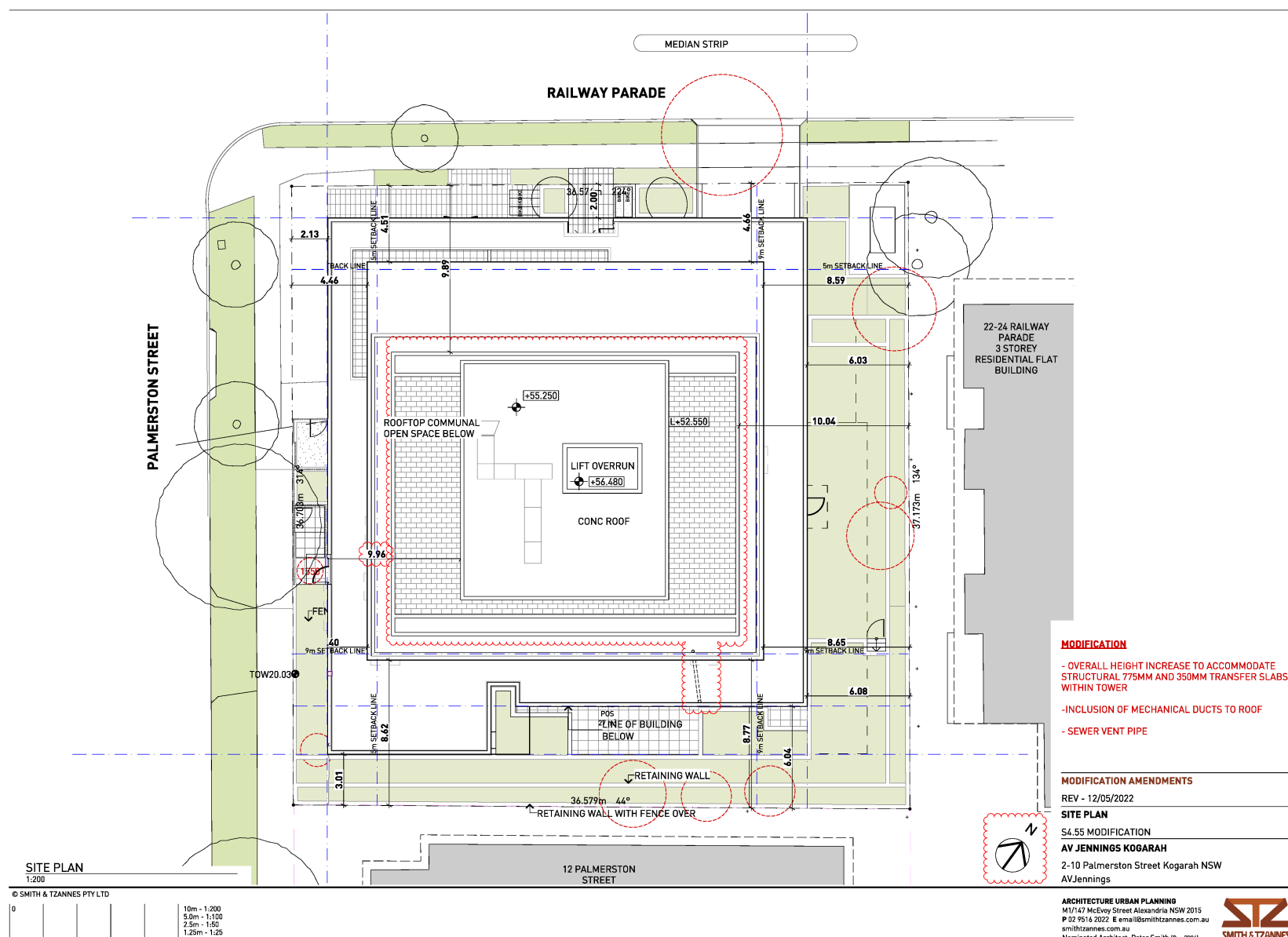
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- Where Georges River Council has been appointed Principal Certifier, forty eight (48) hours notice in writing, or alternatively twenty four (24) hours notice by facsimile or telephone, must be given to when specified work requiring inspection has been completed.

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

Only the Principal Certifying Authority appointed for the building work can issue the Occupation Certificate.

ATTACHMENTS

Attachment [↓](#)1  Architectural plans



18_093 MOD2-A-010



MODIFICATION

- OVERALL HEIGHT INCREASE TO ACCOMMODATE STRUCTURAL 775MM AND 350MM TRANSFER SLABS WITHIN TOWER
- MAIN ENTRY MOVED 1.5M ALONG RAILWAY PARADE TOWARDS PALMERSTON STREET TO ACCOMMODATE PROPOSED GROUND FLOOR CHANGES.
- AMENDMENT TO ENTRY HOOD TO IMPROVE ARCHITECTURAL AESTHETICS

MODIFICATION

REV - 19/11/2021

RAILWAY PARADE ELEVATION

S4.55 MODIFICATION

AV JENNINGS KOGARAH

2-10 Palmerston Street Kogarah NSW

AVJennings

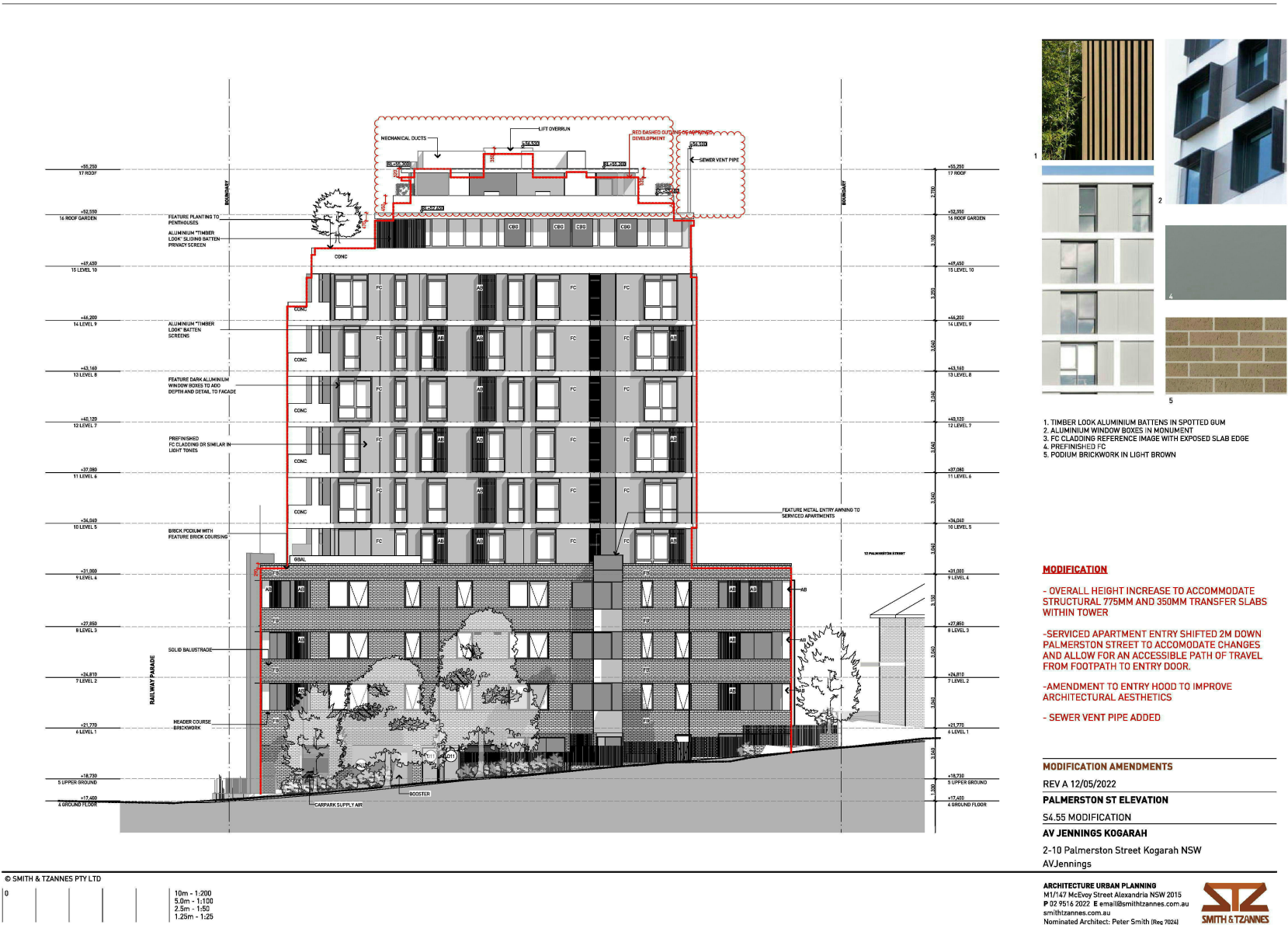
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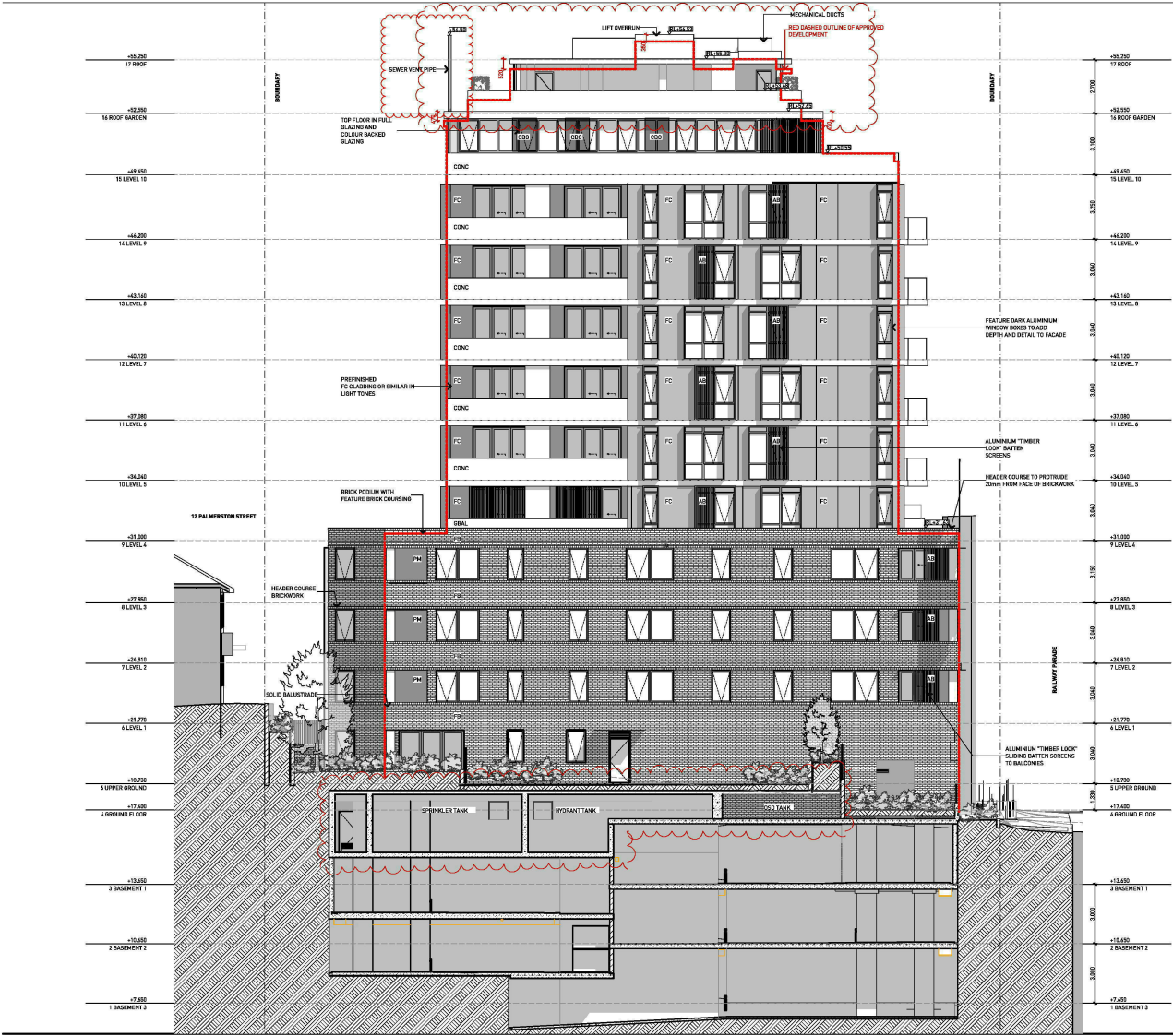
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	2.5m - 1:50
	1.25m - 1:25

ARCHITECTURE URBAN PLANNING
 M/147 McEvoy Street Alexandria NSW 2015
 P 02 9516 2022 E email@smithtzannes.com.au
 smithtzannes.com.au
 Nominated Architect: Peter Smith (Reg 7024)



18_093 MOD2-A-200





1. TIMBER LOOK ALUMINIUM BATTENS IN SPOTTED GUM
2. ALUMINIUM WINDOW BOXES IN MONUMENT
3. FC CLADDING REFERENCE IMAGE WITH EXPOSED SLAB EDGE
4. PREFINISHED FC
5. PODIUM BRICKWORK IN LIGHT BROWN

MODIFICATION

- OVERALL HEIGHT INCREASE TO ACCOMMODATE STRUCTURAL 775MM AND 350MM TRANSFER SLABS WITHIN TOWER
- RELOCATION OF OSD TANK FROM DEEP REAR DEEP SOIL ZONE TO NORTH EAST SIDE OF GROUND FLOOR (LOCATED OVER BASEMENT STRUCTURE BELOW).
- RELOCATION OF HYDRANT AND SPRINKLER TANKS FROM OVER DRIVEWAY TO NORTH EAST SIDE OF GROUND FLOOR (LOCATED ABOVE BASEMENT STRUCTURE BELOW).
- ELEVATION MARKER ADJUSTED TO SHOW RELOCATION OF HYDRANT, SPRINKLER AND OSD TANKS
- SEWER VENT PIPE ADDED

MODIFICATION AMENDMENTS

REV A 12/05/2022

NE ELEVATION

S4.55 MODIFICATION

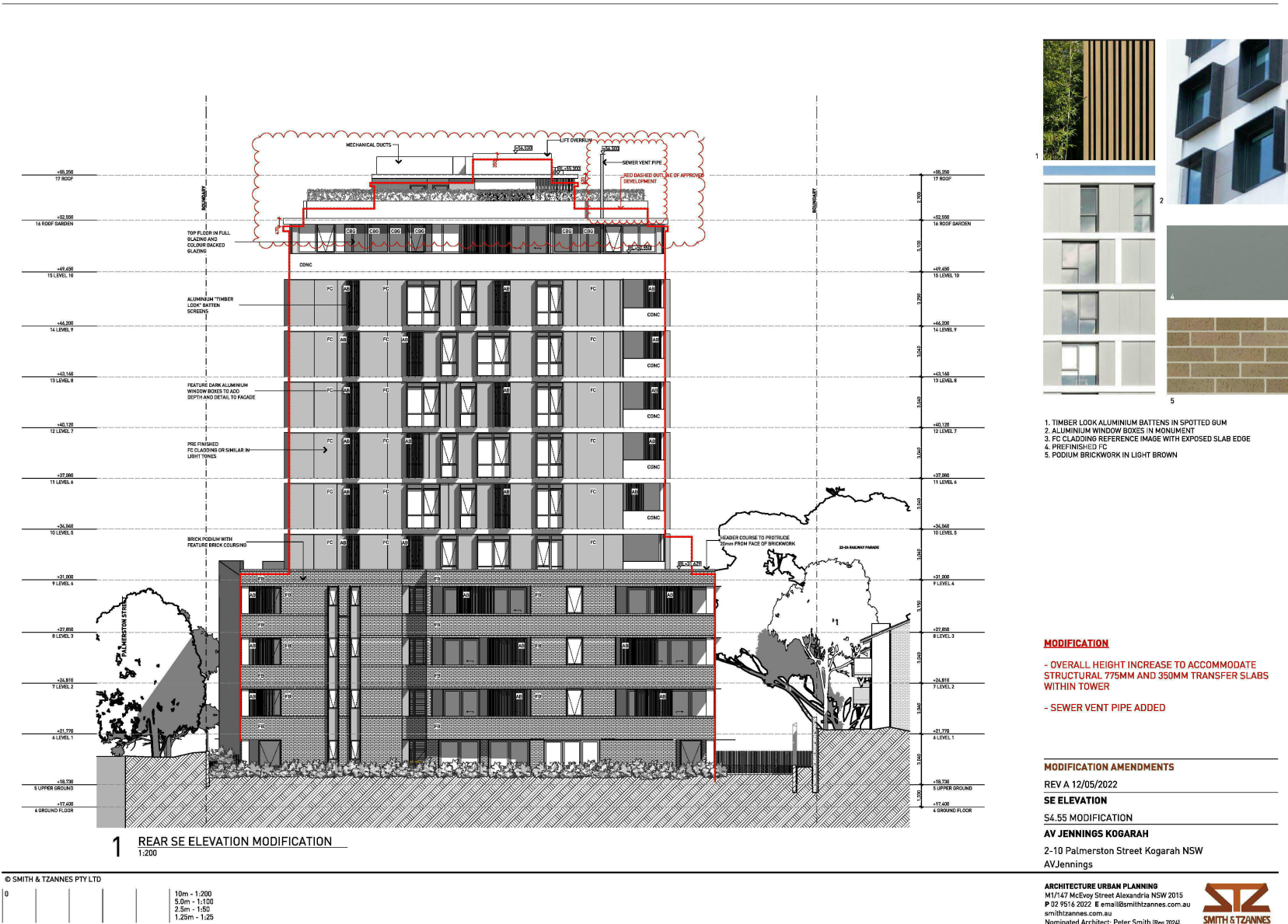
AV JENNINGS KOGARAH

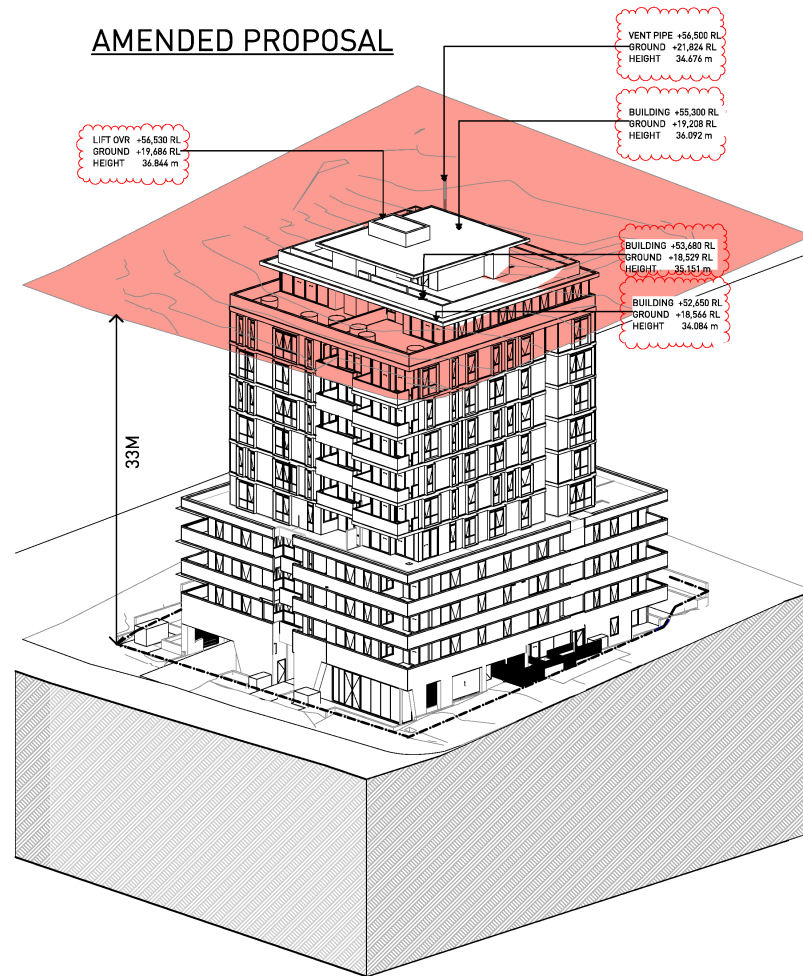
2-10 Palmerston Street Kogarah NSW
AVJennings

ARCHITECTURE URBAN PLANNING
M/147 McEvoy Street Alexandria NSW 2015
P 02 9516 2022 E email@smithtjzannes.com.au
smithtjzannes.com.au
Nominated Architect: Peter Smith (Reg 7024)



18_093 MOD2-A-202





CHANGES
- OVERALL HEIGHT INCREASE TO ACCOMMODATE
STRUCTURAL 775MM AND 350MM TRANSFER SLABS
WITHIN TOWER

MODIFICATION AMENDMENTS

REV A 12/05/2022

HEIGHT PLANE DIAGRAM

S4.55 MODIFICATION

AV JENNINGS KOGARAH

2-10 Palmerston Street Kogarah NSW
AVJennings

ARCHITECTURE URBAN PLANNING
M1/147 McEvoy Street Alexandria NSW 2015
P 02 9516 2022 E email@smithzannes.com.au
smithzannes.com.au
Nominated Architect: Peter Smith (Reg 7024)



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