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## AGENDA - LPP

<b>Meeting:</b>	Georges River Local Planning Panel (LPP)
<b>Date:</b>	Thursday, 20 October 2022
<b>Time:</b>	4.00pm
<b>Venue:</b>	Blended Meeting Online and Georges River Civic Centre Corner Dora and MacMahon Streets, Hurstville
<b>Participants:</b>	Stephen Alchin (Chairperson) Julie Walsh (Expert Panel Member) Awais Piracha (Expert Panel Member) Fiona Prodromou (Community Representative)

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<b>1. On Site Inspections – Carried out by Panel Members prior to meeting</b>
<b>2. Opening</b>
<b>3. Consideration of Items and Verbal Submissions</b>
LPP050-22 <b>5 Mona Street, Allawah – DA2021/0465</b> (Report by Principal Planner)
LPP051-22 <b>13-19 Hogben Street, Kogarah – DA2021/0405</b> (Report by Principal Planner)
LPP052-22 <b>66 Mulga Road, Oatley – MOD2022/0057</b> (Report by Independent Assessment)
<b>4. Local Planning Panel Deliberations in Closed Session</b>
<b>5. Confirmation of Minutes</b>

# REPORT TO GEORGES RIVER COUNCIL LPP MEETING OF THURSDAY, 20 OCTOBER 2022

LPP050-22

<b>LPP Report No</b>	<b>LPP050-22</b>	<b>Development Application No</b>	<b>DA2021/0465</b>
<b>Site Address &amp; Ward Locality</b>	5 Mona Street, Allawah Kogarah Bay Ward		
<b>Proposed Development</b>	Demolition and construction of a seven storey boarding house comprising 46 single rooms plus a managers room over basement car parking		
<b>Owners</b>	Libra Property Pty Ltd		
<b>Applicant</b>	Aplus Design Group		
<b>Planner/Architect</b>	Planner: Haskew de Chalain Architect: Aplus Design Group		
<b>Date Of Lodgement</b>	22/11/2021		
<b>Submissions</b>	Six (6) single submissions, a submission containing three (3) signatures and a submission containing 26 signatures was received.		
<b>Cost of Works</b>	\$10,807,610.00		
<b>Local Planning Panel Criteria</b>	This application is referred to the Georges River Local Planning Panel for consideration and determination in accordance with the sub delegations of functions. Subject to these delegations, the application being for a boarding house is required to be considered and determined by the Local Planning Panel.		
<b>List of all relevant s.4.15 matters (formerly s79C(1)(a))</b>	State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy No.55 – Remediation of Land, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment, State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, State Environmental Planning Policy (Affordable Rental Housing) 2009, Georges River Local Environmental Plan 2021, State Environmental Planning Policy (Housing) 2021		
<b>List all documents submitted with this report for the Panel's consideration</b>	Statement of Environmental Effects Architectural Plans Traffic Report Acoustic Report and Arborist Report		
<b>Report prepared by</b>	Principal Planner		

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

**Site Plan****Figure 1:** Aerial view of subject site outlined in blue.

## Executive Summary

### Proposal

1. Council received a development application seeking planning approval for demolition of existing structures and the construction of a boarding house over basement car park. The proposed development consists of a seven (7) storey boarding house containing 46 single self-contained boarding rooms, 1 self-contained boarding house managers room, a communal living room, basement parking for 24 motor vehicles (stacker arrangement), 9 bicycles and 9 motorbikes.
2. In response to the issues raised by Council and comments provided from internal specialists, the proposal was amended.

### Site and Locality

3. The subject development site is identified as Lot 266 DP 7182, known as 5 Mona Street, Allawah.
4. The site is a regular shaped allotment with a 16.83m frontage to Mona Street, a secondary frontage to Illawarra Street of 40.325m, an eastern side boundary of 40.325m with a rear boundary width of 16.83m. It is located on the north eastern corner of the intersection of Mona Street and Illawarra Street. The site has a total area of 676.6sqm by DP.
5. A single storey rendered semi-detached dwelling with tile roof, and detached double garage is currently located on the site. The double garage is accessed via Illawarra Street. The site observes a fall from the eastern side to the western side of the allotment of approximately 2m.
6. In the wider context, the local building forms consist of older commercial tenancies, including the Allawah Hotel along Railway Parade and predominantly 3-4 storey residential flat buildings along Mona Street and Illawarra Street.
7. The site is located within 100m walking distance from Allawah Railway Station and approximately 800 metres from the edge of the Hurstville Town Centre.
8. The site is in the vicinity of the Allawah Hotel, which is a local heritage item under Schedule 5 of Georges River Local Environmental Plan 2021.

### Zoning, Permissibility and Georges River Local Environmental Plan (2021) Compliance - LEP

9. The subject site is zoned R4 – High Density Residential under the provisions of Georges River Local Environmental Plan 2021 (GRLEP 2021). Boarding Houses are permitted with consent in the zone, the proposal is considered to be consistent with the objectives of the zone.

### Georges River Development Control Plan 2021

10. The provisions of Georges River Development Control Plan 2021 are applicable to the proposed development. The proposal is considered to be an acceptable urban design and planning outcome for the alterations and additions to the existing building on the site and generally satisfies the applicable provisions contained within GRDCP 2021.
11. A detailed assessment of the proposal against these controls is provided later in this report.



**Submissions**

12. The application was notified for a period of fourteen (14) days in accordance with the Kogarah Development Control Plan 2013. Six (6) single submissions, a submission containing three (3) signatures and a submission containing 26 signatures was received.

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

13. The proposal has been referred to the Georges River Local Planning Panel (LPP) as the sub delegations of Council require a boarding house development to be determined by the Planning Panel.

**Planning and Design Issues**

14. The proposal is consistent with the aim and objectives of the State Environmental Planning Policy (Affordable Rental Housing) 2009 and the Georges River Local Environmental Plan 2021 in that the development will provide affordable housing within an accessible location.
15. The proposed development is considered to meet Clause 30A - Character of local area provisions within the SEPP indicating that the design of the development is compatible with the character of the local area. This is further discussed within the body of the report.

**Conclusion**

16. Having regard to the matters for consideration under section 4.15(1) of the Environmental Planning and Assessment Act 1979, the provisions of the relevant State Environmental Planning Policies, Local Environmental Plans and Development Control Plans and following a detailed assessment, the proposed Development Application (DA2021/0465) is recommended for approval subject to conditions of consent.

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

17. Development consent is sought for demolition of existing structures and the construction of a seven storey boarding house over basement car park. The proposed development consists of 46 single self-contained boarding rooms, 1 self-contained boarding house managers room, a communal living room, basement parking for 24 motor vehicles (stacker arrangement), 9 bicycles and 9 motorbikes.



**Figure 2:** Perspective showing front & side elevation of boarding house with Allawah Hotel in the foreground.



**Figure 3:** Perspective showing side elevation as viewed from Illawarra Street.

18. A detailed breakdown of the proposed works is provided below:

Basement 1 Plan

- 24 Parking Spaces including a 21 car stacker system, a single space and 2 accessible car spaces.
- Car lift
- Waiting bay
- Building lobby
- Fire Stairs and lift access.
- Nine (9) motorcycle spaces.
- Main switch room & Comms
- Hot water plant room.

Lower Ground Plan

- Two (2) x single boarding rooms with terrace.
- One (1) x single Manager's room with terrace.
- Shared laundry.
- Accessible WC.
- Bin Holding room.
- Bulky goods room.
- Hydrant Booster.
- Sprinkler and water pump room.
- Fire stairs and lift access.
- Substation.
- Car lift.
- Nine (9) x bicycle parking.
- Recycle bin cupboard.
- Hydraulic and maintenance cupboard.

Upper Ground Plan

- Eight (8) x single boarding rooms, 3 with balconies.
- Communal open space.
- Fire stairs and lift access.
- Garbage chute.
- Recycle bin cupboard,
- Hydraulic and maintenance cupboard

Levels 1 - 2 Plan

- Eight (8) x single boarding rooms, 4 with balconies.
- Fire stairs and lift access.
- Garbage chute.
- Recycle bin cupboard.
- Hydraulic and maintenance cupboard.

Level 3 Plan

- Seven (7) x single boarding rooms, 3 with balconies.
- Fire stairs and lift access.
- Garbage chute.
- Recycle bin cupboard.
- Hydraulic and maintenance cupboard.

Level 4 Plan

- Seven (7) x single boarding rooms, 3 with balconies.
- Fire stairs and lift access.
- Garbage chute.
- Recycle bin cupboard.
- Hydraulic and maintenance cupboard.

Level 5 Plan

- Six (6) x single boarding rooms, 2 with balconies.
- Communal Room with balcony.
- Fire stairs and lift access.
- Garbage chute.
- Recycle bin cupboard.
- Hydraulic and maintenance cupboard.

Roof Plan

- Non trafficable roof.
- Lift over run.
- Plant.
- Hydraulic and maintenance cupboard.

**Development Summary**

19. A numerical summary of the proposed development is provided as follows

Element	Proposal
Height	21m
Floor Space	1659.2sqm (2.45:1)
Boarding Rooms	47 boarding rooms comprised as follows: <ul style="list-style-type: none"> <li>• 46 x single room boarding rooms.</li> <li>• One (1) x single room Managers Room</li> </ul>
Car parking spaces	24 car parking spaces comprising the following: <ul style="list-style-type: none"> <li>• 21 within a car stacker system.</li> <li>• Two (2) accessible parking spaces.</li> <li>• One single space.</li> </ul>
Bicycle parking spaces	9 Bicycle spaces
Motorbike spaces	9 motorbike spaces
Private open space	<ul style="list-style-type: none"> <li>• 38 sqm.</li> <li>• 3m wide.</li> </ul>

**Background**

20. Development Application (DA2019/0608) was approved on 21 May 2021 by the Land and Environment Court for demolition works and construction of a boarding house. The approved development comprised of a seven storey boarding house containing 25 self-contained boarding rooms, 1 self-contained boarding house managers room, a communal living room, basement parking for 13 motor vehicles, 5 bicycles and 5 motorbikes.

The boarding rooms were a mixture of single, double and twin rooms which could accommodate up to 47 people (including the Boarding House managers room). The external appearance and footprint of the approved building is being reflected within the proposed development, the subject of this application.

21. Development Application (DA2021/0465) was lodged on 22 November 2021 seeking consent for demolition of existing structures and the construction of a boarding house over basement car park. The proposed development consists of a seven (7) storey boarding house containing 46 self-contained boarding rooms, 1 self-contained boarding house managers room, a communal living room, basement parking for 24 motor vehicles, 9 bicycles and 9 motorbikes.
22. Email sent to applicant on 9 March 2022 advising that gazettal of the State Environmental Planning Policy (Housing) 2021 occurred on 26 November 2021 and may have an impact upon their development. This required that the application be assessed against both the State Environmental Planning Policy (Housing) 2021 and the repealed SEPP, State Environmental Planning Policy (Affordable Rental Housing) 2009. The provisions of the new SEPP are to prevail where there is an inconsistency.
23. Email sent to applicant on 25 March 2022 advising that an amendment was made to the State Environmental Planning Policy (Housing) 2021 on 18 March 2022. The Savings and transitional provisions now state that the Housing SEPP does not apply to a development application made, but not yet determined, on or before the commencement date of the Housing SEPP, being 26 November 2021. The application was lodged on 22 November 2021 and hence only the ARH SEPP 2009 applies to this application.
24. Email to applicant on 21 April 2022 advising not all referrals have been received, however the following was requested:
  - A preliminary site investigation report.
  - An amended Acoustic Report.
  - An amended Plan of Management.
25. Amended acoustic report provided on 26 April 2022.
26. Preliminary Site Investigation (PSI) report provided on 2 May 2022.
27. Amended Plan of Management provided on 27 May 2022.
28. Amended Waste Management Plan (WMP) provided on 3 June 2022.
29. Final amended Plan of Management provided on 12 August 2022.

**The Site and Locality**

30. The subject development site is identified as Lot 266 DP 7182, known as 5 Mona Street, Allawah.





**Figure 4:** Aerial view of subject site outlined in blue.

31. The site is a regular shaped allotment with a 16.83m frontage to Mona Street, a secondary frontage to Illawarra Street of 40.325m, an eastern side boundary of 40.325m with a rear boundary width of 16.83m. It is located on the north eastern corner of the intersection of Mona Street and Illawarra Street. The site has a total area of 676.6sqm by DP.
32. A single storey rendered semi-detached dwelling with tile roof, and detached double garage is currently located on the site access via Illawarra Street to the west. The site observes a fall from eastern side to the western side of the allotment of approximately 2m.



**Figure 5:** Existing semi detached dwelling at 5 Mona Street, Allawah



33. In the wider context, the local building forms consist of older commercial tenancies, including the Allawah Hotel along Railway Parade and predominantly 3-4 storey residential flat buildings along Mona Street and Illawarra Street with a 3 storey boarding house located at 3 Mona Street Allawah.
34. The site is located within 100m walking distance from Allawah Railway Station and approximately 800 metres from the edge of the Hurstville Town Centre.
35. The site is in the vicinity of the Allawah Hotel, which is a local heritage item under Schedule 5 of Georges River Local Environmental Plan 2021.

### Surrounding Development

36. Adjoining the site immediately to the east is a three (3) storey boarding house, with Allawah Hotel further to the east with frontage to Railway Parade.



**Figure 6:** Existing semi detached dwelling at 5 Mona Street, Allawah with No 3 Mona Street to the right.

37. To the north, north east and north west of the subject is land zoned B2 Local Centre which contains a number of commercial premises including shops, restaurants and Allawah Hotel.

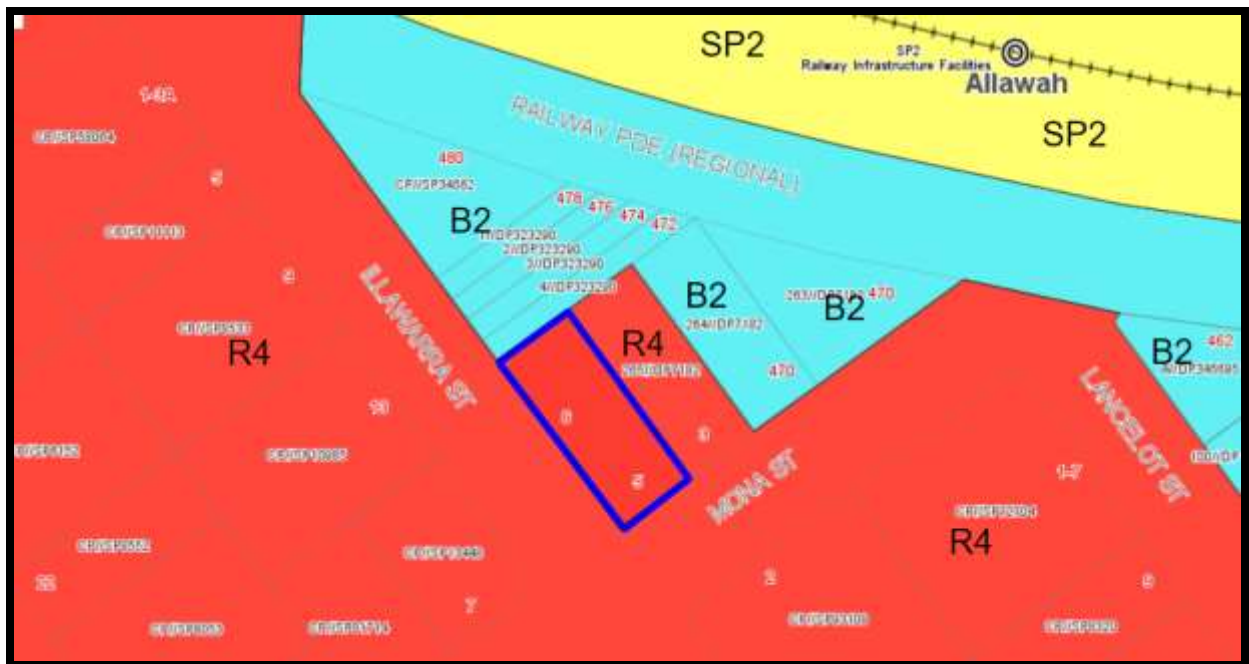


Figure 7: Zoning map, the subject site outlined in blue.



Figure 8: View looking east down Allawah Local Centre.





**Figure 9:** Street view looking north west down Allawah Local Centre. Allawah Hotel is to the left and Allawah Station to the right.

38. To the north west, No 480 Railway Parade, located on the corner of Illawarra Street and Railway Parade is a three to four storey mixed use development comprising commercial premises on the ground floor fronting Railway Parade. Located on the north western side of Illawarra Street are 3-4 storey residential flat buildings with 3-4 storey RFB's also located to the south east and south west sides of Illawarra Street.



**Figure 10:** Street view looking east down Allawah Local Centre. Illawarra Street is to the right.

### Compliance and Assessment

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

## State Environmental Planning Instruments

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

### Compliance with State Planning Policies

State Environmental Planning Policy	Complies
Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment	Yes
State Environmental Planning Policy (Infrastructure) 2007	Yes
State Environmental Planning Policy No.55 – Remediation of Land	Yes
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017	Yes
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 (Affordable Rental Housing) 2009	Yes
State Environmental Planning Policy (Housing) 2021	N/A Savings provisions apply

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

41. The main aims and objectives of this plan include but are not limited to the following:
- To maintain and improve the water quality and river flows of the Georges River and its tributaries and ensure that development is managed in a manner that is in keeping with the national, State, regional and local significance of the Catchment,
  - To protect and enhance the environmental quality of the Catchment for the benefit of all users through the management and use of the resources in the Catchment in an ecologically sustainable manner,
  - To ensure consistency with local environmental plans and also in the delivery of the principles of ecologically sustainable development in the assessment of development within the Catchment where there is potential to impact adversely on groundwater and on the water quality and river flows within the Georges River or its tributaries,
  - To establish a consistent and coordinated approach to environmental planning and assessment for land along the Georges River and its tributaries and to promote integrated catchment management policies and programs in the planning and management of the Catchment,
42. All stormwater from the proposed development can be treated in accordance with Council's Water Management Policy and would satisfy the relevant provisions of the SEPP. The application was supported by Council's development engineer subject to conditions

### State Environmental Planning Policy (Infrastructure) 2007

43. The aim of this Policy is to facilitate the effective delivery of infrastructure across the State by:
- improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services, and
  - providing greater flexibility in the location of infrastructure and service facilities, and

- (c) allowing for the efficient development, redevelopment or disposal of surplus government owned land, and
  - (d) identifying the environmental assessment category into which different types of infrastructure and services development fall (including identifying certain development of minimal environmental impact as exempt development), and
  - (e) identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and
  - (f) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and
  - (g) providing opportunities for infrastructure to demonstrate good design outcomes.
44. The proposal has been considered in accordance with the applicable provisions of the SEPP and found to be acceptable.

### **State Environmental Planning Policy No 55 – Remediation of Land**

45. SEPP 55 aims to promote the remediation of contaminated land in order to reduce the risk of harm to human health or any other aspect of the environment.
46. Clause 7(1) of the State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) states that Council cannot consent to development on the land unless:
- "(a) it has considered whether the land is contaminated, and*
  - (b) If the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
  - (c) If the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose."*
47. A review of the site history indicates that the site has been used for residential purposes for extended periods of time, such uses and/or development are not typically associated with activities that would result in the contamination of the site. The proposal has been accompanied by a Preliminary Site Investigation Report prepared by eiaustralia reference E25033.E01\_Rev1 dated 26 April 2022, concluding that the risk from contamination in soil on the site was low and acceptable. A Hazardous Material Survey needs to be produced prior to demolition.
48. The proposal is therefore considered to be consistent with SEPP 55 and suitable for the proposed development.

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

49. The Vegetation SEPP regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.
50. The Vegetation SEPP applies to clearing of:
- (a) Native vegetation above the Biodiversity Offset Scheme (BOS) threshold where a proponent will require an approval from the Native Vegetation Panel established under the Local Land Services Amendment Act 2016; and

- (b) Vegetation below the BOS threshold where a proponent will require a permit from Council if that vegetation is identified in the council's development control plan (DCP).
51. The objectives of the SEPP are to protect the biodiversity values of trees and other vegetation in non-rural areas and preserve the amenity of non-rural areas through the preservation of trees and other vegetation. This policy is applicable pursuant to Clause 5(1) of the SEPP as the site is within both Georges River Council and the R2 Low Density Residential zone.
52. Pursuant to Clause 8(1) of the SEPP, clearing does not require authority under the policy as it is a type of clearing that is authorised under Section 60O of the Local Land Services Act 2013 (specifically, that associated with a development consent issued under Part 4 of the Environmental Planning and Assessment Act 1979).
53. The proposed development has been reviewed by Councils Consultant Arborist. Approval has been granted for the removal of a number of site trees however replacement planting is required. A detailed and suitable landscape plan has been provided. Council's Consultant Arborist has provided specific conditions of consent have been recommended.

#### Consolidation of State Environmental Planning Policies.

54. The NSW Government has combined State Environmental Planning Policies and reduced their number.
55. The SEPP changes are part of a package of reforms to consolidate 45 existing SEPPs into 11 new SEPPs based on 9 themed focus areas. The initiative aligns the proposed SEPPs with the new planning principles thematic framework.
56. The following SEPPs began on 1 March 2022. The provisions within the repealed SEPPs have been transferred to the new SEPP and the intent and provisions remain largely unchanged.
57. No policy changes have been made. The SEPP consolidation does not change the legal effect of the existing SEPPs, with section 30A of the Interpretation Act 1987 applying to the transferred provisions. The SEPP consolidation is administrative. It has been undertaken in accordance with section 3.22 of the Environmental Planning and Assessment Act 1979.
58. Savings and transitional provisions, which preserve particular rights and obligations from the SEPPs being repealed, have not been transferred. However, all savings and transitional provisions of the repealed SEPPs are still in force despite their repeal, due to sections 5(6) and 30(2)(d) of the Interpretation Act 1987.

#### **State Environmental Planning Policy (Resilience and Hazards) 2021**

59. 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



60. Chapter 4 of the SEPP relating to remediation of land applies to the site.
61. 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.
62. A review of the site history indicates that the site has been used for residential purposes for extended periods of time, such uses and/or development are not typically associated with activities that would result in the contamination of the site. A review of the site history indicates that the site has been used for residential purposes for extended periods of time, such uses and/or development are not typically associated with activities that would result in the contamination of the site. The proposal has been accompanied by a Preliminary Site Investigation Report prepared by eiaustralia reference E25033.E01\_Rev1 dated 26 April 2022, concluding that the risk from contamination in soil on the site was low and acceptable. A Hazardous Material Survey needs to be produced prior to demolition. In this regard there is no indication that the land is contaminated.
63. The proposal is therefore considered to be consistent with Chapter 4 and therefore suitable for the proposed development.

#### **State Environmental Planning Policy (Biodiversity and Conservation) 2021**

64. 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

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

- (d) 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).

68. 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.
69. The proposed development has been reviewed by Council's Consultant Arborist. Approval has been granted for the removal of a number of site trees however replacement planting is required. A detailed and suitable landscape plan has been provided. Council's Consultant Arborist has provided specific conditions of consent to be imposed.

#### Chapter 11 Georges Rivers Catchment.

70. Chapter 11 of the SEPP relating to the Georges Rivers Catchment applies to the site.
71. All stormwater from the proposed development can be treated in accordance with Council's Water Management Policy and would satisfy the relevant provisions of Chapter 11. The application was supported by Council's development engineer subject to conditions.

#### **State Environmental Planning Policy (Transport and Infrastructure) 2021**

72. 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

73. The application was referred to Ausgrid pursuant to clause 2.48 of the SEPP. No comments were received

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

74. Regulations under the Act have established a scheme to encourage sustainable residential development (*the BASIX scheme*) under which:
- (a) an application for a development consent, complying development certificate or construction certificate in relation to certain kinds of residential development must be accompanied by a list of commitments by the applicant as to the manner in which the development will be carried out, and
  - (b) the carrying out of residential development pursuant to the resulting development consent, complying development certificate or construction certificate will be subject to a condition requiring such commitments to be fulfilled.
- (2) The aim of this Policy is to ensure consistency in the implementation of the BASIX scheme throughout the State.
- (3) This Policy achieves its aim by overriding provisions of other environmental planning instruments and Development Control Plans that would otherwise add to, subtract from or modify any obligations arising under the BASIX scheme.

75. A BASIX Certificate prepared by AGA Consultants, dated 18 August 2022, certificate number 1227402M\_02, has been submitted with the Development Application satisfying the minimum requirements of State Environmental Planning Policies (Building Sustainability Index: BASIX) 2004.

### State Environmental Planning Policy (Affordable Rental Housing) 2009

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

### Division 3 Boarding Houses

Clause	Standard	Proposal	Complies
Clause 26	<p>This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones—</p> <p>(a) Zone R1 General Residential,            (b) Zone R2 Low Density Residential,            (c) Zone R3 Medium Density Residential,            (d) <b>Zone R4 High Density Residential</b>,            (e) Zone B1 Neighbourhood Centre,            (f) Zone B2 Local Centre,            (g) Zone B4 Mixed Use.</p>	The subject site is located with R4 High Density Residential	Yes

### Clause 29 - Standards that cannot be used to refuse consent

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

Clause	Standards	Proposal	Complies
<b>Clause 29 Standards that cannot be used to refuse consent</b>			
<b>Clause 29 (1) Floor Space ratio</b>			
A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than			
29 (1)(a)	the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or Maximum 2.5:1 (see below).	2.45:1	Yes
29 (1)(b)	if the development is on land within a zone in which no residential accommodation is permitted—the existing maximum floor space ratio for any form of development permitted on the land, or	N/A	N/A
29 (1)(c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register—the existing maximum floor space ratio for any form of residential accommodation permitted on			

the land, plus—			
29 (1)(c)(i)	0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or (Note: 2:1 max permitted under GRLEP 2021). Based on a site area of 676.6sqm, 1691.5sqm (2.5:1) permitted.	1659.2sqm (2.45:1)	Yes
29 (1)(c)(ii)	20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.	N/A	N/A
<b>Clause 29 (2) (a) Building Height</b>			
Height	if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land, <b>Maximum 21m in R4 under the GRLEP 2012.</b>	21m	Yes
<b>Clause 29 (2) (b) Landscaped area</b>			
Landscape Area	if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,	<p>The front setback is appropriately landscaped consistent with the streetscape character of Mona Street. There is an appropriate balance between built form and landscaped elements along this frontage.</p> <p>The landscape plan shows four (4) trees being a lemon scented myrtle tree, Water Gum, Fried Egg plant and Chinese Elm all with pot sizes of 100 litres within the front setback area of Mona Street. Fronting Illawarra Street are Claret</p>	Yes

		ash trees and Fried egg plant trees.	
<b>Clause 29 (2) (c) Solar access</b>			
Solar Access	where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,	The communal room windows will receive in excess of 3 hours of solar access in midwinter.	Yes
<b>Clause 29 (2) (d) Private open space</b>			
If at least the following private open space areas are provided (other than the front setback area)—			
29 (d)(i)	One area of at least 20sqm with a minimum dimension of 3m is provided for the use of the lodgers	38sqm area is provided in the form of a communal open space area along the northern-eastern corner of the upper ground level. Minimum 3m dimension provided.	Yes
29 (d)(ii)	If accommodation is provided on-site for a boarding house manager—one area of at least 8sqm with a minimum dimension of 2.5m is provided adjacent to that accommodation	A private terrace 8sqm in size with a depth of 2.61m has been provided for the Boarding House Managers room.	Yes
<b>Clause 29 (2) (e) Parking</b>			
29 (e) (i)	In the case of development carried out by or on behalf of a social housing provider in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and	N/A	N/A
29 (e) (ii)	In the case of development carried out by or on behalf of a social housing provider not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and	N/A	N/A
29 (e) (iia)	in the case of development not carried out by or on behalf of a social housing provider—at least 0.5 parking spaces are provided for each boarding room, and	In this case: 47 boarding rooms x 0.5 car space = 24 car spaces required; 24 car spaces have been provided (two of which are	Yes

		accessible spaces).	
29 (e) (iii)	in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site,	A condition of consent will be imposed requiring one space to be allocated for the Boarding House Manger.	Yes, by condition
<b>Clause 29 (2) (f) Accommodation size</b>			
Accommodation size	If each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least:  (i) 12sqm in the case of a boarding room intended to be used by a single lodger, or (ii) 16sqm in any other case	Room sizes range from 16.3sqm to 20.5sqm.	Yes
<b>Clause 29 (3) Private Kitchen or bathroom facilities</b>			
	A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.	Each boarding room has a kitchenette and bathroom facilities.	Yes
<b>Clause 29 (4) Consent to development</b>			
	A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2).	Noted.	Noted

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

Clause 30	Standards	Proposal	Complies
Communal living	(a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided	47 rooms proposed – a communal room has been provided on Level 5.	Yes
Size of boarding rooms	(b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25sqm	No boarding room has an area that exceeds 25sqm in size (excluding any area used for the purposes of private kitchen or bathroom facilities)	Yes
Maximum occupancy	(c) no boarding room will be occupied by more than 2 adult lodgers	All rooms are single rooms and shall only be occupied by a	Yes, by condition



		single lodger.	
Kitchen and bathroom facilities	(d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger	Each boarding room has their own kitchenette. A shared communal kitchen room has also been provided on Level 5 in the communal room.	Yes
Boarding house manager	(e) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager	The boarding house has a total occupant capacity of 46 (excluding the managers room). An additional boarding room has been provided for a boarding house manager.	Yes
Bicycle and motor cycle space	(h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.	In this case 47 boarding rooms provided: 10 motorcycle and 10 bicycle spaces required. 9 of each have been provided.	No, but has been conditioned to provide 10 bicycle and 10 motorbike spaces.

### 30A Character of Local Area

79. Clause 30A states that Council cannot grant consent to a boarding house unless it has taken into consideration whether the design of the development is compatible with the character of the local area.
80. Case law has held that the test in Clause 30A is “one of compatibility not sameness” (Gow v Warringah Council [2013] NSWLEC 1093 (15 March 2013)). Compatibility is widely accepted to mean “capable of existing together in harmony” (Project Venture Developments Pty Ltd v Pittwater Council [2005] NSWLEC 191).
81. It has also been held that in assessing ‘compatibility’ both the existing and future character of the local area needs to be taken into account (Sales Search Pty Ltd v The Hills Shire Council [2013] NSWLEC 1052 (2 April 2013) and Revelop Projects Pty Ltd v Parramatta City Council [2013] NSWLEC 1029).

### **Relationship to the Existing and Future Character of the Local Area**

82. In Revelop Projects Pty Ltd v Parramatta City Council [2013] NSW LEC 1029, Commissioner Morris concluded that the ‘local area’ includes both sides of the street and the ‘visual catchment’ as the minimum area to be considered in determining compatibility.
83. The ‘local area’ in this case is taken to include both sides of Mona Street, both sides of Illawarra Street and the immediate surrounding streets. Within this local area, development is primarily characterised by three to four storey residential flat buildings. Adjoining the site at No 3 Mona Street is an existing 3 storey boarding house with basement parking which was approved under previous controls in 2011. Adjoining the

subject site to the north west and beyond No 3 Mona Street to the north east is land zoned B, which is a 2 Local Centre containing multi storey mixed use developments with frontage to Railway Parade.

84. In Project Venture Developments v Pittwater Council [2005] NSWLEC 191 the Land and Environment Court specifically set out a relevant planning principle.

**Planning Principle: Compatibility in the urban environment**

*“There are many dictionary definitions of compatible. The most apposite meaning in an urban design context is capable of existing together in harmony. Compatibility is thus different from sameness. It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve.*

*It should be noted that compatibility between proposed and existing is not always desirable. There are situations where extreme differences in scale and appearance produce great urban design involving landmark buildings. There are situations where the planning controls envisage a change of character, in which case compatibility with the future character is more appropriate than with the existing. Finally, there are urban environments that are so unattractive that it is best not to reproduce them.*

*Where compatibility between a building and its surroundings is desirable, its two major aspects are physical impact and visual impact. In order to test whether a proposal is compatible with its context, two questions should be asked.*

- *Are the proposal’s physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.*
- *Is the proposal’s appearance in harmony with the buildings around it and the character of the street?”*

Consideration has therefore been given to the two key questions identified in the Land and Environment Court Planning Principles:

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

85. Comment: In the judgement of Project Venture Developments Pty v Pittwater Council, the Senior Commissioner Roseth stated that “*The physical impacts, such as noise, overlooking, overshadowing and constraining development potential, can be assessed with relative objectivity. In contrast, to decide whether or not a new building appears to be in harmony with its surroundings is a more subjective task. Analysing the existing context and then testing the proposal against it can, however, reduce the degree of subjectivity..*
86. *For a new development to be visually compatible with its context, it should contain, or at least respond to, the essential elements that make up the character of the surrounding urban environment. In some areas, planning instruments or urban design studies have already described the urban character. In others (the majority of cases), the character needs to be defined as part of a proposal’s assessment. The most important contributor to urban character is the relationship of built form to surrounding space, a relationship that is created by **building height, setbacks and landscaping**. In special areas, such*

as conservation areas, **architectural style and materials** are also contributors to character.

87. The height does not exceed the permitted height control of 21m and the built form is articulated along the side to reduce the bulk of the building. The front setback is consistent with that of the adjoining development and appropriate and suitable landscaping has been provided within the site to assist in softening the building.
88. The FSR proposed is not more than what is permissible for development on the subject site, which permits a FSR of 2:1 under GRLEP 2021, however due to the provisions of the ARH SEPP, the proposed development can be up to 2.5:1. From a bulk and scale perspective the proposal is not anticipated to present as dissimilar to future development in its surrounding locality, given the area surrounding has been zoned for seven storey storeys with a FSR of 2:1 under GRLEP 2021.
89. The landscape setting to the street frontage again is not dissimilar to what can be found in the surrounding area.
90. For the reasons stated above, it is considered that the proposed development will not result in an unreasonable impact upon surrounding residential development and will not constrain the development potential of adjoining sites.
- (b) ***Is the proposal's appearance in harmony with the buildings around it and the character of the street?***
91. Comment: The existing streetscape is characterised by three to four storey RFB'S to the north west and south west. These buildings are zoned R4 however have a maximum building height of 15m and a maximum FSR of 1.5:1.
92. The proposal involves a seven storey building in a location where there are currently no other buildings of this height. The proposed landscaped area in the frontage, in addition to the proposed trees and shrubs, will allow the boarding house to sit well within its surroundings and support the desired future character of the locality.
93. In relation to the facades, the front elevation to Mona Street and the secondary frontage to Illawarra Street provide for adequate articulation and appropriate architectural relief.
94. The proposed height and floor space is consistent with the development on the R4 – High Density zone and the setbacks proposed are considered to be acceptable. The built form is therefore considered to be of an appropriate scale and character within the future streetscape character.
95. The proposed development was subject to a Land and Environment Court appeal which sought approval for a seven (7) storey building which also allowed for a maximum 47 residents. The height, scale and external appearance of the proposed building remains the same. The main difference being that the LEC approval was for 47 residents within 25 room, with the proposed boarding house seeking approval for 47 single rooms.
96. In *Aplus Architecture Pty v Georges River Council* [2021] NSWLEC 1267, the applicant argued the following:
  - proposed boarding house design (on the same allotment and with similar building envelope as currently proposed) was compatible with the character of the local area,

- particular attention was focused on the importance of consistency of the proposal with the desired future character of the local area,
  - the significance of Council's relatively recent Strategic Planning policy decision, to afford the subject site a greater FSR and higher maximum building height controls, in order to increase housing supply and affordability, was considered a main factor with respect to the compliance and merits of the development.
97. Additionally, the appellant argued that being compatible with the desired future character of the local area as presented above, that:
- the proposed boarding house was also compatible with the existing character, achieved through a combination of design elements in response to the triangular shape of the block, topography of the locality, and by reducing material impacts on adjoining development without impacting negatively on their development potential.
98. In support of the amended proposal the applicant has provided the following comments:
- *It is critical to the application of Clause 30A for the current proposal, that it is understood that the Commissioner of the NSWLEC as the Consent Authority, essentially agreed with the appellant on the above arguments.*
  - *In identifying that the applicant relied upon the compatibility and design of the building to receive a favourable judgement, it is important to compare the bulk, scale, design and finish between the boarding house approved, and the current proposed boarding house. This is required to demonstrate that no discernable differences in appearance will result, thereby providing a built form consistent with that established by a judgement in the LEC, as being compatible with the character of the local area.*
  - *Additionally, it is concluded that as the land and immediate locality has recently been re-zoned from R3 Medium Density Residential to R4 High Density Residential, that the form of development proposed is consistent with the desired future character of the local area, and is of appropriate bulk, scale, and density, with respect to the anticipated hierarchy of development, as enshrined in the Georges River Local Environmental Plan 2021.*
99. Comment: Under the provisions of GRLEP 2021, the site is subject to a 21m height limit and a FSR of 2:1. Under Clause 29 (1)(c) of the ARH SEPP, an additional FSR of 0.5:1 is permitted where the existing floor space ratio is 2.5:1 or less. This permits a maximum FSR of 2.5:1 for this site. It is important to consider the evolution of these controls and the expectation for development on these sites. This is discussed further below:
100. Kogarah Local Environmental Plan 2012 (Amendment 2) was gazetted on 26 May 2017, this resulted in a change to the height of buildings and FSR. The building heights and FSR are shown in the figures below. The building height and FSR under KLEP 2012 for the subject site was 21m and 2:1.
101. Whilst the subject site and the surrounding streets which were previously zoned R3 – Medium Density have been up zoned to be R4 High Density Residential, the FSR and Building heights remain the same as KLEP 2012. It is anticipated that the building height and FSR will be higher within the triangular area bounded by Mona Street, Illawarra Street and Railway Parade. With a transition from 21m to 15m in height to the previously zoned R3 sites to the west, east and south.

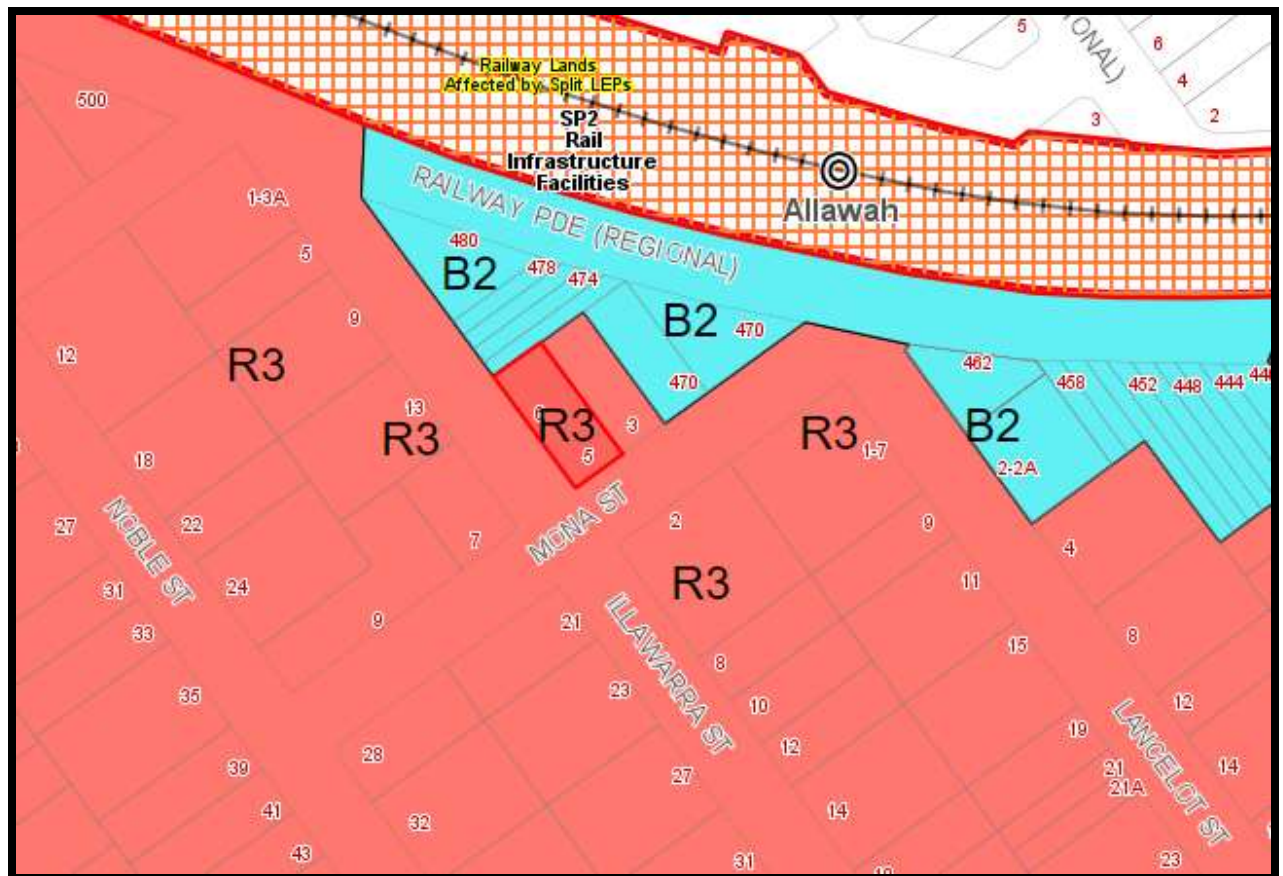


Figure 11: Zoning under KLEP 2012 (Amdt 2)

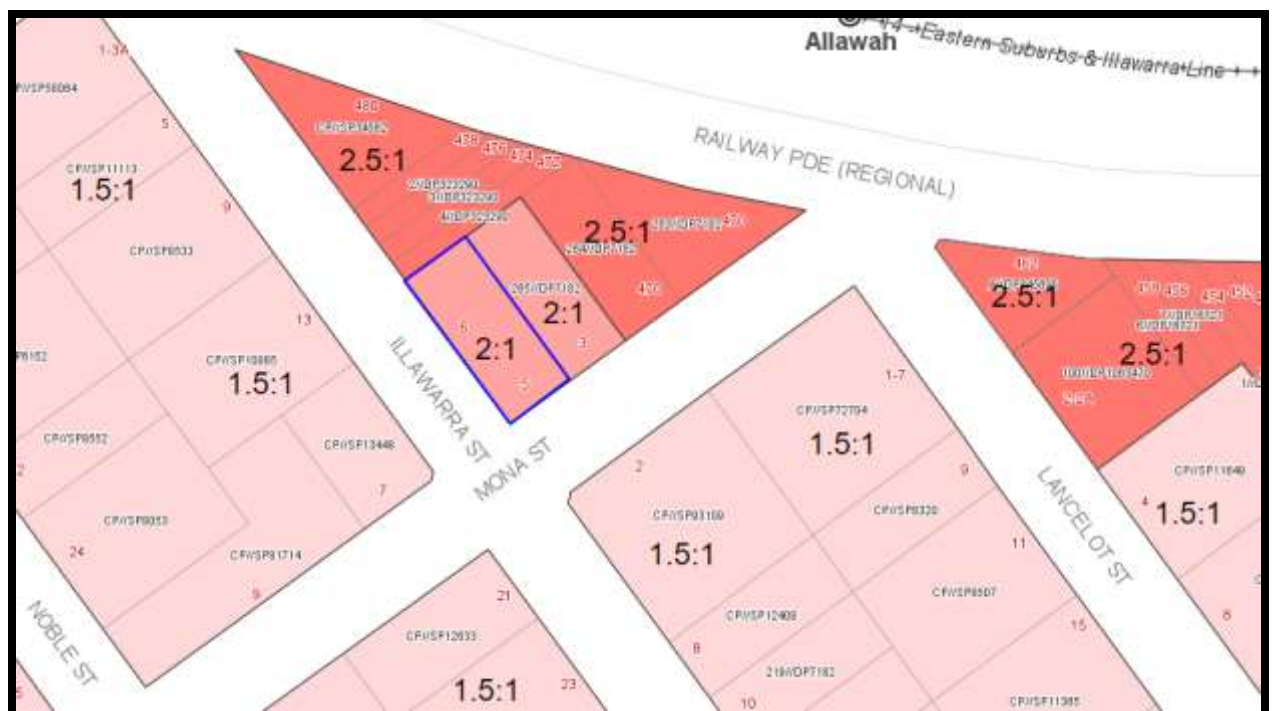


Figure 12: FSR Controls under KLEP 2012 (Amdt 2)





**Figure 13:** Building Height Controls under KLEP 2012 (Amdt 2)

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102. This is reinforced in the court judgement which states the following:

*“The fact that the site and its triangular street block have greater FSR and maximum building height controls than do the R3 Medium Density zoned lands on the other side of Ona Street and Illawarra Street and beyond to the west, south and east (which together I will forthwith call the rest of the R3 lands), can be seen as related to delivering on the intended housing supply increase.*

*That is to say, this policy decision, implemented through the mechanism of KLEP can be reasonably seen as distinguishing the sites triangular street block from the rest of the R3 lands.”*

103. In clause 37 of the LEC Judgement, the court found that:

*“Turning to the question of whether it is future character that should be the basis of the compatibility test, it is clear that the height and FSR controls applying to the site, at least, “envisage” a different character. This is the literal test in Project Venture. It seems to me reasonable that in the current setting, it would be thwarted by practicalities.”*

104. Clause 52 of the judgement, states the following:

*“There is some natural and obvious differentiation of the site from the rest of the R3 land, already, that has weight here and has been identified in the planning which led to the current controls. Important is the planning logic concerned with providing more housing to meet need, and the desirability that this occur in locations with physical proximity to the station and shops, which this site enjoys moreso than the wider R3 lands.”*

105. It goes on further to say:



*“It follows, for me, that there is considerably greater acceptability of difference in this block when compared to the rest of the R3 lands. While a considerably taller building (such as proposed here) might not meet a test of visual congruence, the siting of the building here can be seen as having a rationale, which for me has considerable weight when I consider the question of design compatibility.”*

106. The court found that the proposed development was acceptable within the form presented and upheld the appeal.
107. In summary assessing ‘compatibility’ requires both the existing and future character of the local area to be taken into account (*Sales Search Pty Ltd v The Hills Shire Council* [2013] NSWLEC 1052 and *Revelop Projects Pty Ltd v Parramatta City Council* [2013] NSWLEC 1029). It is acknowledged that there are sites within the immediate locality that are yet to reach their development potential. However, given the proposed development has been designed in accordance with what may be considered an acceptable setback and separation from neighbouring developments, the design and streetscape presentation of future development will be consistent with the envisaged and anticipated development within this area. Given the transition of height from 21m to 15m from this development site to the properties to the east, west and south, it is expected that this development will be of a higher scale than those developments.
108. It is considered that the development as proposed satisfies the character test in Clause 30A for the following reasons:
  - The subject site has been zoned R4 High density Residential and permits a height of 21m with a FSR of 2:1 under GRLEP 2021. Under the ARH SEPP the permitted FSR for a boarding house on this site can be increased to 2.5:1. With these controls it is considered that the bulk and scale is envisaged.
  - The proposed development will provide much needed affordable housing within an accessible location consistent with the aims and objectives of the Affordable Rental Housing SEPP.
  - The development has been subject to a LEC appeal whereby it was concluded that the proposed development in the seven storey form with is consistent with the future and desired streetscape character given the controls applied to the site.
  - The location of the site within the triangular section of land bound by Mona Street, Illawarra Street and Railway Parade, has expectations of additional height and FSR compared to the other land zoned R4 to the east, west and south which is only permitted to a height of 15m and a FSR of 1.5:1.
  - GRLEP 2021 has rezoned all this land from R3 Medium Density to R4 High Density Residential. There is an expectation that the planning controls will facilitate the provision of more housing for people, in particular affordable housing in a location that is close to public transport and services which are located within the B2 Local Centre.

### **State Environmental Planning Policy (Housing) 2021**

109. State Environmental planning Policy (Hosing 2021) commenced on 26 November 2021 and repealed State Environmental Planning Policy (Affordable Rental Hosing) 2009.
110. Notwithstanding the above, there are savings and transitional provisions within Schedule 7A of the Housing SEPP which states the following:
111. This Policy does not apply to the following matters—

- (1)
  - (a) *a development application made, but not yet determined, on or before the commencement date,*
  - (b) *a concept development application made, but not yet determined, on or before the commencement date,*
  - (c) *a staged development application made subsequent to a concept development application approval granted on or before the commencement date,*
  - (d) *a development consent granted on or before the commencement date,*
  - (da) *an application to modify a development consent granted after the commencement date, if it relates to a development application made, but not determined, on or before the commencement date,*
  - (e) *an environmental impact statement prepared in compliance with an environmental assessment requirement that is—*
    - (i) *issued by the Planning Secretary on or before the commencement date, and*
    - (ii) *in force when the statement is prepared,*
  - (f) *the carrying out of an activity after the commencement date if—*
    - (i) *notice of the activity has been given to the council under the repealed ARH SEPP, clause 40A(2), and*
    - (ii) *an approval required under the Act, Part 5 for carrying out the activity is granted by the determining authority before 26 November 2022.*
- (2) *The provisions of a repealed instrument, as in force immediately before the repeal of the repealed instrument, continue to apply to a matter referred to in subsection (1).*

112. As the application was lodged prior to the commencement of the Housing SEPP, the savings provisions are applicable and as such the Affordable Rental Housing SEPP remains the relevant instrument for assessment.

### **Draft Environmental Planning Instruments**

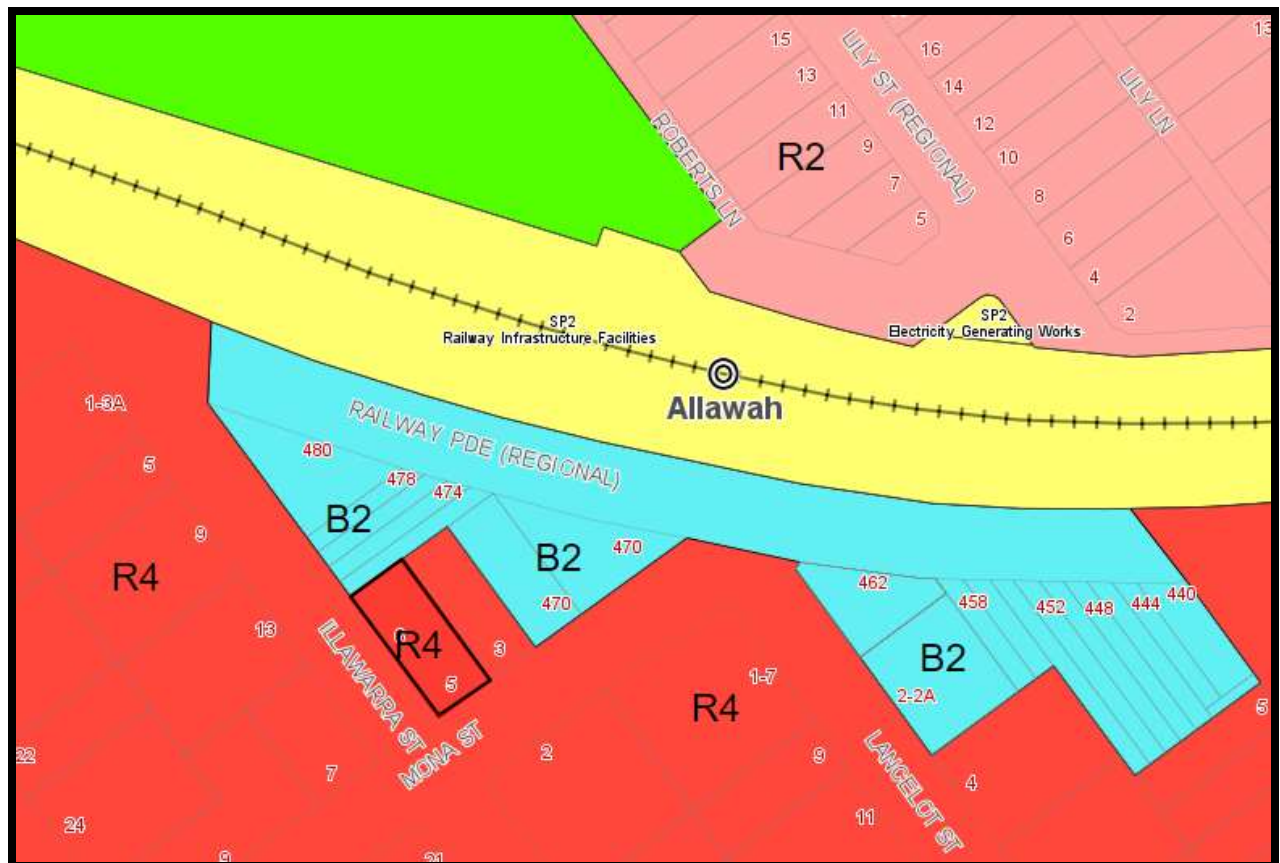
#### **Draft Design and Place State Environmental Planning Policy**

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

114. In March 2022 the Department of Planning and Environment decided that they would not progress this instrument.

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

115. The subject site is zoned R4 High Density Residential under the provisions of the Georges River Local Environmental Plan 2021. Refer to zoning map below. The proposed development is for a boarding house which is a permissible land use in the zone.



**Figure 14:** Zoning Map – subject site is shown outlined in black

116. The objectives of the zone are as follows:

- *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.*

117. The proposed development generally meets the objectives of the zone by providing housing needs of the community.

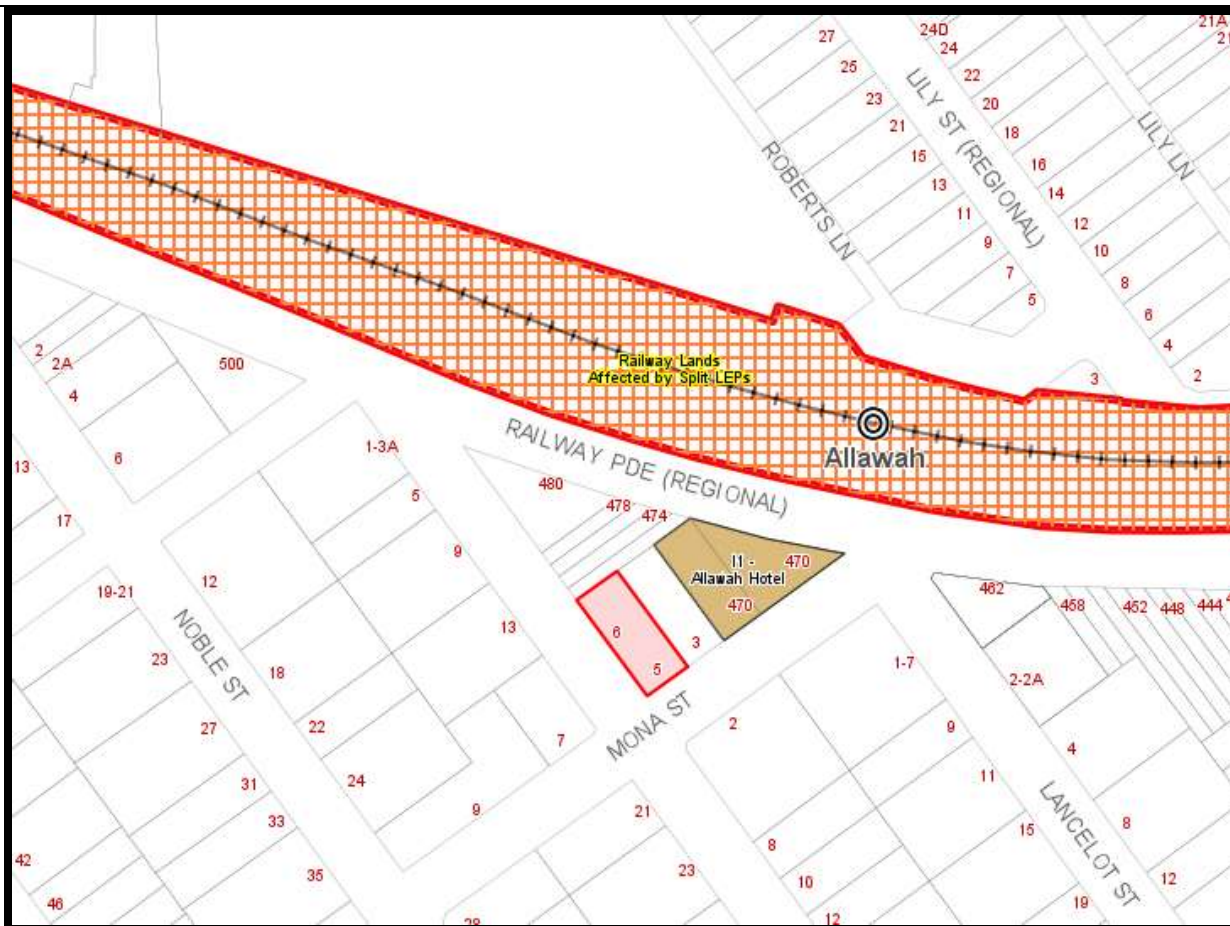
118. The extent to which the proposed development complies with the Georges River Local Environmental Plan 2021 (GRLEP 2021) is outlined in the table below.

#### Georges River Local Environmental Plan Compliance Table

Clause	Standard	Proposed	Complies
<b>Part 1 Preliminary</b>			
1.2 – Aims of the Plan	In accordance with Clause 1.2 (2)	The development is consistent with the aims of the plan.	Yes
1.4 – Definitions	Boarding House: <i>means a building that:</i> <i>(a) is wholly or partly</i>	The proposed development is consistent with the definition.	Yes

	<i>let in lodgings, and (b) provides lodgers with a principal place of residence for 3 months or more, and (c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and (d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers, but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.</i>		
<b>Part 2 Permitted or prohibited development</b>			
2.3 - Zone objectives and Land Use Table	Meets objectives of R4- High Density Residential Zone:  Development must be permissible with consent	The proposal satisfies the objectives of the R4 zone and is permissible with development consent.	Yes
2.7 Demolition	Demolition requires development consent.	The proposal seeks demolition of existing structures as part of the application.	Yes
<b>Part 4 Principal development standards</b>			
4.3 – Height of Buildings	21m as identified on Height of Buildings Map	21m	Yes
4.4 – Floor space ratio	(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 2:1  Site area: 676.6sqm Maximum 1353.2sqm	The proposed development has a total GFA of 1659.2sqm	No, however complies with the ARH SEPP.
4.5 – Calculation of floor space ratio and	FSR and site area calculated in	The floor space of the dwelling has been calculated	Yes

site area	accordance with Clause 4.5	in accordance with Clause 4.5 and the “gross floor area” definition within the Georges River Local Environmental Plan 2021.	
4.6 – Exceptions to development standards	(1) The objectives of this clause are as follows— (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.	No Clause 4.6 required as the breach in the GFA is overridden by the SEPP provisions.	N/A
<b>Part 5 Miscellaneous provisions</b>			
5.10 – Heritage conservation	In accordance with Clause 5.10 (1)	The site is not a heritage item the site is not in a heritage conservation area. Within the vicinity of the subject site is a heritage item located at 470 Railway Parade (Allawah Hotel – item No I1) The proposal is not considered to have an adverse impact on the heritage item.	Yes



**Figure 15:** Map showing the heritage item at 470 Railway Parade, Allawah

5.11 – Bush Fire Hazard Reduction	Bush fire hazard reduction work authorised by the Rural Fires Act 1997 may be carried out on any land without development consent.	The subject land is not within a bush fire prone area.	N/A
5.21 Flood Planning	(1) The objectives of this clause are as follows— (a) to minimise the flood risk to life and property associated with the use of land, (b) to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,	The subject site has not been identified/mapped as being flood affected.	Yes

	<p>(c) to avoid adverse or cumulative impacts on flood behaviour and the environment,</p> <p>(d) to enable the safe occupation and efficient evacuation of people in the event of a flood.</p>		
<b>Part 6 Additional local provisions</b>			
6.1 – Acid sulfate soils	(1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.	Noted	Yes
6.1 (2)	(2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.	Subject site is not affected by Acid Sulfate Soils Area.	Yes
6.2 – Earthworks	(2) Development consent is required for earthworks unless— (a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or (b) the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.	The proposed earthworks are considered acceptable having regard to the provisions of this clause as the works are not likely to have a detrimental impact on environmental functions and processes or neighbouring properties.	Yes
6.3 Stormwater Management	(2) In deciding whether to grant development consent for development, the consent authority must	Stormwater drainage have been reviewed by Councils Drainage Engineer and is considered acceptable subject to conditions.	Yes

	<p>be satisfied that the development—</p> <p>(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and</p> <p>(b) includes, if practicable, on-site stormwater detention or retention to minimise stormwater runoff volumes and reduce the development's reliance on mains water, groundwater or river water, and</p> <p>(c) avoids significant adverse impacts of stormwater runoff on adjoining properties, native bushland, receiving waters and the downstream stormwater system or, if the impact cannot be reasonably avoided, minimises and mitigates the impact, and</p> <p>(d) is designed to minimise the impact on public drainage systems.</p>		
6.7 Airspace Operations	<p>(2) Development consent must not be granted to development to which this clause applies unless—</p> <p>(a) the consent authority has consulted the relevant Commonwealth body, and</p> <p>(b) the relevant Commonwealth body advises the consent authority that—</p> <p>(i) the development will</p>	<p>The building must not exceed a maximum height of 68 metres AHD, inclusive of all lift over runs, vents, chimneys, aerials, antennas, lightning rods, any roof top garden plantings, exhaust flues etc. The application does not exceed this criterion.</p>	Yes



	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.		
6.9 Essential Services	<p>Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—</p> <p>(a) the supply of water, (b) the supply of electricity, (c) the supply of telecommunications facilities, (d) the disposal and management of sewage, (e) stormwater drainage or on-site conservation, (f) suitable vehicular access.</p>	<p>Water and electricity supply is available to the site.</p> <p>Telecommunications available.</p> <p>Sewage available to the site.</p> <p>Proposed stormwater disposal is satisfactory subject to conditions. The site intends to provide vehicular access from Illawarra Street.</p>	Yes
6.10 Design Excellence	(1) The objective of this clause is to deliver the highest standard of sustainable architecture and urban design.	Noted.	Yes
6.10 (3) (b)	(3) (b) land in the following zones if the building concerned is 3 or more storeys or has a height of 12 metres or greater above ground level (existing),	The proposal is for a building within the R4 High Density Residential zoning, is greater than 3 storeys with a height greater than 12 metres.	Yes

	<p>or both, not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking—</p> <p><b>(i) Zone R4 High Density Residential,</b></p> <p>(ii) Zone B1 Neighbourhood Centre,</p> <p>(iii) Zone B2 Local Centre,</p> <p>(iv) Zone B3 Commercial Core,</p> <p>(v) Zone B4 Mixed Use,</p> <p>(vi) Zone B6 Enterprise Corridor,</p> <p>(vii) Zone IN2 Light Industrial.</p>		
6.10 (4)	(4) Development consent must not be granted for development to which this clause applies unless the consent authority considers that the development exhibits design excellence.	The building generally satisfies this clause.	Yes
6.10 (5)	(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 location will be achieved, (b) whether the form and external appearance of the development will	The building generally satisfies this clause.	Yes

	<p>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</p>		
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	appropriate interfaces at ground level between the building and the public domain, (xi) excellence and integration of landscape design, (xii) the provision of communal spaces and meeting places, (xiii) the provision of public art in the public domain, (xiv) the provision of on-site integrated waste and recycling infrastructure, (xv) the promotion of safety through the application of the principles of crime prevention through environmental design.		
<b>6.11 Environmental sustainability</b>	(1) The objective of this clause is to ensure that the development to which this clause applies is consistent with principles of best practice environmentally sensitive design.	Noted.	Yes
<b>6.11 (2)</b>	(2) This clause applies to development— (a) on land in the following zones— (i) Zone R4 High Density Residential, (ii) Zone B1 Neighbourhood Centre, (iii) Zone B2 Local Centre, (iv) Zone B3 Commercial Core, (v) Zone B4 Mixed Use, (vi) Zone B6 Enterprise Corridor, (vii) Zone IN2 Light Industrial, and	The proposed development being a new building and as the subject site is zoned R4 High Density Residential, this clause applies to this development.	Yes

	<p>(b) that involves—</p> <p>(i) the erection of a new building, or</p> <p>(ii) the change of use of an existing building, or</p> <p>(iii) alterations or additions to an existing building that, in the opinion of the consent authority, are significant.</p>		
<b>6.11 (3)</b>	<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 subject building exceeds 1500sqm so this clause applies to the development.</p> <p>The applicant has indicated that the proposed development satisfies the criteria of the clause.</p> <p>This will be implemented and achieved (as per SEPP BASIX commitments).</p> <p>This will be implemented and achieved (as per SEPP BASIX commitments).</p> <p>This will be achieved as designed (as per SEPP BASIX commitments and Building Code of Australia requirements).</p> <p>This will be achieved through a high standard of architectural design and materials, appropriate to the building type and location.</p> <p>This is considered unattainable in any</p>	Yes



	<p>and use of sustainable materials, including recycled content in concrete, sustainable timber and PVC minimisation,</p> <p>(f) transport initiatives to reduce car dependence such as providing cycle facilities, car share and small vehicle parking spaces.</p>	<p>meaningful fashion due to the form and scale of the site redevelopment in comparison to the existing structures.</p> <p>The proposed development is to occur upon a site that is located in easy walking distance to facilities and services and is well served by public transport, and car/bike/motorcycle parking rates comply with SEPP (ARH).</p>	
6.12 Landscaped areas in certain residential and environment protection zones.	<p>(1) The objectives of this clause are as follows—</p> <p>(a) to ensure adequate opportunities exist for the retention or provision of vegetation that contributes to biodiversity and enhances the tree canopy of the Georges River local government area,</p> <p>(b) to minimise urban run-off by maximising permeable areas on the sites of development,</p> <p>(c) to ensure that the visual impact of development is minimised by sufficient and appropriately located landscaping that complements the scale of buildings,</p> <p>(d) to ensure that the use of surfaces that absorb and retain heat are minimised.</p>	<p>N/A</p> <p>This control is overridden by Clause 29 of ARH SEPP.</p>	N/A
	<p>(2) This clause applies to land in the following zones—</p> <p>(a) Zone R2 Low Density Residential,</p> <p>(b) Zone R3 Medium Density Residential,</p>	<p>Subject site is zoned – R4 High Density Residential.</p> <p>This clause is overridden by Clause 29 of the ARH SEPP.</p>	N/A

	(c) Zone R4 High Density Residential, (d) Zone E2 Environmental Conservation.		
	(4) Development consent must not be granted to development on land to which the clause applies unless the consent authority is satisfied that the development— (a) allows for the establishment of appropriate plantings— (i) that are of a scale and density commensurate with the height, bulk and scale of the buildings to which the development relates, and (ii) that will maintain and enhance the streetscape and the desired future character of the locality, and (b) maintains privacy between dwellings, and (c) does not adversely impact the health, condition and structure of existing trees, tree canopies and tree root systems on the land or adjacent land, and (d) enables the establishment of indigenous vegetation and habitat for native fauna, and (e) integrates with the existing vegetation to protect existing trees and natural landscape features such as rock outcrops, remnant	Appropriate landscaping has been provided.	Yes

	bushland, habitats and natural watercourses.		
	(5) Development consent must not be granted to development on land to which this clause applies unless a percentage of the site area consists of landscaped areas that is at least— (f) for development in Zone R4 High Density Residential—10% of the site area, or	This clause is overridden by Clause 29 of the ARH SEPP	N/A

### Development Control Plans

#### Georges River Development Control Plan 2021.

119. The proposal has been assessed under the relevant sections of the Georges River Development Control Plan 2021 as follows.

Applicable DCP Controls	Standards	Proposal	Compliance
<b>Part 3 General Planning Considerations</b>			
<b>3.2 Biodiversity</b>			
<b>3.2.1 Trees and Vegetation</b>			
3.2.1 (1)	Development is to comply with the provisions of the State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.	The proposal satisfies the provisions of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 which replaced the SEPP (Vegetation in Non Rural Areas) 2017.	Yes
<b>3.3 Landscaping</b>			
3.3 (1)	Landscaping on site should be incorporated into the site planning of a development to (where appropriate): i. Reinforce the desired future character of the locality; ii. Maintain significant	A landscape plan has been prepared by a suitably qualified landscape architect.	Yes

	<p>landscape features;</p> <p>iii. Be consistent with any dominant species in the adjoining area of ecological significance;</p> <p>iv. Incorporate fire resistant species in areas susceptible to bushfire hazard;</p> <p>v. Provide planting within setback zones (setbacks identified within the relevant applicable parts of the DCP);</p> <p>vi. Soften the visual impact of buildings, carparks and roads;</p> <p>vii. Cater for outdoor recreation areas;</p> <p>viii. Separate conflicting uses;</p> <p>ix. Screen undesirable elements;</p> <p>x. Provide opportunities for on-site stormwater infiltration, in particular around existing trees and vegetation;</p> <p>xi. Consider the future maintenance requirements of landscaped areas;</p> <p>xii. Protect the effective functioning of overhead, surface level or underground utilities; and</p> <p>xiii. Improve the aesthetic quality of the development.</p>		
<b>3.6 Contaminated Land</b>			
3.6 (1)	Each development application is to include information sufficient to allow Council to meet its obligation to determine whether development should	A preliminary site investigation was submitted detailing the site is suitable for the proposed use. This was reviewed by	Yes

	be restricted due to the presence of contamination.	Councils Environmental health Officer and found to be satisfactory.	
<b>3.7 Heritage</b>			
<b>3.7.6 Development in the vicinity of a Heritage Item or Heritage Conservation Area.</b>			
Objective (a)	Ensure development in the vicinity of a heritage item or heritage conservation area is designed and sited to protect the heritage significance of the item or heritage conservation area.	The Allawah Hotel is located 30m to the north east of the subject site. The proposed development will not detract from the Allawah Hotel given it is separated from the heritage item by a conventional building.	Yes
<b>3.10 Water Management</b>			
<b>Stormwater Management</b>			
3.10 (1)	Development must comply with Council's Stormwater Management Policy 2020 which provides detail of drainage requirements for different development types. Consultation with Council is recommended.	Reviewed by Council's Drainage Engineer and found to be satisfactory subject to conditions.	Yes
3.10 (2)	Water Sensitive Urban Design (WSUD) principles are to be incorporated into the design of stormwater drainage, on-site retention and detention, landscaping and within the overall design of the development	Reviewed by Council's Drainage Engineer and found to be satisfactory subject to conditions.	Yes
<b>3.11 Ecologically Sustainable Development</b>			
<b>3.11.1 Energy and Water Efficiency</b>			
<b>Residential Buildings</b>			
3.11.1 (1)	All BASIX affected development must comply with SEPP	A compliant BASIX certificate has been	Yes



	(Building Sustainability Index: BASIX) 2004.	submitted with the application.	
<b>3.12 Waste Management</b>			
3.12 (1)	Development must comply with Council's Waste Management requirements regarding construction waste and ongoing management of waste materials (see Appendix 4).	WMP submitted and satisfactory subject to conditions.	Yes
<b>3.13 Parking Access and Transport</b>			
<b>Parking Rates</b>			
3.13 (1)	The car parking rate for development types are outlined in Table 1 Parking requirements. In the event of a discrepancy between the parking rates specified in this Part of the DCP and any another, the specific requirements identified within the detailed controls for a locality/area shall prevail.	24 parking spaces have been provided in accordance with the requirements of State Environmental Planning Policy (Affordable Rental Housing) 2009. The applicant has detailed the proposed mechanical stacker system that will house 21 vehicles.	Yes
<p><b>Boarding House</b> - Refer to the car parking rates for boarding houses in State Environmental Planning Policy (Affordable Rental Housing) 2009.</p> <p>Clause 29(2) of the SEPP states: A consent authority must not refuse consent to development to which this Division applies of any of the following grounds –</p> <p>(e) parking If–</p> <p>(i) in the case of development carried out by or on behalf of a social housing provider in an accessible area – at least 0.2 parking spaces are provided for each boarding room, and</p> <p>(ii) in the case of development carried out by or on behalf of a social housing provider not in an accessible area – at least 0.4 parking spaces are provided for each boarding room, and</p> <p>(iia) in the case of development not carried out by or on behalf of a social housing provider – at least 0.5 parking spaces are provided for each boarding room, and</p> <p>(iii) in the case of any development – not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site.</p>			
<b>Tandem, stacked and mechanical parking.</b>			
3.13 (38)	Where development includes a mechanical parking installation, such as car stackers,	Provided and reviewed by Councils Traffic Engineer and found to be	Yes

	turntables, car lifts or another automated parking system, the development application is to include a Parking and Access Report including queuing analysis	satisfactory.	
<b>3.13 (45)</b>	Where a car lift is required, car lifts are to be provided at a minimum rate of 1 lift per 25 spaces or part thereof	One (1) car lift is provided for 24 spaces.	Yes
<b>Part 4 General Land Use</b>			
<b>4.7 Boarding Houses</b>			
<b>General</b>			
4.7 (1)	Boarding Houses are to maintain a high level of resident amenity, safety and privacy by ensuring:	Complies	Yes
4.7 (1)(i)	Communal spaces, including laundry, bathroom, kitchen and living areas are located in safe and accessible locations;	Laundry and accessible WC is located on the lower ground level with access to the communal room on level 5 via stairs or the lift. Each room has their own kitchenette and bathroom facilities.	Yes
4.7 (1)(ii)	Bedrooms are located so that they are separate from significant noise sources and incorporate adequate sound insulation to provide reasonable amenity between bedrooms and external noise sources;	Rooms will be subject to the Acoustic report and the minimum requirements under the BCA.	Yes
4.7 (1)(iii)	Structural fittings and fixtures for all internal rooms that enhance non-chemical pest	To be undertaken during construction to	Yes

	management of the building, with all cracks and crevices sealed and insect screening to all openings; and	minimum construction requirements.	
4.7 (1)(iv)	All appliances achieve an energy star rating of 3.5 or higher, unless otherwise legislated.	Subject to BASIX requirements.	Yes
4.7 (2)	Boarding houses are to be designed to minimise and mitigate any impacts on the visual and acoustic privacy of neighbouring buildings by locating: <ul style="list-style-type: none"> <li>i. The main entry point at the front of the site, away from side boundary areas near adjoining properties;</li> <li>ii. Communal areas and bedroom windows away from the main living area or bedroom windows of any adjacent buildings;</li> <li>iii. Screen fencing, plantings, and acoustic barriers in appropriate locations;</li> <li>and iv. Double glazed windows where noise transmission affects neighbouring buildings.</li> </ul>	Access to the building is from the secondary street frontage in Illawarra Street.	Yes
4.7 (3)	An application for a boarding house 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	Plan of Management has been submitted with the application.	Yes
<b>Sleeping Room Requirements</b>			

4.7(4)	The gross floor area of a bedroom is to be at least:	Noted.	Yes
4.7(4) (i)	12m <sup>2</sup> (including 1.5m <sup>2</sup> required for wardrobe space);	Rooms range in size from 16.3sqm to 20.5sqm.	Yes
4.7(4) (ii)	4m <sup>2</sup> when a second adult occupant is intended (which must be clearly shown on plans);	N/A All rooms are single occupant rooms only.	N/A
4.7(4) (iii)	2.1m <sup>2</sup> for any ensuite (which must comprise a hand basin and toilet);	Ensuite comprises a hand basin, toilet and shower.	Yes
4.7(4) (iv)	0.8m <sup>2</sup> for any shower in the ensuite;	Complies.	Yes
4.7(4) (v)	1.1m <sup>2</sup> for any laundry (which must comprise a wash tub and washing machine); and	N/A Common laundry provided on the lower ground floor.	N/A
4.7(4) (vi)	2m <sup>2</sup> for any kitchenette (which must comprise a small fridge, cupboards and shelves and microwave).	Complies.	Yes
4.7 (5)	Each bedroom must have access to natural light, from a window or door with a minimum aggregate area of 10% of the floor area of the room. Skylights are not to be the sole source of light.	All bedrooms have access to natural light from a window.	Yes
<b>Internal Communal Area</b>			
4.7 (6)	A communal kitchen area is to be provided with a minimum area that is the greater of 6.5m <sup>2</sup> (total) or 1.2m <sup>2</sup> for each resident occupying a bedroom without a kitchenette.	A communal room that contains a kitchen has been provided on Level 5. In addition, all rooms have a kitchenette.	Yes
4.7 (7)	The communal kitchen is to contain: i. One (1) sink for every six (6) people,	The communal kitchen only proposes a single sink. This	No, however considered acceptable.

	or part thereof, with running hot and cold water; and ii. One (1) stove top cooker for every six (6) people, or part thereof, with appropriate exhaust ventilation	is considered reasonable as all rooms have their own kitchenettes which contain a sink and stove.	
4.7 (8)	The communal kitchen is to contain, for each resident occupying a bedroom without a kitchenette: i. 0.3m <sup>3</sup> of refrigerator storage space; ii. 0.05m <sup>3</sup> of freezer storage space; and iii. 0.30m <sup>3</sup> of lockable drawer or cupboard storage space	N/A all rooms contain a kitchenette.	N/A
4.7 (9)	An indoor communal living area with a minimum area of 12.5m <sup>2</sup> or 1.25m <sup>2</sup> per resident (whichever is greater) and a minimum width of 3m. The communal living area can include any dining area, but cannot include bedrooms, bathrooms, laundries, reception area, storage, kitchens, car parking, loading docks, driveways, clothes drying areas, corridors and the like.	An indoor communal room of 24sqm has been provided on level 5 with a small kitchen.	No, see discussion below.

Discussion on size of indoor communal open space.

Based on 47 residents including the boarding house manager, an indoor communal room of 58.75sqm is required to be provided. The proposal provides an indoor communal room of 24sqm. In addition to this indoor area, a balcony adjoins that wraps around the communal room providing an additional 28sqm. This contributes in providing a total of 52sqm of useable communal area. Whilst not all this area is indoor, it is considered that the additional outdoor space will provide suitable communal open space.

Note: It should be noted that the size of the indoor communal open space based on 47 residents was considered appropriate and acceptable and was supported under DA2019/0608 where approval was granted by the Land and Environment Court.

4.7 (10) Indoor communal living areas are to be located:



4.7 (10) (i)	Near commonly used spaces, such as kitchen, laundry, lobby entry area, or manager's office; with transparent internal doors, to enable natural surveillance from resident circulation;	It is located on Level 5, however is located away from adjoining properties to minimise potential amenity issues.	No, however considered acceptable See discussion below
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#### Discussion on communal room location

The room is located on the corner of Mona Street and Illawarra Street away from adjoining properties. Adjacent to the indoor communal room is a balcony which wraps around this room providing an external area as well. Whilst the laundry, lobby and entry area are located on the ground floor, there is a lift and stairs which can be used to obtain access to this communal room. Each boarding room has their kitchenette so access to the communal room is not needed for this purpose.

4.7 (10) (ii)	ii. Adjacent to the communal open space;	The indoor communal room has its own balcony.	Yes
4.7 (10) (iii)	To receive a minimum 2 hours solar access to at least 50% of the windows during 9am and 3pm on 21 June;	Complies.	Yes
4.7 (10) (iv)	On each level of a multi storey boarding house, where appropriate; and	Provided on Level 5 only.	No, however considered acceptable.
4.7 (10) (v)	v. Where they will have minimal impact on bedrooms and adjoining properties	The communal room is located on level 5 overlooking Mona Street and an partially over Illawarra Street.	Yes

#### **Communal Open Space**

4.7 (11)	Communal open space is to be provided with a minimum area of 20m <sup>2</sup> and a minimum dimension of 3m.	A communal open space area of 38sqm has been provided on the upper ground level.	Yes
4.7 (12)	Communal open space is to be located and designed to: i. Generally be north-facing to receive a minimum 2 hours solar access to at	The communal open space area is located within the north eastern corner and provided on the upper ground	Yes

	<p>least 50% of the area during 9am and 3pm on 21 June; ii. Be provided at ground level and incorporate soft or porous surfaces for 50% of the area;</p> <p>iii. To receive a minimum 2 hours solar access to at least 50% of the windows during 9am and 3pm on 21 June;</p> <p>iv. On each level of a multi storey boarding house, where appropriate;</p> <p>v. Be connected to communal indoor spaces, such as kitchens or living areas;</p> <p>vi. Contain communal facilities such as barbecues, seating and pergolas where appropriate; and</p> <p>vii. Be screened from adjoining properties and the public domain with plantings.</p>	<p>level.</p> <p>It is not provided on each level however access via stairs and lifts are available.</p>	
<b>Private Open Space</b>			
4.7 (13)	30% of all bedrooms are to have access to private open space with a minimum area of 4m <sup>2</sup> in the form of a balcony or terrace area.	18/46 (39%) of the rooms have access to a balcony or terrace.	Yes
<b>Bathroom, Laundries and Drying Facilities</b>			
4.7 (14)	Communal bathroom facilities accessible to all residents 24 hours per day are to be provided with the following: <p>i. One (1) wash basin, with hot and cold water, and one (1) toilet for every 10 residents, or part</p>	<p>Accessible toilet with wash basin located on the ground floor.</p> <p>All rooms have their own ensuite containing a toilet and wash basin.</p>	Yes

	thereof, for each occupant of a room that does not contain an ensuite; and ii. Be provided at ground level and incorporate soft or porous surfaces for 50% of the area		
4.7 (15)	Laundry facilities are to be provided with the following:	Noted.	Noted.
4.7 (15) (i)	One (1) 5kg capacity automatic washing machine and one (1) domestic dryer for every 12 residents or part thereof; and	A shared laundry is located on the lower ground floor Five (5) washing machines and four (4) dryers are proposed to be provided.	Yes
4.7 (15)(ii)	At least one (1) large laundry tub with hot and cold running water.	Not shown. A condition of consent has been imposed.	A condition of consent imposed.
4.7 (16)	Drying facilities, such as clotheslines located in a communal open space are to be located to maximise solar access and ensure that the usability of the space is not compromised.	Communal open space can provide these facilities.	Yes
<b>Fire Safety</b>			
4.7 (17)	Each sleeping room in a Class 3 building must be considered as a sole occupancy unit for the purposes of Section C and Part D1, D2 and F5 of the Building Code of Australia so as to ensure there is adequate fire safety in the building, and adequate sound insulation to provide reasonable amenity between sleeping rooms	BCA Report submitted with the application indicating that compliance can be achieved.	Yes

**Part 5 Residential Locality Statements****5.13 Allawah Locality Statement**Location

Allawah is bounded by the railway line/Railway Parade to the north, the suburb of Carlton to the east, Blakesley Road to the south and the suburbs of Hurstville and South Hurstville to the west

The subject site is located in the Allawah locality.

Streetscape Character

In the high density residential areas, the streets are lined with large trees creating a green and leafy streetscape. There are consistent setbacks throughout the locality though most of the front setback is dedicated to driveways and at grade garages for the walk up units.

Future Desired Character

- Encourage tree planting and landscaping within the front setback space to create a treelined streetscape character.
- Encourage landscaping in front gardens of dwelling to improve streetscape character and reduce excessive paving and hardstand areas.
- Encourage a mix of building designs to reflect the diversity of form and mass.

**6.4 Ancillary Development****6.4.1 Fences & Walls****Front Fences**

<b>6.4.1 (1)</b>	Fence heights are to be limited to a maximum of: i. 900mm for solid masonry, and ii. 1.2m for open or partially transparent styles such as picket or palisade.	Noted.	Noted.
<b>6.4.1 (3)</b>	For sloping streets, fences and walls must be stepped to comply with the required maximum fence height.	Noted.	Noted.

**Side and rear fences**

<b>6.4.1 (6)</b>	Side and rear boundary fences must not be higher than 1.8m on level sites, or 1.8m as measured from the low side where there is a difference in level either side of the boundary. An additional 300mm of lattice is permitted for privacy screening	Noted.	Yes.
<b>6.4.1 (7)</b>	In the case of corner sites with two street frontages, a 1.8m fence height is only permitted	Noted.	Yes.

	behind the building line. Fencing forward of the building line is limited to a maximum height of between 900mm - 1.2m		
<b>Retaining Walls</b>			
<b>6.4.1 (10)</b>	Construction of retaining walls or associated drainage work along common boundaries must not compromise the structural integrity of any existing retaining walls or structures. All components, including footings and aggregate lines, must be wholly contained within the property.	Noted and can be conditioned.	Yes
<b>6.4.1 (11)</b>	A retaining wall that is visible from the street or public area must:  (i) be constructed to a height no greater than 1.0m, and (ii) be designed so that there is a minimum setback of 1.0m between retaining walls and landscaping is provided in the setback areas, and (iii) be constructed of materials that do not detract from the streetscape	Complies.	Yes.
<b>6.4.2. Air conditioning</b>			
<b>6.4.2 (1)</b>	Air conditioning units should be sited so that they are not visible from the street.	Noted.	Yes.
<b>6.4.2 (2)</b>	The noise level from air conditioning condensers/ systems is not to exceed the LAeq 15 minute by 5dBA measured at the property boundary.	Noted and can be conditioned.	Yes.

### Developer Contributions

120. The proposed development if approved would require the payment of developer contributions under Section 7.11 of the Environmental Planning and Assessment Act

1979, as the proposal is increasing the density of the locality. Conditions of development consent have been recommended should the application be supported.

121. Contributions on this application have been determined in accordance with the Georges River Council Local Infrastructure Contributions Plan 2021 (Section 7.11 and Section 7.12). This plan applies to a development application (DA) and application for a complying development certificate (CDC) that had been submitted but not determined on the date on which this plan took effect.

### **Impacts**

#### ***Natural Environment***

122. The proposed development is unlikely to result in adverse impacts on the natural environment.
123. A landscape plan prepared by a qualified landscape architect has been prepared for the development which shows appropriate planting and suitable landscaping for the site.
124. The proposed excavation of the site is for the purposes of providing basement parking and the mechanical vehicle stacker system. The amount of excavation is consistent with that required for most new developments.

#### ***Built Environment***

125. The proposal represents an acceptable planning outcome for the site with respect to its bulk, scale and density and is an appropriate response to the context of the site and is consistent with that anticipated for the site and its R4 High Density Residential zoning.
126. The proposed development incorporates appropriate design elements to ameliorate potential amenity impacts to adjoining properties.

#### ***Social Impact***

127. The assessment demonstrates that the proposal in its current form will not have an adverse impact on the character of the locality and the amenity of neighbouring residential properties. No adverse social impacts have been identified as part of the assessment. The environmental impacts on the social environment are considered reasonable and the application is supported. Whilst the development changes from a mixture of single, double and twin rooms to single rooms only, the maximum number of residents at 47. This is not inconsistent with the density as per the existing approval.
128. The proposal meets the requirements of State Environmental Planning Policy (Affordable Rental Housing) 2009 and provides an affordable housing option for the community. A Plan of Management has been provided, reviewed and is considered as acceptable. The Plan of Management is conditioned to be complied with as part of the development consent

#### ***Economic Impact***

129. There is no apparent adverse economic impact that is likely to result within the locality due to the construction of the proposed dwelling housing development. The proposal is not considered to result in an unreasonable material economic impact.

#### ***Suitability of the Site***

130. The site is zoned R4 High Density Residential. It is considered the proposal will not result in an adverse impact on the adjoining properties or the streetscape. The proposal is considered to be a suitable form of development.

## Submissions, Referrals and the Public Interest

### Submissions

131. The application was advertised and adjoining residents were notified by letter and given fourteen (14) days in which to view the plans and submit any comments on the proposal. Six (6) single submissions, a submission containing three (3) signatures and a submission containing 26 signatures was received.
132. The concerns raised are summarised below:
- Traffic issues, increase congestion and conflicts generated.
133. Comment: Increased traffic congestion and reduced parking around the development site and other connecting roads are raised as concerns by residents within the Allawah area. It is inevitable that the proposal will increase traffic volume. The proposal complies with the carparking required for the development under the State Environmental Planning Policy (Affordable Rental Housing) 2009 and the development is also located within 100m of Allawah Station and bus stops on Railway Parade, ensuring that public transport can be easily accessed. It should also be noted that under the ARH SEPP Council cannot refuse an application where the proposal meets the requirements of the SEPP.
- The bulk and scale is out of character and scale with the existing streetscape.
134. Comment: The bulk and scale of the proposed development has been raised as a concern. This area is zoned R4 High Density and permits a building to be constructed on the site with a height of up to 21m and a floor space ratio of 2.5:1 for a boarding house under the relevant provisions of GRLEP 2021 and the ARH SEPP. The bulk and scale of the building is consistent with the controls for the R4 high Density Residential zoning, and the envelope and form envisaged for this type of development.
- Overshadowing
135. Comment: The shadow diagrams submitted indicate that compliance with the minimum requirements will be achieved.
- The number of boarding rooms has been increased to 47 rooms
136. Comment: The proposed development now seeks approval for 47 single boarding rooms which would restrict the building to 47 people. The boarding house development approved by the LEC in May 2021 contained a mixture of 25 single, double and twin rooms which had a maximum capacity of 47 people. There is no increase from the maximum number of residents from the previous approval.
- Tree planting across the site will have an adverse impact upon their property.
137. Comment: The landscaping proposed for the site is consistent with Council requirements and will ensure that suitable amenity will be afforded between properties.

### Referrals

#### Council Referrals

##### Development Engineer

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

##### Environmental Health Officer



139. The Preliminary Site Investigation Report (PSI), the Plan of Management (POM) and the Acoustic Report were reviewed by Council's Environmental Health Officer. No objection raised subject to suitable conditions of development consent.

#### Consultant Arborist

140. No objections were raised, specific conditions of consent have been recommended as referenced at the end of this report including planting of trees.

#### Urban Designer

141. The proposal was referred to Councils Urban Designer for assessment and review. They have reviewed the proposal and have advised that the external features, footprint and height of the building remain the same as the recent Land and Environment Court approval. No objection was raised to the proposal.

#### Traffic Engineer

142. The proposal was referred to Councils Traffic Engineer who raised no objection to the proposal subject to conditions provided.

#### Coordinator of Environment Sustainability and Waste

143. The application was referred to Councils Coordinator of Environment Sustainability and Waste for assessment and review. They have advised that the proposed arrangements for ongoing waste management area acceptable and have provided conditions of development consent.

### **External Referrals**

#### Ausgrid

144. The application was referred to Ausgrid as per Clause 2.48 of the State Environmental Planning Policy (Transport and Infrastructure) 2021. A response was received on 23 December 2021 stating there were no Ausgrid assets present, no response is required.

#### Sydney Airport

145. The application is supported subject to specific conditions relating to the height limitation for the building and any obstruction equipment (such as cranes). The building must not exceed a maximum height of 68 metres AHD, inclusive of all lift over runs, vents, chimneys, aerials, antennas, lightning rods, any roof top garden plantings, exhaust flues etc. The application does not exceed this criterion.

#### NSW Police

146. The proposal was referred to NSW Police for comment. No objection is raised subject to conditions provided.

### **Conclusion**

147. The proposal seeks consent for demolition and construction of a seven (7) storey boarding house development comprising 46 single rooms plus a Boarding House Managers room over basement car parking at Lot 266, DP7182 and known as 5 Mona Street, Allawah.
148. The proposal has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979. The proposal is considered to be a reasonable redevelopment of the site and the proposed scale, bulk and height is considered to be an acceptable planning and design outcome for this site and will be consistent with the existing and desired future character of development in the R4 zoned land in this location and the immediate locality.

149. The proposal has been assessed against the provisions of the relevant State Environmental Planning Policies, the Georges River Local Environmental Plan 2021 and Georges River Development Control Plan 2021.

150. The application is recommended for approval subject to conditions.

## **Determination and Statement of Reasons**

### **Statement of Reasons**

151. The reasons for this recommendation are:

- The proposed development complies with the requirements of the relevant environmental planning instruments.
- The proposal is an appropriate response to the site and is consistent with the desired future character of the R4 zone and existing developments in the locality.
- The proposal is compliant with the boarding house standards and the character test as per the State Environmental Planning Policy (Affordable Rental Housing) 2009.
- The proposed development satisfies the objectives of the R4 High Density Residential zone of Georges River Local Environmental Plan 2021 in providing suitable affordable housing needs whilst not compromising the amenity of the surrounding area.
- The proposal is fully compliant with the maximum height of building control permitted for the site under Georges River Local Environmental Plan 2021.
- The proposed development is considered to be compatible with the desired and future development and surrounding land uses.
- The proposed development will not unreasonably affect the amenity of any immediately adjoining properties in terms of unreasonable overlooking, overshadowing or view loss.
- The proposal has effective façade modulation and wall articulation that will serve to provide visual interest and reduce the bulk of the building.

### Determination

152. Pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 (as amended) the Georges River Local Planning Panel grants consent to DA2021/0465 for demolition and construction of a seven (7) storey boarding house development comprising 46 single rooms plus a managers room over basement car parking, landscaping and site works at Lot 266, DP7182 and known as 5 Mona Street, Allawah, subject to the following conditions:

### **Development Details**

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

<b>Description</b>	<b>Reference No.</b>	<b>Date</b>	<b>Revision</b>	<b>Prepared by</b>
Drawing List & Development Statistics	A1.01	16.08.2021	B	Aplus Design Group
Site Analysis and Demolition Plan	A2.01	25.06.2021	A	Aplus Design Group
Site Plan	A2.02	25.06.2021	A	Aplus Design Group

Basement 1 Plan	A3.02	25.06.2021	A	Aplus Design Group
Lower Ground Plan	A3.03	30.05.2022	B	Aplus Design Group
Upper Ground Plan	A3.04	30.05.2022	B	Aplus Design Group
Level 1-2 Plan	A3.05	30.05.2022	B	Aplus Design Group
Level 3 Plan	A3.06	30.05.2022	B	Aplus Design Group
Level 4 Plan	A3.07	30.05.2022	B	Aplus Design Group
Level 5 Plan	A3.08	30.05.2022	B	Aplus Design Group
Roof Plan	A3.09	25.06.2021	A	Aplus Design Group
East Elevation	A4.01	25.06.2021	A	Aplus Design Group
East Elevation without trees	A4.01a	25.06.2021	A	Aplus Design Group
North Elevation	A4.02	25.06.2021	A	Aplus Design Group
North Elevation without trees	A4.02a	25.06.2021	A	Aplus Design Group
South Elevation	A4.03	25.06.2021	A	Aplus Design Group
South Elevation without trees	A4.03a	25.06.2021	A	Aplus Design Group
West Elevation	A4.04	25.06.2021	A	Aplus Design Group
West Elevation without trees	A4.04a	25.06.2021	A	Aplus Design Group
Section AA	A5.01	23.08.2022	C	Aplus Design Group
Section BB	A5.02	23.08.2022	B	Aplus Design Group
Section CC Driveway Section	A5.03	25.06.2021	A	Aplus Design Group
Typical Unit Layout - 1	A6.01	25.06.2021	A	Aplus Design Group
Typical Unit Layout - 2	A6.02	25.06.2021	A	Aplus Design Group
Schedule of Materials and Finishes	A8.01	25.06.2021	A	Aplus Design Group
GFA Calculation	A10.01	25.06.2021	A	Aplus Design Group
Landscape Coversheet	000	24.09.2021	C	Site Image Landscape Architects
Landscape Coversheet	001	24.09.2021	C	
Landscape Masterplan	101	24.09.2021	C	Site Image Landscape Architects
Landscape Plan Upper Ground	102	24.09.2021	C	Site Image Landscape Architects
Landscape Plan Lower Ground	501	24.09.2021	B	Site Image Landscape Architects
Landscape Details	502	24.09.2021	A	Site Image Landscape Architects
Landscape Specification	503	24.09.2021	A	Site Image Landscape Architects
Plan of Management		12 August 2022	F	Alton Property group

## Separate Approval Required Under Other Legislation

2. **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 1.5 metre wide footpath for the full length of the frontage (s) of the site in Mona Street and Illawarra Street in accordance with Council's Specifications applying at the time construction approval is sought.
- (b) The thickness and design of the driveway shall be in accordance with Council's Specifications applying at the time construction approval is sought.
- (c) Construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontage(s) of the site in Mona Street and Illawarra Street in accordance with Council's Specifications for kerb and guttering, applying at the time construction approval is sought.
- (d) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the applicant. The work shall be carried out in accordance with Council's specification, applying at the time construction approval is sought.

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

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

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

The relevant Application Forms for these activities can be downloaded from Council's website [www.georgesriver.nsw.gov.au](http://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.
5. **Building – Hoarding Application** - Prior to demolition of the buildings on the site, or the commencement of work above ground level, a separate application for the erection of an 'A class' (fence type) or a 'B class' (overhead type) hoarding or 'C type' scaffold, in accordance with the requirements of SafeWork NSW, must be erected along that portion of the footways/roadway where the building is within 3 metres of the street boundary. An application for this work under Section 68 of the [Local Government Act 1993](#) 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](http://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.
  - (e) The application must be endorsed by the Roads & Maritime Services (RMS) as the hoarding is located within 100m of an intersection with traffic lights. For assistance you should contact the DA unit at RMS and speak to Hans on 88492076. Or email [hans.pilly.mootanah@rms.nsw.gov.au](mailto:hans.pilly.mootanah@rms.nsw.gov.au) to obtain concurrence for the hoarding structure.
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 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 \$57,155.00. 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.

**7. Traffic and Parking Facilities and Signs** - Any traffic or parking signs and traffic infrastructure damaged or missing as a result of demolition or building activity at the site shall be replaced/made good immediately to the satisfaction of Council at the applicant's expense.

**Requirements of other Concurrence, Integrated & other Government Authorities**

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

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

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

- 10. 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**

- 11. Surrender of Consent** – DA2019/0608 for demolition works and construction of a boarding house is to be surrendered in accordance with the requirements of Clause 97 of

the Environmental Planning and Assessment Regulation 2000 (Clause 68 of the Environmental Planning and Assessment Regulation 2021) prior to the issue of a construction certificate.

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

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

Please contact council prior to the payment of S7.11 Contributions to determine whether the amounts have been indexed from that indicated below in this consent and the form of payment that will be accepted by Council.

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

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

Fee Type	Fee
<b>GENERAL FEES</b>	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See <a href="https://portal.longservice.nsw.gov.au/bci/levy/">https://portal.longservice.nsw.gov.au/bci/levy/</a>	
Builders Damage Deposit	<b>\$70,643.58</b> (Calculation is based on \$1236 per metre of street frontage as follows: Mona Street: 16.83m Illawarra Street: 40.325m)
Inspection Fee for Refund of Damage Deposit (Minimum of two (2) inspections at \$371 per inspection)	<b>\$742.00</b>
<b>DEVELOPMENT CONTRIBUTIONS</b>	
Plan Administration	\$4425.11
Community Centres	\$28,205.54
Early Learning Centres	\$8,334.52
Library Buildings	\$17,987.51
Library Resources	\$3,531.58
Recreational Facilities	\$28,629.34
Open Space Acquisition	\$162,830.97
Open Space Embellishment	\$111,975.72
Public Domain	\$18,834.96
Active Transport	\$3,201.79
Roads and Intersections	\$5,744.39
<b>Total 7.11 Contributions</b>	<b>\$393,701.43</b>

### General Fees

The fees and charges above are subject to change and are as set out in the version of Council's Schedule of Fees and Charges or as required by other Government



Authorities, applicable at the time of payment.

### **Development Contributions**

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

#### Indexation

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

#### Timing of Payment

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

#### Further Information

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

- 13. 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: **\$70,643.58**.
  - (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: **\$742.00**.
  - (c) Submit to Council, before the commencement of work, a photographic record of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal.

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

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

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

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

15. **BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No. 1227402M\_02, dated 18 August 2022 must be implemented on the plans lodged with the application for the Construction Certificate.
16. **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.
17. **Required design changes** - The following changes are required to be made and shown on the Construction Certificate plans:
  - An additional one (1) motorbike and one (1) bicycle space is to be provided to ensure a minimum of 10 bicycle spaces and 10 motorbike spaces are provided.
  - One (1) large laundry tub with hot and cold running water is to be provided within the communal laundry. This is to be accommodated without the loss of a washing machine or dryer.
18. **Amended drawings – Driveway longitudinal Sections** - Drawing C7.02 issue “C” prepared by ACOR Consultants Pty Ltd is not approved as it does not accurately reflect the design of the proposed internal driveway between the property boundary and the car lift.  
Amended drawings for the driveway from the centreline of Illawarra Street and the car lift shall:
  - be submitted to the Certifying Authority for approval.
  - Provide full engineering details such as curve radii, materials of construction and levels sufficient to proceed to construction.
19. **Vehicular Crossing – Amended Design** - The proposed 300mm wide median island proposed on the vehicle crossing shall be deleted and the width of the crossing reduced from 6.5m to 5.5m.

- 20. Gutter Crossing/Layback length** - The overall length of the gutter crossing/ layback, including wings, shall not exceed 4.9m.
- 21. Erosion and Sedimentation Control** - Erosion and sediment controls must be provided to ensure:
- (a) Compliance with the approved Erosion and Sediment Control Plan
  - (b) Removal or disturbance of vegetation and top soil is confined to within 3m of the approved building area (no trees to be removed without approval)
  - (c) All clean water runoff is diverted around cleared or exposed areas
  - (d) Silt fences, stabilised entry/exit points or other devices are installed to prevent sediment from entering drainage systems or waterways
  - (e) All erosion and sediment controls are fully maintained for the duration of demolition, excavation and/or development works
  - (f) Controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadway
  - (g) All disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar
  - (h) Compliance with Managing Urban Stormwater - Soils and Construction (Blue Book) produced by Landcom 2004.

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

- 22. Pre-Construction Dilapidation Report – Private Land** - A professional engineer specialising in structural or geotechnical engineering shall prepare a Pre-Construction Dilapidation Report detailing the current structural condition of adjoining premises including but not limited to:
- (a) All neighbouring buildings likely to be affected by the excavation as determined by the consulting engineer.
  - (b) Properties at 470, 472 and 474 Railway Parade and 3 Mona Street, Allawah adjacent to the development site.

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

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

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

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

Description	Reference No	Date	Revision	Prepared by
Cover sheet	C1.01	16/08/2021	C	Acor Consultant P/L

and Legends				
Notes	C1.02	16/08/2021	C	Acor Consultant P/L
Details sheet 1	C1.05	16/08/2021	C	Acor Consultant P/L
Details sheet 2	C1.06	16/08/2021		Acor Consultant P/L
Details sheet 3	C1.07	16/08/2021	H	Acor Consultant P/L
Details sheet 4	C1.08	16/08/2021	C	Acor Consultant P/L
Stormwater Management	C3.01	16/08/2021	H	Acor Consultant P/L
Catchment Plan	C3.15	16/08/2021	C	

LPP050-22

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

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

#### **24. Ground Water Management Outside Building Basement Footprint**

- a) The outside perimeter along underground basement footprint must be designed and maintained with a appropriate underground subsoil drainage system to collect surrounding groundwater seepage in compliance with the geotechnical report to be prepared by a consulting geotechnical engineer and then collect (if any) into a basement sump to be designed, where the collected groundwater can be pumped to OSD tank at the upper level for discharge.
- b) The design of the proposed groundwater seepage drainage system must be prepared by a professional engineer who specialises in hydraulic engineering and be submitted for approval with the Construction Certificate application.

#### **25. Onsite Stormwater Detention** - The submitted Concept Stormwater and OSD Plans prepared by Prepared by ACOR Consultant P/L, with following drainage plans have been assessed as a concept plans only. Final detailed design plans of the drainage system, prepared by a professional engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate..

1. Civil Services Details Sheet 3 (OSD Plan and Cross sections), Prepared by ACOR Consultant P/L, Project No. SY1907900, Drawing No. C1.07, Issue H, dated 16/08/2021.
2. Stormwater Management Plan (OSD Plan), Prepared by ACOR Consultant P/L, Project No. SY1907900, Drawing No. C3.01, Issue H, dated 16/08/2021.

The OSD tank and rainwater tank facility designed by a professional engineer who specialises in Hydraulic engineering must be designed, approved and installed as follows.

- a) The OSD storage requirements and permissible discharge are to be calculated in accordance with Table 3 of Council's Stormwater Management Policy.
- b) A minimum 15.0 cubic metre OSD volume with minimum 700mm deep (including 100mm freeboard) and 5.0 cubic metre rainwater tank volume are to be provided in accordance with the Stormwater Concept Plan and Council's Stormwater Management Policy.
- c) All six 600mm square access lids (including the DCP with 600mm square grate) of the OSD tank must be replaced with 900mmx900mm heavy duty hot dip galvanized square grates. An additional 900mm heavy duty square grate shall be installed at the middle of the OSD tank. These grates will be used for regular Tanks internal areas visual inspection, maintenance and tank's open air flow movement and ventilation during the life time of the development.
- d) The proposed grated drain on top of OSD tank must be of minimum 300mm wide heavy duty grate (instead of 250mm) and minimum 300mm deep and the drain's discharge will be directly connected to the OSD tank which shall be documented clearly in the final Architectural plans and Stormwater Drainage plans submitted to the PCA.
- e) The 300mm wide gated drain must be shown exclusively on CC submitted OSD plan/section (Sheet No. C1.07) with levels and sizes and be included in final Architectural plans as the proposed grated drain is currently not shown in the DA submitted concept plan.
- f) The OSD facility shall be designed to meet all legislated safety requirements. A durable metal plate or similar sign is to be placed at the OSD facility and must bear the words:
- g) "BEWARE: This is an on-site detention basin/tank for rainwater which could overflow during heavy storms."
- h) 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 of OSD Tank structures design and other structural members. The details are to be submitted to the Certifier (including a design certification from the consulting structural engineer) for approval. A copy shall be forwarded to Council where Council is not the Certifier.
- i) Full details of all of the above requirements must be included in the final Architectural plans and Stormwater Drainage plans and then these plans shall accompany the application for the Construction Certificate.
- j) The final CC submitted Architectural plans and Stormwater Drainage plans shall be submitted to Council's Development Engineer for review and record.

**26. Stormwater Drainage Plan Details** - Stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a professional engineering specialising in hydraulic engineering shall be submitted with the Construction Certificate application. These plans shall be prepared in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (1987) and Council's Stormwater Management Policy.

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

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

- (b) Suitable underground provision for the supply of all relevant services to the proposed lots (proposed position of pipes and conduits).
- (c) The full length of the driveway designed with a minimum 150mm thick reinforced concrete and minimum of 2.7m wide pavement/kerb face to kerb face width, and a non-slip surface.

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

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

- 29. Structural details** - Engineer's details prepared by a practising Structural Engineer being used to construct all reinforced concrete work, structural beams, columns and other structural members. The details are to be submitted 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.

- 30. 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.

- 31. Access for persons with disabilities** – Access must be provided throughout the site, including to all common rooms, lobby/terrace areas, commercial premises and sanitary facilities in accordance with the requirements of the Premises Standards, the Building Code of Australia and AS 1428.1. Details of which must be submitted with the Construction Certificate Application.

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

- 32. Acoustic Requirements**

**Compliance with submitted Acoustic Report**

The Construction Certificate plans shall demonstrate compliance with the Acoustic Report submitted and approved by Council, titled Acoustical Report – DA stage Proposed boarding house development at 5 Mona Street, Allawah NSW, V6 prepared by Koikas Acoustics and dated 26 April 2022.

**Acoustic Report - General Operation of Premises**

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

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

**33. Geotechnical Report -** Geotechnical Reports: The applicant must submit a Geotechnical Report, prepared by a professional engineer specialising in geotechnical engineering who holds the relevant Certificate of accreditation as required under the *Building and Development Certifiers Regulation 2020* and/or *Design and Building Practitioners Act 2020* in relation to dilapidation reports, all site works and construction. This is to be submitted before the issue of the Construction Certificate and is to include:

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

**34. Crime Prevention –** In line with the recommendations of the NSW Police Force, the following are to accompany the Construction Certificate application:

#### Closed Circuit Television

The manager must maintain a closed-circuit television (CCTV) system at the boarding house in accordance with the following requirements;

- (a) the system must record continuously at all times
- (b) recordings must be in a digital format and at a minimum of ten frames per second (10 fps)
- (c) any recorded image must specify the time and date of the recorded image
- (d) the systems cameras must cover the following areas;
  - i. all entry and exit points on the premises
  - ii. the footpath immediately adjacent to the premises and
  - iii. all publicly accessible areas (other than toilets) within the premises.

The manager must also;



- keep all recordings made by the CCTV system for at least 30 days
- ensure that the CCTV system is accessible at all times the system is required to operate by at least one person able to access and fully operate the system including downloading and producing recordings of CCTV footage and
- provide any recordings made by the system to a police officer of authorised officer within 24 hours of any request by a police officer or authorised officer

In addition to the above:

- all accessible areas are to be sufficiently lit to eliminate or reduce dark/concealed areas.
- The mailboxes should be located in a secure or residents only area of the building. This will increase the visibility of the area and decrease the opportunity for mail theft which often results in Fraud and Identity theft.
- Due to the number of self-contained boarding rooms, the development site is to be monitored by live-in Operational Manager 24 hours a day, 7 days a week

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

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

- 36. Slip Resistance** - All pedestrian surfaces in areas such as foyers, public corridors/hallways, stairs and ramps as well as floor surfaces in the wet rooms in any commercial/retail/residential units must have slip resistance classifications, as determined using test methods in either wet or dry conditions, appropriate to their gradient and exposure to wetting. The classifications of the new pedestrian surface materials, in wet or dry conditions, must comply with AS/NZS4586:2013 -Slip Resistance Classifications of New Pedestrian Materials and must be detailed on the plans lodged with the application for the Construction Certificate
- 37. 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). A certification is to be submitted from a qualified consulting traffic engineer outlining that traffic management systems design complies with AS2890.1 and AS2890.2.
- 38. 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.

39. **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.
40. **Construction/Demolition Waste** - The applicant must provide details of the proposed contractors used for managing demolition and construction wastes to Council prior to the issue of a Construction Certificate. The applicant must maintain records of licensed waste management disposal for up to 7 years as evidence of correct management of wastes.
41. **Landscape Plans** - All landscape works shall be carried out in accordance with the approved landscape plans and specifications, drawn by Site Image Landscape Architects, job No SS20-4519, Issue C (000,001,101,102 - dated 24/9/21), B(501- dated 26/10/20), A(502,503 – dated 20/10/20). The landscaping must be maintained in accordance with the approved plans in perpetuity, subject to the following -
  - a) The proposed twenty two (22) trees and all plant species, pot/ bag size and quantities of plants must be in accordance with the proposed plant schedule upon the landscape plan.
  - b) All twenty two (22) trees and plants must be contract grown with a licenced and reputable nursery grower early within the building phase to ensure species, quantities and pot/ bag sizes are guaranteed at the time of landscape planting. The engaged Landscape Architect must sign off at the time of purchase that this condition has been complied with and forwarded to the PCA for compliance prior to a CC.
  - c) The fees payable to Council for the proposed five (5) street trees must be paid in accordance with current schedule of fees for tree plantings prior to obtaining a Construction Certificate.
  - d) The twenty two trees proposed upon the approved landscape plan shall comply with AS 2303 – 2018, *Tree Stock for Landscape use* and *NATSPEC Specifying Trees: a guide to assessment of tree quality (2003)*, and be planted and maintained in accordance with Councils standard specification.
  - e) If the planted trees and plants are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species. If the trees are found dead before they reach a height where they are protected by Councils Tree Management Controls, they must be replaced with the same species and pot/bag size.
42. **Compliance with submitted Arborist Report** - The recommendations outlined in the Arborist's Report titled Arboricultural Impact Assessment prepared by Tree Talk Consulting dated October 2019 must be implemented throughout the relevant stages of construction. Details of tree protection measures to be implemented must be detailed and lodged with the Construction Certificate application for approval and shall be in accordance with Section 4 - *Australian Standard AS 4970-2009: Protection of trees on development sites*.

The trees to be retained and protected are listed in the table below.

<b>Tree Species</b>	<b>Location of Tree / Tree No.</b>	<b>Tree Protection Zone (metres) Fencing distance from trunk</b>
Tree A – <i>Elaeocarpus reticulatus</i> (x2)	Neighbouring site, 3 Mona Street, rear corner	2.4m out from their trunks
Tree B – <i>Lagerstroemia indica</i>	Neighbouring site, 3 Mona Street.	2.0m out from its trunk

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

### **Tree Protection Measures**

- (a) The tree protection measures must be undertaken in accordance AS4970 -2009 *Protection of trees on development sites*.
- (b) All trees on adjacent sites, to be retained must be protected before site set up and maintained during demolition, excavation and construction of the site.
- (c) Although trees may be on adjacent sites, the tree protection fencing must be placed on the nominated distances as per table above, out from the trees trunk, within the subject site to minimise impacts to neighbours trees and kept for the entirety of the project.
- (d) Details of the tree protection measures to be implemented must be provided with the application for a Construction Certificate by a qualified Arborist who holds an AQF Level 5 or above in Arboriculture and who is a current practicing and financial member of an Australian Arboricultural Association or Affiliation.
- (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 located on the adjacent site.
- (f) In accordance with AS 4970-2009 *Protection of trees on development sites*, a protective fence consisting of 2.4 x 1.8 metres high, fully supported chainmesh fence shall be used. The distance of the fence out from the base of each tree is to be in accordance with the TPZ listed in the table above. A layer of organic mulch 100 millimetres thick shall be placed over the protected area and no soil or fill should be placed within the protection area.
- (g) The tree protection fencing must be kept in place during demolition, excavation and construction and also have a sign displaying 'Tree Protection Zone – DO NOT ENTER' attached to the fence and must also include the name and contact details of the Project Arborist.
- (h) No building products, preparation of building products, storage of materials, stockpiling, site sheds or services shall be installed or placed within the TPZ of the trees to be retained.

### Excavation works near tree to be retained

- (a) Excavations around the trees TPZ within No 3 Mona St must be supervised by the AQF 5 Project Arborist to ensure that the root system and canopy will not adversely be affected.
- (b) Where the Tree Protection Zone (TPZ) of trees on site or adjoining sites become compromised by any excavation works, the AQF 5 Project arborist shall be consulted to establish the position of any major roots and determine the necessary measures to protect these roots. The recommendations of the Arborist shall be submitted to Council prior to any further demolition or construction works taking place.
- (c) Tree Protection Zones around the trees to be retained are not to have soil level changes, building product / materials stored or services installed in this area. Any structures proposed to be built in this area of the trees are to utilise pier and beam or cantilevered slab construction.
- (d) All stormwater piping within deep soil zones must be located against all basement walling to prevent damage from planted trees at the time of planting and into the future.

### 43. Tree Removal and Replacement -

- a) Tree removal. The following trees have been approved to be removed.

Tree Species	Number of trees	Location
T1 – <i>Ligustrum lucidum</i>	1	Within site, adjacent to boundary with 3 Mona Street
T2 – <i>X Cupressocyparis leylandii</i>	X1	Within site, adjacent to boundary with 3 Mona Street
T3 – <i>Cupressus macrocarpa</i>	X1	Rear corner near 3 Mona Street and 472 Railway Parade
T4 – <i>Cupressus macrocarpa</i>	X1	Rear adjacent to boundary with 472 Railway Parade
T5 – <i>Cupressus macrocarpa</i>	X1	Rear adjacent to boundary with 472 Railway Parade
T6 – <i>Cupressus macrocarpa</i>	X1	Rear adjacent to boundary with 472 Railway Parade
T7 – <i>Jacaranda mimosifolia</i>	X1	Rear yard
T8 – <i>X Cupressocyparis leylandii</i>	X1	Rear yard
T9 – <i>Schefflera arboricola</i> 'Variegata'	X1	Rear yard
T10 <i>X Cupressocyparis leylandii</i>	X1	Rear yard
T11 <i>Schefflera arboricola</i>	X1	Rear adjacent to boundary with 472 Railway Parade

T12 <i>Alnus jorullensis</i>	X1	Rear adjacent to boundary with 472 Railway Parade
T13 <i>Salix humboldtiana</i>	X1	Front Setback Illawarra Street
T14 <i>Callistemon viminalis</i>	X1	Front Setback Illawarra Street
T15 <i>Pittosporum eugenioides</i>	X1	Front Setback Illawarra Street

### General Tree Removal Requirements

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

### Street Tree Planting by Council –

- a) Five (5) street trees of species to be determined must be provided in the road reserve fronting the site.
- b) Council must be appointed to remove and plant all tree/s on public land. All costs associated with the removal of the tree/s and the planting of replacement trees shall be met by the applicant. Fees and charges outlined in the table below are subject to change and are set out in the current version of Council's 'Schedule of Fees and Charges', applicable at the time of payment.
- c) The fees must be paid in accordance with the conditions of this consent. The fee payable is to ensure that the development makes adequate provision for the demand it generates for public amenities and public services within the area.
- d) The fees payable will be adjusted at the time of payment to reflect changes in the cost of delivering public amenities and public services, in accordance with the indices provided by the relevant conditions set out in this consent.

Fee Type – Tree planting on public land	Number of trees	Amount per tree
Administration Fee, tree planting and maintenance	X5	\$489.00

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

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

- (ii) the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

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

- 45. Electricity Supply to development** – All existing overhead power lines within or at the immediate street frontage to the development site shall be relocated underground to Energy Australia standards and specifications. If not practicable to relocate the power line underground, arrangements shall be made with Energy Australia to place the conduit to carry those power lines underground so that they can be utilised at a later date by Energy Australia. In this regard all associated costs shall be borne by the applicant.
- 46. Allocation of street addresses** - In order to comply with AS/NZS 4819:2011 Rural and Urban Addressing, the NSW Addressing User Manual (Geographical Names Board of NSW) and Georges River Council's requirements, the street address for the subject development is allocated as follows:

**Primary Address**

- 6 Illawarra Street ALLAWAH NSW 2218

**Unit Addresses**

- Refer to the attached list of unit addresses for the subject development

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

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

- Stormwater & ancillary works in the road reserve. This includes connections to council.
- Stormwater & ancillary to public infrastructure on private land

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

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

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

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

submitted to the PCA prior to the commencement of works.

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

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

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

- 49. 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.
- 50. 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.
- 51. Dial before your dig** - The applicant shall contact "Dial Before You Dig on 1100" to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Council's Engineers for their records.
- 52. Dilapidation Report on Public Land – Major Development Only** - Prior to the commencement of works (including demolition and excavation), a dilapidation report must be prepared for the Council infrastructure adjoining the development site, including:
- (a) Foot paths , Kerb and gutter and roadways
  - (b) Stormwater drainage pits and pipes



The report must include the following:

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

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

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

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

**53. 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.

**54. 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.

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

**During Construction**

**56. 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.

- 57. Contaminated Land – Unexpected Contaminants Found during demolition or construction** - Any new information that is identified during demolition, excavation or construction which has the potential to alter previous conclusions about site contamination and remediation, must be notified to the Certifying Authority (and Council if Council is not the Certifying Authority) immediately.

All works must cease and a qualified Land Contamination Consultant (certified under the consultant certification schemes recognised by the NSW EPA), must be engaged to assess and provide a Remedial Action Plan 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 the contaminants are managed in accordance with:

- (a) Any Remedial Action Plan required, and
- (b) a Validation Report and or Environmental Management Plan is obtained, and
- (c) both Remedial Action Plan and Validation Report are provided to the Certifying Authority. If the Council is not the Council, then a copy of the Remedial Action Plan and the Validation Report is to be provided to Council.

- 58. Physical connection of stormwater to site** - No work is permitted to proceed above the ground floor slab level of the building until there is physical connection of the approved stormwater drainage system from the land the subject of this consent to Council's Kerb in Illawarra Street.

- 59. Site maintenance** - The premises shall be maintained in a manner that will not adversely impact upon public health and safety until such time as an occupation certificate is issued. The premises shall be maintained during construction in accordance with the following:

- (a) There must be no burning of any material.
- (b) All putrescible waste must be removed daily.
- (c) All grass and vegetation must be maintained so the grass and vegetation (excluding trees) does not exceed a height of 100 mm above ground level.
- (d) Any accumulated or ponded water must be removed within 5 days (weather permits). The removal of any water must comply with the *Protection of the Environment Operations Act 1997* (NSW) so as to not cause a pollution incident.
- (e) Fencing must be provided and installed within the boundary of the premises. Fencing must be maintained so to eliminate access to the public.
- (f) All Activity associated with the development including storage or depositing of any goods or maintenance of any machinery and equipment must be conducted within the premises.

- 60. Hours of construction for demolition and building work** - Any work activity or activity associated with the development consent that requires the use of any tools (including hand tools) or any power operated plant and machinery that creates noise on or adjacent

to the site shall not be performed, or permitted to be performed, except between the hours of 7.00am to 5.00pm, Monday to Saturday inclusive. No work or ancillary activity is permitted on Sundays, or Public Holidays.

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

61. **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.
62. **Road Opening Permit** - A Road Opening Permit must be obtained from Council for every opening of a public road reserve to access services including sewer, water mains, gas mains, connecting of stormwater to the kerb and telecommunication. This is for any work that involves excavation through or within a public road, kerb and gutter, and or the public footway between the road and the property boundary. The permit is to be lodged prior to the commencement of works. Additional approval is required from Roads and Maritime Services for works on a State Road.
63. **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.
64. **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.
65. **Structural Certificate during Construction** - The proposed building must be constructed in accordance with details designed and certified by the practising qualified structural engineer. All structural works associated with the foundations, piers, footings and slabs for the proposed building must be inspected and structurally certified for compliance by an independent practising geotechnical and structural engineer. In addition a Compliance or Structural Certificate, to the effect that the building works have been carried in accordance with the structural design, must be submitted to the Principal Certifier at each stage of Construction or prior issue of the Occupation Certificate.
66. **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**

67. **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.

**68. 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.

**69. Completion of Landscape Works -**

- a) All landscape works, the planting of twenty two (22) trees at 100 litre pot/ bag size and all plants and fees payable for Councils five (5) street tree plantings must be completed before the issue of the Final Occupation Certificate and in accordance with approved landscape plans and specifications, drawn by Site Image Landscape Architects, job No SS20-4519, Issue C (000,001,101,102 - dated 24/9/21), B(501-dated 26/10/20), A(502,503 – dated 20/10/20).
- b) A certificate of compliance for the planting of all twenty two (22) trees and all shrubs proposed for the site. An AQF 5 Horticulturist must be engaged and in writing certify that all trees have been planted as per landscape plan and specifications and forwarded to the PCA – Principal Certifying Authority.
- c) All stormwater piping within deep soil zones must be located against all basement walling to prevent damage from planted trees. This condition must be verified and in writing by the engaged Landscape Architect and forward a letter of compliance to the PCA prior to release of an Occupation Certificate.

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

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

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

**71. Major Development** - Internal driveways and parking spaces are to be adequately paved with concrete or bitumen, or interlocking pavers to provide a dust-free surface. All car parking spaces are to be line marked in accordance with AS1742, 'Australian Standard Manual of Uniform Traffic Control Devices' and the relevant guidelines published by the RMS.

**72. 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.*

73. **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 regularly with a minimum three months interval, how and when these will be done

and who will be carrying out these maintenance works.

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

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

**75. Requirements prior to the issue of the Occupation Certificate** - The following shall be completed and or submitted to the PCA prior to the issue of the Occupation Certificate:

- (a) All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
- (b) The internal driveway construction works, together with the provision for all services (conduits and pipes laid) shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
- (c) Construct any new vehicle crossings required.
- (d) Replace all redundant vehicle crossing laybacks with kerb and guttering, and replace redundant concrete with turf.
- (e) A Section 73 (Sydney Water) Compliance Certificate for the Subdivision shall be issued and submitted to the PCA prior to the issue of the Occupation Certificate.
- (f) Work as Executed Plans prepared by a Chartered Professional Engineer or a Registered Surveyor when all the site engineering works are complete shall be submitted to the PCA prior to the issue of the Occupation Certificate.

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

- (a) Construct a 1.5 metre wide footpath for the full length of the frontage (s) of the site in Mona Street and Illawarra Street in accordance with Council's Specifications applying at the time construction approval is sought.
- (b) 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.
- (c) The thickness and design of the driveway shall be in accordance with Council's Specifications applying at the time construction approval is sought.
- (d) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the applicant. The work shall be carried out in accordance with Council's specification, applying at the time construction approval is sought.

A private contractor shall carry out the above work, at the expense of the applicant and in accordance with Council's Specification for Driveway Crossings and Associated Works. The driveway and road frontage works are to be completed before the issue of the Occupation Certificate.

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

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

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

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

**79. Internal Driveway – Vehicle Priority Traffic Light system** - Having regard to the internal ramp being designed to cater for one (1) vehicle only at a time between the roller shutter and car lift, a vehicle priority/traffic light system shall be installed giving priority to vehicles exiting the basement. Details of the system shall be submitted to the Certifying Authority for approval.

**80. Waiting Bay – signs and line marking** - The waiting bay shall be suitably signposted and line marked clearly indicating the bay is to be kept clear at all times and is not to be used for parking of vehicles or storage of materials.

**81. 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:

- (a) Footpaths, Kerb and gutter

(b) Drainage Infra-structure

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

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

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

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

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

**82. 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.

**83. 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 fire 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.

**84. Requirements prior to the issue of the Occupation Certificate** – The following shall be completed and or submitted to the PCA prior to the issue of the Occupation Certificate:



- (a) All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.

**85. Acoustic Certification** - Prior to the issue of any Occupation Certificate, or use of the premises, a report prepared by a suitably qualified acoustic consultant or engineer must be submitted to the Certifying Authority, certifying that the construction has incorporated the recommendations in the Acoustic Report as referenced in this consent. The Acoustic Certification must be incorporated into the Occupation Certificate documentation and provided to Council.

**86. Compliance with Acoustic Report** -Prior to the issue of any Occupation Certificate, a report prepared by a suitably qualified acoustic consultant must be submitted to the satisfaction of the Certifying Authority, certifying that the recommendations of the acoustic report submitted for the operation of mechanical plant and equipment have been implemented. The report must include:

Tests results demonstrating that the operation of the mechanical plant and equipment does not give rise to a sound pressure level at any affected premises that exceeds the background LA90, 15 min noise level, measured in the absence of the noise sources under consideration, by more than 5dB.

The Acoustic Certification must be incorporated into the Occupation Certificate documentation and provided to Council

### **Operational Conditions (Ongoing)**

**87. Maintenance of Landscaping** – All twenty two (22) trees and plants forming part of the landscaping must be maintained. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilising, pest and disease control, replacement of dead or dying plants and other operations required to maintain healthy trees, plants and turfed areas.

#### **Tree Protection Measures**

- a. A final certificate of compliance letter, once all building and landscape works have been completed, from the engaged AQF 5 Consulting Arborist, that tree protection measures have been installed and maintained for the entirety of the project and report on the condition of the trees that as part of this Consent, were to be protected and retained.

#### **Tree Replacement within subject site**

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

**88. Operational Plan of Management** – The operational Plan of Management prepared by

Alton Property Group for the premises as described in condition 1 of the development consent shall be strictly enforced by the on site Boarding manager House Manager.

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

- (a) The development approved under this consent constitutes a 'Boarding House' as defined under [State Environmental Planning Policy \(Affordable Rental Housing\) 2009](#) and shall not be used for the purposes of permanent residential accommodation nor hotel, motel, serviced apartments, private hotel, tourist accommodation or the like.
- (b) Not more than one lodger shall occupy all boarding rooms, which are to contain no more than one bed.
- (c) The total number of lodgers residing in the boarding house at any one time shall not exceed 47 lodgers (this includes the Boarding House Manager).
- (d) The lodgers must be subject to an occupancy agreement for a term of no less than three months.
- (e) The boarding house must always be operated and managed in accordance with the provisions contained within the Plan of Management, prepared by Alton Property Group Rev F and dated 12 August 2022.
- (f) The use and operation of the premises must comply with the requirements of Schedule 2 (Standards for Places of Shared Accommodation) of the [Local Government \(General\) Regulation, 2005](#) under the [Local Government Act 1993](#), the [Public Health Act, 2010](#) and Regulations thereunder.
- (g) The operation of the Boarding House shall be in accordance with the [Boarding Houses Act 2012](#) at all times. This includes the registration of the Boarding House, as required by the Act.
- (h) The residents and Manager of the boarding house are not eligible to participate in Council's Resident Parking Scheme.
- (i) One (1) car parking space shall be nominated and made available for the Boarding House Manager. All other spaces are to be maintained for the exclusive use of the occupants of the building.

Subdivision of the boarding house is not permitted in accordance with the provisions of the [State Environmental Planning Policy \(Affordable Rental Housing\) 2009](#).

**90. Hours of Operation – Limitation of Outdoor Communal Open Space** – The approved hours of operation of the outdoor communal open space area shall be restricted to the following: 7.00am -10.00pm.

**91. 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).

**92. Outdoor Lighting** - To avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads, outdoor lighting must comply with AS 4282-1997: Control of the obtrusive effects of outdoor lighting.

**93. 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.

94. **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.
95. **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.
96. **Entering and Exiting of Vehicles** – All vehicles shall enter and exit the premises in a forward direction.
97. **Car Lift** – The car lift must be operational at all times and must be the subject of a maintenance contract at all times when the use of the land is being carried under this development consent. The maintenance contract must include a 24/7 breakdown service.
98. **Waste Management** - The applicant must ensure the path of bin travel from the bin holding room and the bulky goods room to the kerbside (collection point) is free of stairs and consists of a level, paved and sealed impervious surface at an appropriate grade in accordance with the BCA. The path of bin travel must be an appropriate width free of corners or bends to enable the movement of 660L bins from the bin holding room to the kerbside on Illawarra Street.

A rolling kerbside will be required adjacent to the driveway and near to the pedestrian property entry at the Illawarra Street frontage to enable bins to be wheeled by Building Management to the kerbside, and wheeled off the kerbside to the roadway to enable servicing by a rear loading vehicle. Council will not provide waste collection services without a rolling kerbside as 660L bins cannot be transported safely over steps or a stepped kerb.

Council's contractors may be able to provide a Wheel Out Wheel Back (WOWB) service once the property is constructed if the above requirements are met. This will reduce the need for a site contact to present the bins and/or bulky waste at the kerbside. Access through a pin code system will be required to the bin and bulky good storage rooms, to enable the WOWB service. Physical key access is not supported.

For Council to provide a 'Wheel In Wheel Out' (WIWO) service, the bin storage area must be on the ground floor and to be easily accessible by waste contractors – within 15 metres of the kerbside and the path of travel being level and on impervious surfaces (any access/security codes provided for access to secure area if required). The WIWO service is subject to a Risk Assessment after the site is operational.

It is the responsibility for the Site/Building Manager to maintain the waste storage areas as clean and tidy. The WIWO service can be cancelled at Council's discretion in which circumstance the site may be required to arrange bin presentation on the kerbside. The alternative to this service is a site manager or other delegated person being responsible for presenting bins kerbside no earlier than 12 hours prior to waste collection and returning bins from the kerbside no later than 12 hours post collection.

Further, if this alternative is considered by the applicant, the adequate storage space on impervious surfaces will need to be allocated at the kerbside (if using 660/1100L bins) and indicated on the plans.

In the event Council is unable to provide collection services at the development once constructed, the Building manager/Property Owner will be responsible for procuring private waste collection services. Collection services are to occur within the confines of private property, no more than twice per week, between Monday – Friday, 6am – 10pm. Bins for servicing by private contractors are not permitted on the kerbside.

The development will provide storage for: 5 x 660L general waste bins, 24 x 240L commingled recycling bins and 2 x 240L organics bins. Movement and rotation of bins around the site and within the bin storage room is the responsibility of the Building Manager/Property Owner.

A minimum of 8sqm must be allowed for the storage of bulky waste materials on the ground floor. The bulky waste storage area must have double door or roller door access with to ensure that large items can be easily moved (mattresses, furniture etc) without doors as obstacles.

The applicant must allow for either: dual chutes (recycling and general waste in separate chutes), a single chute with diverter technology OR bin storage cupboard on each occupied floor to cater for at least 1 x 240L general waste bin and 1 x 240L commingled recycling bin (on each floor). Bins stored on each floor will be rotated by an onsite building manager/cleaner at least every 2 days from each occupied floor to the central bin storage area. Given the applicant has not catered for any of the above three options,

Council may not be able to provide a waste collection service to the development once occupied and the provision of waste collection services by a private contractor will be the responsibility of the property owner/building manager and at significant additional cost compared with the Council-provided service. The applicant must demonstrate that at least two days' worth of commingled recycling and general waste to be produced on each floor in 240L MGB's can be stored on each level of the development (i.e. recycling generated at 17.14L per unit, per day and general waste produced at 17.14L per unit, per day). Separate waste streams must be stored in separated MGB's and transferred to the central bin storage area by an onsite building manager or similar

- 99. Responsibility of Strata/Building Manager** - The responsibility for emptying communal litter bins (bins must be source separated and indicated on the architectural plans and outlined within an updated WMP) will rest with the Building/Strata Manager
- 100. 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.

**Operational Requirements under the Environmental Planning And Assessment Act 1979**

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

**102. Appointment of a Principal Certifying Authority** - The erection of a building must not commence until the beneficiary of the development consent has:

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

If the work is not going to be undertaken by an Owner-Builder, then the beneficiary of the consent must:

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

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

**103. Notification of Critical Stage Inspections** - No later than two (2) days before the building work commences, the PCA must notify:

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

**104. Notice of Commencement** - The beneficiary of the development consent must give at least two (2) days notice to the Council and the PCA of their intention to commence the erection of a building.

A **Notice of Commencement Form** is attached for your convenience.

**105. 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.

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

Where Georges River Council has been appointed PCA, forty eight (48) hours notice in writing, or alternatively twenty four (24) hours notice by facsimile or telephone, must be given to when specified work requiring inspection has been completed.

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

to the building or part.

Only the Principal Certifying Authority appointed for the building work can issue the Occupation Certificate.

An **Occupation Certificate** Application Form is attached for your convenience.

### Prescribed Conditions

- 108. BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
- 109. 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.
- 110. 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.
- 111. 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.
- 112. Shoring and adequacy of adjoining property** - 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

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- 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](http://www.legislation.nsw.gov.au)
5. **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.

6. **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.
7. **Security deposit administration & compliance fee** - Under Section 97 (5) of the Local Government Act 1993, a security deposit (or part) if repaid to the person who provided it is to be repaid with any interest accrued on the deposit (or part) as a consequence of its investment.
  - a. Council must cover administration and other costs incurred in the investment of these monies. The current charge is \$50.00 plus 2% of the bond amount per annum.
  - b. The interest rate applied to bonds is set at Council's business banking facility rate as at 1 July each year. Council will accept a bank guarantee in lieu of a deposit.
  - c. All interest earned on security deposits will be used to offset the Security Deposit Administration and Compliance fee. Where interest earned on a deposit is not sufficient to meet the fee, it will be accepted in full satisfaction of the fee.
8. **Stormwater & Ancillary Works – Applications under Section 138 Roads Act and/or Section 68 Local Government Act 1993** - To apply for approval under Section 138 of the Roads Act 1993 and/or Section 68 Local Government Act 1993:
  - (a) Complete the 'Stormwater Drainage Application Form' which can be downloaded from Georges River Council's website at [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au).
  - (b) In the Application Form, quote the Development Consent No. (eg. DA2018/\*\*\*\*) and reference this condition number (e.g. Condition 23)
  - (c) Lodge the application form, together with the associated fees at Council's

Customer Service Centre, during business hours. Refer to Council's adopted Fees and Charges for the administrative and inspection charges associated with stormwater applications.

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

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

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

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

- Mechanical ventilation, provided to bathroom, laundry and basement areas not afforded natural ventilation.
- Fire-fighting services and equipment including control centre facility, hydrant systems, sprinkler systems, hose reels, mechanical air handling and stair pressurization systems, portable fire extinguishers, smoke hazard management systems and sound & warning systems.
- Emergency lighting and exit signs throughout the premises including terrace, courtyard, common room/areas, lobby and basement areas.
- Fire resistance levels of building elements including walls, floors, roof tops, columns, and separation of electrical supply systems etc.
- Construction of all fire doors (doors to swing in the direction of egress) including operational and warning signage.
- Fire compartmentation and fire wall separation details including all stairway, lift and service shafts.
- Exit travel distances and access grades including the number of required exits, separation of exits and installations within exits, must demonstrate compliance and protection in accordance with the BCA.
- Sound transmission and insulation details.
- Disabled access that complies with the BCA and with AS 1428.1.2009
- Location, design/fit-out and dimension of basement parking areas and adaptable units for people with disabilities.
- Window schedule is to include the protection of openable windows.

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

In the event that full compliance with the BCA cannot be achieved and the services of a fire engineer are obtained to determine an alternative method of compliance



with the BCA, such report must be submitted to and endorsed by the Principal Certifier prior to issue of the Construction Certificate.

10. **FR NSW** - Prior to the issue of a Construction Certificate the applicant may be required, under Clause 144 of the Environmental Planning & Assessment Regulation, 2000 to seek written comment from FR NSW about the location of water storage tanks, construction of hydrant/booster pump and valve rooms, and any Fire Engineered Solution developed to meet the performance requirements under the Category 2 Fire Safety Provisions. The applicant is also advised to seek written advice from FR NSW on the location and construction of the proposed Fire Control Centre Facility and location and installation of the sites Fire Indicator Panel.
11. **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 licence may be required from SafeWork NSW (see [www.Safework.nsw.gov.au](http://www.Safework.nsw.gov.au)).





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

Useful links relating to Noise:

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

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

## ATTACHMENTS

- Attachment [↓1](#)  Photomontage 1- 5 Mona St
- Attachment [↓2](#)  Photomontage 2 - 5 Mona St. Allawah
- Attachment [↓3](#)  Site Plan - 5 Mona St. Allawah
- Attachment [↓4](#)  Elevations - North, South, East and West



5 MONA STREET, ALLAWAH



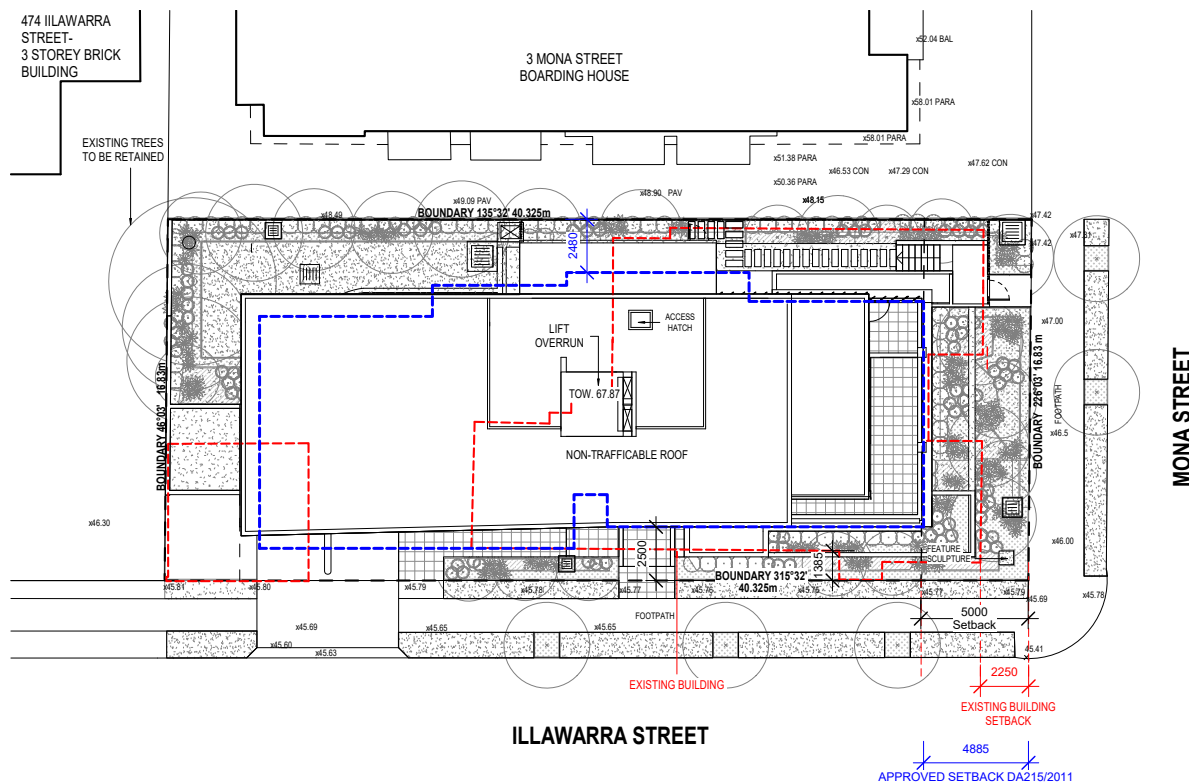
WWW.APLUSDG.COM.AU  
ARCHITECT: TONY LEUNG





## SUMMARY OF CHANGES

1. Relocated express stair layout to allow for updated car parking layout
2. Increased capacity of car stacker to accommodate for increased units
3. Additional motorbike parking to accommodate for increased units
4. Additional bicycle racks to accommodate for increased units
5. Reconfigured twin room to double single room unit



LEGEND

-  APPROVED DA/215/2011 BUILDING FOOTPRINT  
 EXISTING BUILDING FOOTPRINT



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LEVEL 3, 9 BARRACK STREET,  
SYDNEY, NSW 2000  
NOMINATED ARCHITECT-TONY LEUNG NZ 3075

Rev	Description	Date
A	Amended DA	25.06.2021

Client Name  
Libra Property

Project Name  
**Proposed Boarding Houses at 5 Mona Street, Allawah**



Drawing Title  
**SITE PLAN**

SCALE  
1 : 200 @ A3

Project No.  
a19068

ISSUE
A

# SUMMARY OF CHANGES

1. Relocated express stair layout to allow for updated car parking layout
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Rev	Description	Date
A	Amended DA	25.06.2021

Client Name  
 Libra Property

Project Name  
 Proposed Boarding Houses at 5 Mona Street, Allawah

Drawing Title  
 EAST ELEVATION

SCALE	Date	Drawing no:
1:200 @ A3		A4.01

Project No.  
 a19068

ISSUE  
 A



# SUMMARY OF CHANGES

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 SYDNEY, NSW 2000  
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Rev	Description	Date
A	Amended DA	25.06.2021

Client Name  
 Libra Property

Project Name  
 Proposed Boarding Houses at 5 Mona Street, Allawah

Drawing Title  
 NORTH ELEVATION

SCALE  
 1:200 @ A3

Date

Drawing no:  
 A4.02

Project No.  
 a19068

ISSUE  
 A



#### SUMMARY OF CHANGES

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Rev	Description	Date
A	Amended DA	25.06.2021

Client Name  
 Libra Property

Project Name  
 Proposed Boarding Houses at 5 Mona Street, Allawah

Drawing Title  
 SOUTH ELEVATION

SCALE  
 1:200 @ A3

Date

Drawing no:  
 A4.03

Project No.  
 a19068

ISSUE  
 A



#### SUMMARY OF CHANGES

1. Relocated express stair layout to allow for updated car parking layout
2. Increased capacity of car stacker to accommodate for increased units
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4. Additional bicycle racks to accommodate for increased units
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 SYDNEY, NSW 2000  
 NOMINATED ARCHITECT-TONY LEUNG NZ 3075

Rev	Description	Date
A	Amended DA	25.06.2021

Client Name  
 Libra Property

Project Name  
 Proposed Boarding Houses at 5 Mona Street, Allawah

Drawing Title  
 WEST ELEVATION

SCALE  
 1:200 @ A3

Date

Drawing no:  
 A4.04

Project No.  
 a19068

ISSUE  
 A

**REPORT TO GEORGES RIVER COUNCIL  
LPP MEETING OF THURSDAY, 20 OCTOBER 2022**

LPP051-22

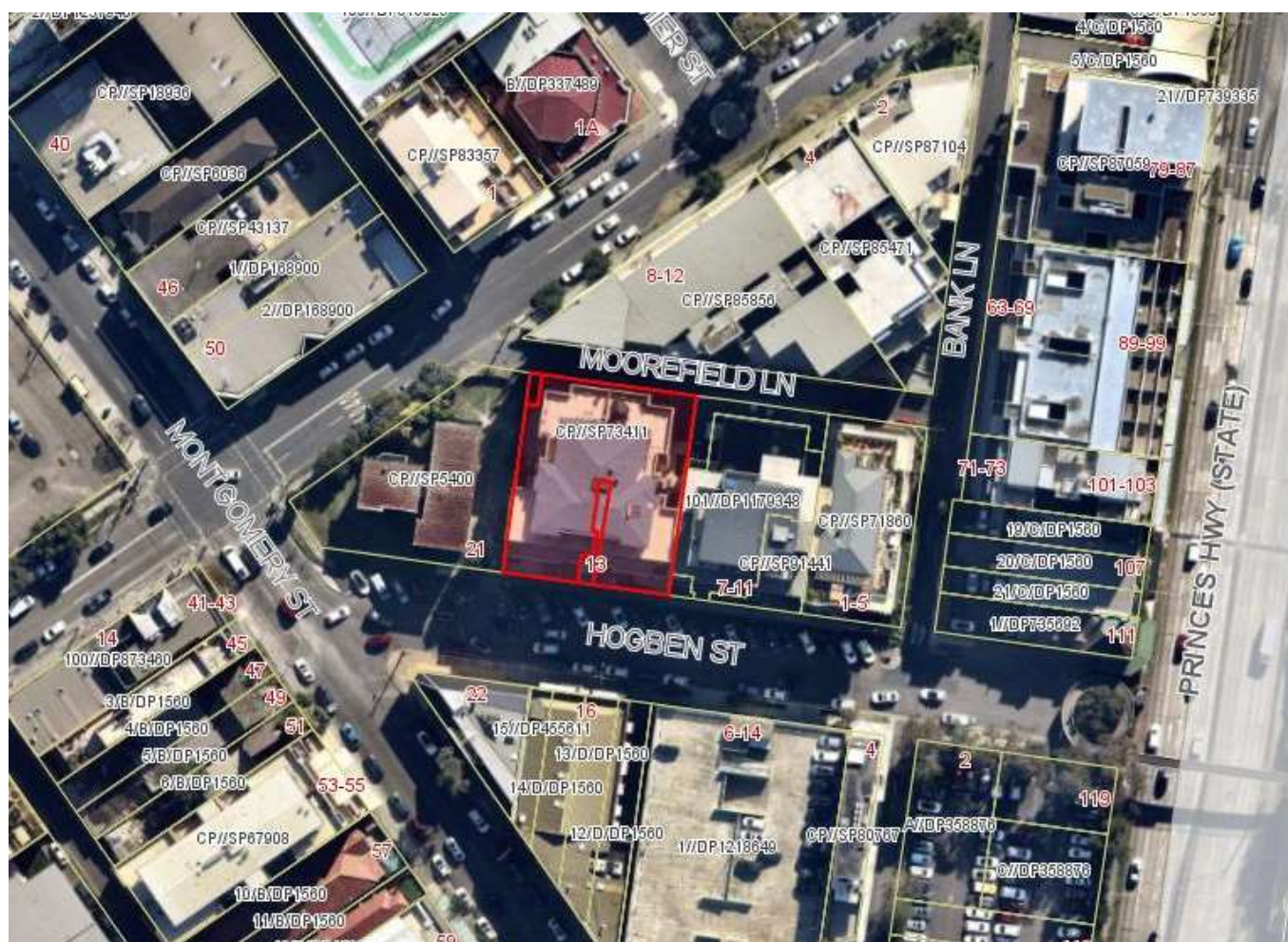
<b>LPP Report No</b>	<b>LPP051-22</b>	<b>Development Application No</b>	<b>DA2021/0405</b>
<b>Site Address &amp; Ward Locality</b>	13-19 Hogben Street, Kogarah Kogarah Bay Ward		
<b>Proposed Development</b>	Alterations and additions to a mixed-use development		
<b>Owners</b>	Strata Plan 73412		
<b>Applicant</b>	Mr Adam Rennie		
<b>Planner/Architect</b>	Steven Layman / Ink Architects		
<b>Date Of Lodgement</b>	19/10/2021		
<b>Submissions</b>	Two submissions		
<b>Cost of Works</b>	\$744,700.00		
<b>Local Planning Panel Criteria</b>	The application seeks consent for development to which the State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development applies.		
<b>List of all relevant s.4.15 matters (formerly s79C(1)(a))</b>	State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development, State Environmental Planning Policy (Transport and Infrastructure) 2021, Georges River Local Environmental Plan 2021, Georges River Development Control Plan 2021.		
<b>List all documents submitted with this report for the Panel's consideration</b>	Architectural Plans, Design Verification Report, Statement of Environmental Effects, Crime Risk Assessment Report, Structural Engineering Report, Stormwater Plans, Survey Plan, Waste Management Plan, Access Report, BCA Report, Car Parking Arrangements		
<b>Report prepared by</b>	Principal Planner		

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

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

### Site Plan



### Executive Summary Proposal

- The application seeks consent for additions to an existing mixed use development and proposes to provide two additional levels of residential apartments, containing 3 x 2

bedroom apartments on proposed Level 7 and 2 x 3 bedroom apartments of proposed Level 8 on top of the existing seven storey building. Stratum subdivision is also proposed.

### Site and Locality

2. The subject development site is known as 13-19 Hogben Street, Kogarah and is legally described as CP/SP73411. The subject site has two street frontages of 30.475m to Hogben Street and 30.475m to Moorefield Lane.
3. The site has a total area of 1,115sqm. The survey plan submitted with the application was prepared in 2000, prior to the current development on the site, and as such accurate topographical details of the site have not been provided.
4. Situated on the site is an existing eight (8) storey mixed-use building comprising basement parking, ground floor office and commercial tenancies and residential units on Levels 1 to 6. Existing vehicular access to the subject site is from Moorefield Lane.
5. Adjoining the site to the east is a mixed development at 7-11 Hogben Street, being eight storeys high with ground level commercial uses and residential units above.
6. Adjoining the site to the west is 21 Hogben Street which is occupied by a 3-4 storey residential flat building. A DA for demolition of the existing building and construction of a 12 storey mixed-use development was refused by the Local Planning Panel at its meeting on 1 September 2021 (REV2022/0001), which is of relevance to this application as the parking for the proposed units in the subject application was proposed to be provided in the basement of the building on 21 Hogben Street.
7. The site is located within the Kogarah Town Centre in the Kensington Street Precinct. Kensington Street is the only north-east to south-west street linking Gray Street to the Princes Highway and is located on the highest point in the town centre. It has a major role in the Kogarah Centre.

### Zoning and Permissibility

8. The site is zoned B4 Mixed Use pursuant to the provisions of the Georges River Local Environmental Plan 2021. Shop-top housing is permitted in the zone.
9. The proposal satisfies the B4 zone objectives which are:
  - *To provide a mixture of compatible land uses.*
  - *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
  - *To allow residential development that contributes to the vitality of the centre and provides housing that meets the needs of the community.*
  - *To encourage the provision of community facilities and public infrastructure so that all residents have reasonable access to a range of facilities and services.*

### Submissions

10. The application was advertised from 28/10/21 to 11/11/21 in accordance with Councils Community Engagement Strategy, two (2) submissions were received that raised concern with parking.

### Reason for referral to the Local Planning Panel

11. This application is referred to the Georges River Local Planning Panel (the Panel) for consideration and determination in accordance with a Section 9.1 Environmental

Planning and Assessment Act Ministerial Direction, as the proposal relates to a Residential Flat Building in which the provisions of State Environmental Planning Policy – Design Quality of Residential Flat Development apply.

### **Planning and Design Issues**

12. The survey plan submitted with the application was prepared in 2000, prior to the current development on the site, and as such accurate topographical details of the site have not been provided.
13. The proposal is an inappropriate response to the site when considered against the Design Quality Principles of State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development. The proposal fails to satisfy the visual privacy, communal open space, parking, storage, roof design and waste management design controls.
14. The proposal was prepared having consideration for the Kogarah LEP and DCP, however the Georges River LEP 2021 and DCP 2021 were in effect at the time the application was lodged.
15. The application proposes additional residential development when the Georges River LEP 2021 requires a minimum percentage of non-residential development on the site, with which the proposal fails to meet.
16. There is no provision for the required car parking for the additional units on the site. The application relies on the approval and construction of a development on the adjacent site at No. 21 Hogben Street (REV2022/0001), which was refused by the Local Planning Panel on 1 September 2022.
17. The proposed design, mass and form of the addition is considered inconsistent with the established and future form of mixed-use developments in the precinct. The proposed development will not be sympathetic with the development in the street and immediate locality nor with the existing building to which it is to form part. The proposal is considered to establish an undesirable design precedent in the area and is not considered to be in the public interest.

### **Conclusion**

18. The application has been assessed having regard to the matters for consideration under section 4.15(1) of the Environmental Planning and Assessment Act 1979, the provisions of the relevant State Environmental Policies, Local Environmental Plan and Development Controls. The proposal is an unreasonable planning and urban design outcome in the context of the site and performs poorly against the design quality principles of State Environmental Planning Policy No 65. As a result, the Application is recommended for refusal.

### **Report in Full Proposal**

19. The application seeks consent for additions to an existing mixed use development and proposes to provide two additional levels of residential apartments, containing 3 x 2 bedroom apartments on proposed Level 7 and 2 x 3 bedroom apartments of proposed Level 8 on top of the existing seven storey building.
20. A detailed breakdown of the proposed development is as follows:

- Basement parking levels: no changes;
- Ground Floor (Moorefield Lane): non-combustible roof over, and solid wall to the eastern side of, the existing driveway ramp;
- Levels 1 to 5: no changes;
- Level 6: Units 30 and 31 to be refurbished, Unit 31 to be an adaptable unit, new cladding to external walls to match proposed Levels 7 and 8, and a new pergola for each unit on the southern side of the dwellings;
- Proposed Level 7: 3 x 2 bedroom apartments – Unit 1 with south-facing balconies facing Hogben Street, Units 2 and 3 with north-facing balconies facing Moorefield Lane;
- Proposed Level 8: 2 x 3 bedroom apartments, each with north and south-facing balconies with living areas oriented north to Moorefield Lane; and
- Stratum subdivision.

### **The Site and Locality**

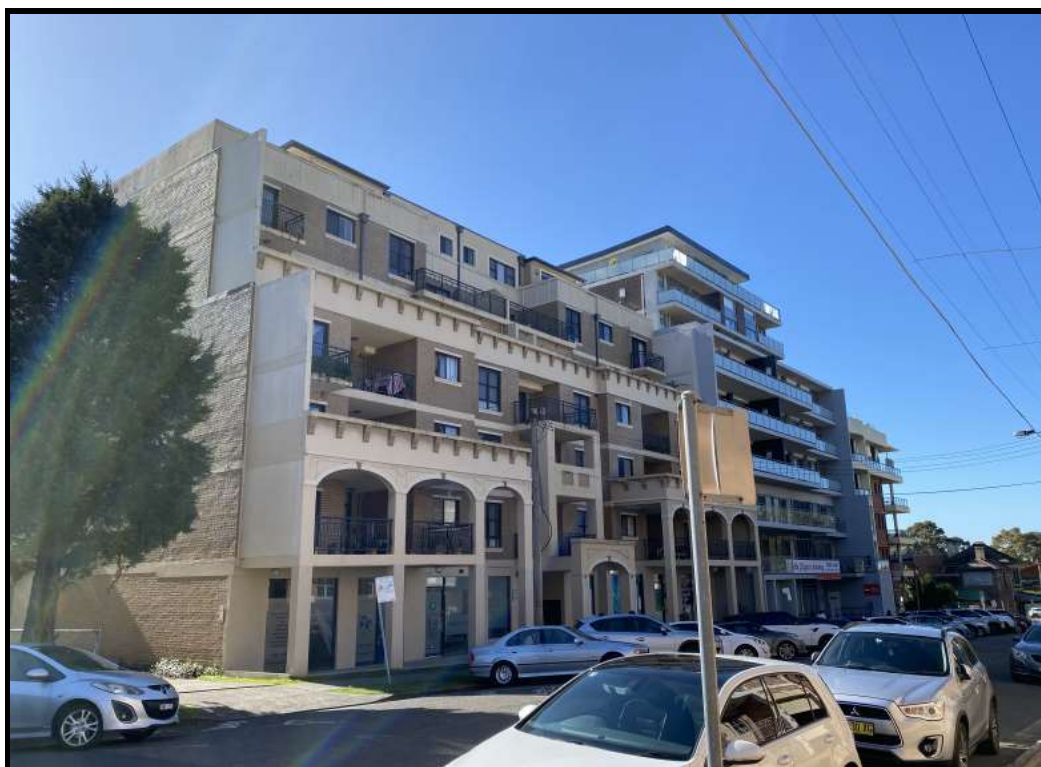
21. The subject development site is known as 13-19 Hogben Street, Kogarah and is legally described as CP/SP73411. The subject site has two street frontages of 30.475m to Hogben Street and 30.475m to Moorefield Lane.
22. The site has a total area of 1,115sqm. The survey plan submitted with the application was prepared in 2000, prior to the current development on the site, and as such accurate topographical details of the site have not been provided.
23. Situated on the site is an existing eight (8) storey mixed-use building comprising basement parking, ground floor office and commercial tenancies and residential units on Levels 1 to 6. Existing vehicular access to the subject site is from Moorefield Lane.
24. Adjoining the site to the east is a mixed development at 7-11 Hogben Street, being eight storeys high with ground level commercial uses and residential units above.
25. Adjoining the site to the west is 21 Hogben Street which is occupied by a 3-4 storey residential flat building. A DA for demolition of the existing building and construction of a 12 storey mixed-use development was refused by the Local Planning Panel at its meeting on 1 September 2021 (REV2022/0001), which is of relevance to this application as the parking for the proposed units in the subject application was proposed to be provided in the basement of the building on 21 Hogben Street.
26. The site is located within the Kogarah Town Centre in the Kensington Street Precinct. Kensington Street is the only north-east to south-west street linking Gray Street to the Princes Highway and is located on the highest point in the town centre. It has a major role in the Kogarah Centre.
27. The locality is being transformed from a lower scale residential flat building to a high-density mixed-use development. This is because of the recent uplift in density and height.
28. The subject site is located within the Kogarah Town Centre which is characterised by mixed use developments comprising commercial and residential uses. The lower scale developments are being replaced by developments of a higher scale reflective of the height and densities permitted within the B4 zone.
29. Within close proximity to the subject site is St George Public Hospital and St George Private Hospital and other various health facilities. Located along Montgomery Street is TAFE NSW, St George campus and the offices of St George Bank.



30. The subject site is located within an area that is zoned B4 Mixed Use. To the north-east from Bank Lane the zone changes to R4 High Density Residential in the area known as the Kogarah North Precinct. To the south of the subject site from South Street, this area is zoned SP2 Health Services Infrastructure and contains the St George Public and St George Private Hospitals.



**Figure 1: The subject site viewed from Hogben Street**



**Figure 2: The subject site viewed from Hogben Street**



**Figure 3: The subject site viewed from Kensington Street looking down Moorefield Lane**



**Figure 4: 21 Hogben Street – western neighbour**





**Figure 5: The subject site (left) and 21 Hogben Street (right), looking from Moorefield Lane**



**Figure 6: 7-11 Hogben Street (eastern neighbour)**



**Figure 7: Development to the north of the site - corner of Kensington Street and Moorefield Lane**



**Figure 8: Looking south-east down Hogben Street from Kensington Street (site on left)**

### **Compliance and Assessment State Environmental Planning Instruments**

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

**State Environmental Planning Policy (Biodiversity and Conservation) 2021**

32. 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

33. 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.
34. 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).*
35. No trees are proposed for removal as part of the application.

Chapter 11 – Georges River Catchment

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

**State Environmental Planning Policy (Resilience and Hazards) 2021**

39. Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 is relevant to the proposal.
40. 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.
41. 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.

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

#### **State Environmental Planning Policy (Transport and Infrastructure) 2021**

43. 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**

44. The trigger for BASIX Certification is when the estimated cost of works for residential development (new dwelling(s)/alterations and additions) is equal to or above \$50,000. BASIX Certification is also triggered when proposing a swimming pool with a volume of 40,000 litres.
45. A valid BASIX Certificate has been submitted with the amended plans.

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

46. State Environmental Planning Policy No 65 – Design Quality of Residential Flat Buildings (State Environmental Planning Policy 65) was gazetted on 26 July 2002 and applies to the assessment of DAs for residential flat developments of three (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.
47. Clause 28(2) of State Environmental Planning Policy 65 requires that the consent authority take into consideration the following as part of the determination of DAs to which State Environmental Planning Policy 65 applies:
- a) *the advice (if any) obtained from the design review panel, and*
  - b) *the design quality of the development when evaluated in accordance with the design quality principles, and*
  - c) *the Apartment Design Guide.*
48. The application has been reviewed having regard to the criterion and design principles as set out in the ADG.
49. The tables below provide a comprehensive assessment against the principles, objectives and controls of State Environmental Planning Policy No 65 and the ADG.

**Table: Application of State Environmental Planning Policy 65**

<b>Clause</b>	<b>Standard</b>	<b>Proposal</b>	<b>Complies</b>
3. Definitions	Complies with definition of "Residential Apartment Development" (RAD) Section 4 (1) (Application of Policy) of	Complies with definition.  The proposal is for the addition of two levels of residential units above an existing mixed-use	Yes



Clause	Standard	Proposal	Complies
	<p>the State Environmental Planning Policy 65 states that the policy <i>“applies to development for the purpose of a residential flat building, shop top housing or mixed-use development with a residential accommodation component if:</i></p> <p><i>(a) the development consists of any of the following:</i></p> <p><i>(i) the erection of a new building,</i></p> <p><i>(ii) the substantial redevelopment or the substantial refurbishment of an existing building,</i></p> <p><i>(iii) the conversion of an existing building, and</i></p> <p><i>(b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and</i></p> <p><i>(c) the building concerned contains at least 4 or more dwellings.”</i></p>	development which will result in a building of nine storeys.	
4. Application of Policy	Development involves the erection of a new RFB, substantial redevelopment or refurbishment of a RFB or conversion of an existing building into a RFB.	The development proposes additions to an existing shop top housing development, which satisfies the definition of the policy.	Yes

Clause	Standard	Proposal	Complies
	The definition of an RFB in the State Environmental Planning Policy includes mixed use developments.		
Clause 50 - Development Applications (EP&A Regulation 2000)	Design verification statement provided by qualified designer.  Registered Architect Name and Registration No.	Design Verification Statement provided by Registered Architect Gustavo Thiermann (Nominated Architect No. 8527).	Yes

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50. Council's Urban Designer has carried out an assessment of the proposal against the provisions of SEPP 65 and the ADG. An assessment of the proposal as lodged was undertaken taking into consideration the design quality of the development. Those comments are provided below.

- a) *It is acknowledged that given the proposal is for additions to an existing development, accommodating additional non-residential FSR on levels 8 and 9 may not be desired. However, the extend of increase in the residential floor space is not supported.*

*It is recommended that the proposal be amended to comply with the percentages of the permitted GRLEP 2021 FSR for residential / non-residential uses and ADG requirements for building separation.*

- b) *The proposal is not supported from an urban design context as it will further exacerbate the existing undesirable built form and streetscape.*

*Despite the urban design concerns, if the proposal is recommended to be approved, the scale of development should be reduced. A minimum 12m setback should be provided from the northern eastern and western boundaries. This will not only enhance the amenity and skyviews but also reduce building bulk, scale and overshadowing.*

- c) *The design should be amended to incorporate communal open space on roof top with landscaping. To enhance environmental sustainability, inclusion of vertical gardens should also be considered.*
- d) *To ascertain extend of sunlight within proposed apartments and the impact of the proposal on the existing development a detailed Solar Access Report prepared by an independent expert should be submitted to Council for assessment.*
- e) *As per Recommendation 2; the design should be amended for the POS to comply with the building separation requirements.*
- f) *The design should be amended for the ceiling heights to comply with the ADG.*
- g) *It is considered that approving the proposal as a Deferred Commencement subject to parking spaces being provided as recommended by the applicant, does not*

*guarantee the construction/completion of construction of both the developments at the same time for the parking spaces to be available for the proposal.*

- h) If the proposal is approved as a DC, the condition should also specify the availability and use of parking spaces upon completion of construction of the proposal.*
- i) It is recommended that the architectural expression of the elevations and overall built form be amended to enhance the visual appeal of the building.*

51. Clause 28 of SEPP 65 requires the consent authority to take into consideration the provisions of the Apartment Design Code. The table below assesses the proposal against these provisions.

**Table: Design considerations of Part 3 and Part 4 of the Apartment Design Guide (ADG)**

Clause	Standard	Proposal	Complies
3D - Communal 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> <ul style="list-style-type: none"> <li>• Where developments are unable to achieve the design criteria, such as on small lots, sites within business zones, or in a dense urban area, they should: <ul style="list-style-type: none"> <li>• provide communal spaces elsewhere such as a landscaped roof top terrace or a common room</li> <li>• provide larger balconies or increased private open space for apartments</li> <li>• demonstrate good proximity to public open space and facilities and/or</li> </ul> </li> </ul>	The existing building does not contain communal open space and the proposal does not propose to provide any.	No

Clause	Standard	Proposal	Complies
	provide contributions to public open space		
	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)	The existing building does not contain communal open space and the proposal does not propose to provide any.	No
3E – Deep Soil zones	<p>1. Deep soil zones are to meet the following minimum requirements:</p> <p>Where the site has an area of between 650 m<sup>2</sup> – 1,500 m<sup>2</sup> = 3m min dimension</p> <p>Min deep soil area of 7% (78 m<sup>2</sup>)</p>	No change to existing.	No deep soil currently on site.
3F- Visual Privacy	<p>Separation between windows and balconies is provided to ensure visual privacy is achieved.</p> <p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <p>Up to 12m (4 storeys) Habitable - 6m Non-habitable – 3m</p> <p>Up to 25m (5-8 storeys) Habitable – 9m</p>	<p>NA</p> <p>4.5m to each side boundary</p>	<p>NA</p> <p>No – refer to discussion below</p>



Clause	Standard	Proposal	Complies
	Non-habitable – 4.5m  Over 25m (9+ storeys) Habitable - 12m Non habitable – 6m	NA	NA
<b>Discussion on setbacks:</b>  The proposed units are setback 4.5m from each side boundary (there is no rear boundary). The side elevations of the units consist of solid walls without windows.  Units 2, 3 and 4 have 'loggias' adjacent the master bedroom (laundry in the case of Unit 4) which are small balconies with a setback of 5m to the side boundary and privacy screens are indicated on the plans to the edges of these areas.  The Hogben Street balconies are setback 4.5m from each side boundary, without privacy screens.  The Lane balconies are setback 8m from each side boundary, without privacy screens.  As no current survey plan was submitted with the DA, the locations of the buildings on the adjoining properties are not plotted on the plans.  Insufficient information has been provided to enable a proper assessment of the visual privacy impacts of the proposal, however a site inspection and photos in the applicant's SEE reveals there are balconies and windows on the upper levels of the adjacent building at No. 9-11 Hogben Street which will likely be adversely impacted by the proposal.			
3G – Pedestrian Access and entries	Building entries and pedestrian access connects to and addresses the public domain	No change to existing.	Yes
	Multiple entries (including communal building entries and individual ground floor entries) should be provided to activate the street edge	No change to existing.	Yes
3H-Vehicle Access	Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and	No change to existing.	Yes

Clause	Standard	Proposal	Complies
	vehicles and create high quality streetscapes		
3J-Bicycle and car parking	<p>For development in the following locations:</p> <ul style="list-style-type: none"> <li>- On sites that are within 800m of a railway station or light rail stop in the Sydney Metropolitan Area; or</li> <li>- On land zoned and sites within 400m of land zoned B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre</li> </ul> <p>The minimum car parking requirement for residents and visitors is set out in the Roads and Maritime Services Guide to Traffic Generating Developments (RMS), or the car parking requirement prescribed by the relevant council, <i>whichever is less</i>.</p>	<p>The site is located within 400m of Kogarah Railway station as such the RMS provisions are applicable to this assessment.</p> <p><b>Required parking:</b></p> <ul style="list-style-type: none"> <li>• 3 x 2 bedroom units = 0.7 x 3 = 2.1 spaces</li> <li>• 2 x 3 bedroom units = 1.2 x 2 = 4.4 spaces</li> </ul> <p>Total = 6.5 spaces (7 spaces)</p> <p><b>Proposed parking:</b></p> <p>There is no parking proposed on site. This application relied on the provision of 5 parking spaces in the adjacent development at No. 21 Hogben Street, which was refused by the LPP on 1 September 2022 (REV2022/0001 of DA2020/0190).</p> <p>The applicant has requested in this DA for a deferred commencement approval to be granted subject to the future approval of the development at 21 Hogben Street.</p>	No
4A- Solar and daylight access	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between	All proposed apartments receive a minimum of 2 hours of solar access during mid-winter.	Yes

Clause	Standard	Proposal	Complies
	9am and 3pm at mid-winter in the Sydney Metropolitan Area		
	A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm in midwinter	All proposed units receive direct sunlight.	Yes
4B- Natural Ventilation	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.	All proposed apartments have been designed to comply with minimum cross ventilation requirements.	Yes
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line	No apartment exceeds 18m in depth.	Yes
	The building should include dual aspect apartments, cross through apartments and corner apartments and limit apartment depths	All proposed apartments are dual aspect.	Yes
4C-Ceiling Heights	Measured from finished floor level to finished ceiling level, minimum ceiling heights are: Habitable rooms = 2.7m Non-habitable rooms = 2.4m	A minimum 3.1m floor to floor height has been provided to enable a minimum 2.7m ceiling height to be achieved to the residential component.	Yes
	3.3m for ground floor and first floor in mixed use areas to promote flexibility of use.	N/A	N/A
4D-	Apartments are		Complies

Clause	Standard	Proposal	Complies
Apartment size and layout	<p>required to have the following minimum internal areas:</p> <p>Studio = 35m<sup>2</sup>  1 bedroom = 50 m<sup>2</sup>  2 bedroom = 70 m<sup>2</sup>  3 bedroom = 90 m<sup>2</sup></p> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each</p>	<p>N/A  N/A  102sqm - 134sqm  Min. 168sqm - 169sqm</p> <p>Achieved.</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	Every habitable room has window openings larger than 10% of the floor area of the room area.	Complies
4D-2 Apartment size and layout	Habitable room depths are limited to a maximum of 2.5 x the ceiling height	<p>Satisfactory.</p> <p>With the minimum floor to ceiling heights complying with the 2.7m minimum, all habitable room depths satisfy the minimum requirements.</p>	Complies
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	The apartments have open plan living/dining room layouts.	Complies
4D-3 Apartment size and	Master bedrooms have a minimum area of 10 m <sup>2</sup> and	All master bedrooms have a minimum internal size of 10 m <sup>2</sup> .	Complies

Clause	Standard	Proposal	Complies
layout	other bedrooms 9 m <sup>2</sup> (excluding wardrobe space).		
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space).	All bedrooms have minimum dimensions of 3m	Complies
	Living rooms or combined living/dining rooms have a minimum width of: -3.6m for studio and 1 bedroom - 4m for 2 and 3 bedroom apartments	All living rooms have minimum widths of 4m.	Complies
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	Complies.	Yes
4E- Private Open space and balconies	All apartments are required to have primary balconies as follows:  Studio apartments = 4 m <sup>2</sup>  -1 bedroom = 8s m <sup>2</sup> /2m depth  -2 bedroom = 10 m <sup>2</sup> /2m depth  -3+ bedroom = 12 m <sup>2</sup> /2.4m  The minimum balcony depth to be counted as contributing to the balcony area is 1m.	NA  NA  24sqm to 30sqm  30sqm  Noted	NA  NA  Yes  Yes  -
	For apartments at	No ground floor	NA

Clause	Standard	Proposal	Complies
	ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m <sup>2</sup> and a minimum depth of 3m	apartments proposed.	
4F- Common circulation areas	The maximum number of apartments off a circulation core on a single level is eight	One lift is proposed to service a maximum of 2 or 3 additional units per floor.	Yes
	For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	NA	NA
4G- Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:  Studio = 4m <sup>3</sup>  1 bedroom = 6m <sup>3</sup> 2 bedroom – 8m <sup>3</sup> 3 bedroom – 10m <sup>3</sup>	There is no storage provided outside of the units. The DA is relying on parking and storage to be provided in the adjacent development at 21 Hogben St, which was refused by the LPP on 1 September 2022.	No
	At least 50% of storage is to be located within the apartment.		
4H- Acoustic Privacy	Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses.  Window and door openings are generally	Inadequate separation is provided between adjacent properties.	No

Clause	Standard	Proposal	Complies
	<p>orientated away from noise sources</p> <p>Noisy areas within buildings including building entries and corridors should be located next to or above each other and quieter areas next to or above quieter areas</p> <p>Storage, circulation areas and non-habitable rooms should be located to buffer noise from external sources</p>		
4J – Noise and Pollution	<p>To minimise impacts the following design solutions may be used:</p> <ul style="list-style-type: none"> <li>• physical separation between buildings and the noise or pollution source</li> <li>• residential uses are located perpendicular to the noise source and where possible buffered by other uses</li> <li>• buildings should respond to both solar access and noise. Where solar access is away from the noise source, non-habitable rooms can provide a buffer</li> <li>• landscape design reduces the perception of noise</li> </ul>	<p>Site layout and floor plan design seeks to minimise acoustic disruption for the enjoyment of the future residents/users of the development.</p>	Yes

Clause	Standard	Proposal	Complies
	and acts as a filter for air pollution generated by traffic and industry		
4K – Apartment Mix	A range of apartment types and sizes is provided to cater for different household types now and into the future The apartment mix is distributed to suitable locations within the building	The development offers a mix of 2 and 3 bedroom apartments.  <ul style="list-style-type: none"> <li>• 3 x 2 bedroom apartments</li> <li>• 2 x 3 bedroom apartments</li> </ul> The mix is considered to be acceptable and appropriate.	Yes
4L – Ground Floor Apartments	Street frontage activity is maximised where ground floor apartments are located.  Design of ground floor apartments delivers amenity and safety for residents.	NA	N/A
4M - Facades	Facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale.	The proposal fails to provide adequate building modulation and articulation. The unarticulated side walls result in a bulky and dominant top level addition which is out of character with the existing building.	No
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.	The butterfly style roof is no in keeping with existing or desired future character of the area.  No communal open space is proposed.	No  No



Clause	Standard	Proposal	Complies
	Incorporates sustainability features.		
4O – Landscape Design	Landscape design is viable and sustainable, contributes to the streetscape and amenity	NA	NA
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	NA	NA
4Q – Universal Design	Universal design – design of apartments allow for flexible housing, adaptable designs, accommodate a range of lifestyle needs	Satisfactory – the design offers a wide variety of apartment styles and forms many of which can be integrated and amalgamated in the future where necessary.	Yes
4R – Adaptive reuse	Adaptive reuse as apartment of existing buildings- new additions are contemporary and complementary, provide residential amenity while not precluding future adaptive reuse.	NA	NA
4S Mixed Use	Mixed use developments are provided in appropriate locations and provide active street frontages	The existing building is mixed-use.	Yes

Clause	Standard	Proposal	Complies
	that encourage pedestrian movement		
4T – Awnings and signage	Awnings should be located and complement and integrate with the building design.	No change to existing.	Yes
	<p>A number of the following design solutions are used:</p> <ul style="list-style-type: none"> <li>• Continuous awnings are maintained and provided in areas with an existing pattern.</li> <li>• Height, depth, material and form complements the existing street character.</li> <li>• Protection from the sun and rain is provided.</li> <li>• Awnings are wrapped around the secondary frontages of corner sites.</li> <li>• Awnings are retractable in areas without an established pattern.</li> </ul>	No change to existing.	Yes
4U – Energy Efficiency	Development incorporates passive environmental design, passive solar design to optimise heat storage in winter and reduce heat transfer in summer, natural	A valid BASIX Certificate has been submitted.	Yes

Clause	Standard	Proposal	Complies
	ventilation minimises need for mechanical ventilation		
4V – Water management and conservation	Water management and conservation – potable water use is minimised, stormwater is treated on site before being discharged, flood management systems are integrated into the site design	No change to existing.	Yes
4W – Waste Management	Waste management – storage facilities are appropriately designed, domestic waste is minimised by convenient source separation and recycling	No additional waste bins are proposed as part of the development. The applicant states the existing bins can accommodate the additional waste needs, which is disputed as each unit generates the need for 120L bin for waste and recycling each, totalling 5 additional 240L bins each for waste and recycling.	No
4X – Building Maintenance	Building design provides protection from weathering Enables ease of maintenance, material selection reduces ongoing maintenance cost	The design incorporates a mix of external finishes that require minimal maintenance.	Yes

### Georges River Local Environmental Plan 2021

52. The subject development site is zoned B4 Mixed Use under the GRLEP 2021 as shown in the figure below.



Figure 9: Zoning map (GRLEP 2021)

53. The objectives of the zone are as follows:
- To provide a mixture of compatible land uses.
  - To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
  - To allow residential development that contributes to the vitality of the centre and provides housing that meets the needs of the community.
  - To encourage the provision of community facilities and public infrastructure so that all residents have reasonable access to a range of facilities and services.
54. The proposal meets the objectives of the zone.
55. An assessment of the proposal against the relevant LEP clauses and standards is as follows.

Clause	Standard	Proposal	Complies
<b>Part 2: Permitted or Prohibited Development</b>			
2.2 Zoning of Land to which Plan applies	B4 Mixed Use	The proposal is defined as a shop top housing development being a mixed use development comprising a residential flat building development and commercial/retail premises which are permitted land uses in the B4 mixed use zone under KLEP 2012.	Yes
2.3 Zone objectives and Land use	Objectives of zone to be satisfied	The proposal satisfies the objectives of the zone by providing additional residential	Yes

Clause	Standard	Proposal	Complies
table		apartments.	
<b>Part 4: Principal Development Standards</b>			
4.3 Height of Buildings	39m as identified on Height of Buildings Map.	24.5m	Yes
4.4 Floor Space Ratio	4.5:1 as identified on Floor Space Ratio Map	4.3:1	Yes
4.4B Exceptions to floor space ratio – non-residential uses	<p>(1) The objective of this clause is to encourage an appropriate mix of residential and non-residential uses in order to ensure a suitable level of non-residential floor space is provided to promote employment and reflect the hierarchy of the business zones.</p> <p>(2) This clause applies to development that is the erection of a new building or alterations or additions to an existing building.</p> <p>(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.</p> <p>(4) Development consent must not be granted for development on the</p>	<p>Applicable.</p> <p>No change to existing non-residential GFA.</p> <p>The proposed GFA mix is: Non-res: 0.14:1 (156.1sqm)</p>	<p>-</p> <p>No</p>

Clause	Standard	Proposal	Complies
	following land identified on the Floor Space Ratio Map unless the non-residential floor space ratio is— (a) for land identified as “Area 3”—at least 0.5:1, <b>(b) for land identified as “Area 4”—at least 1:1.</b>	Res: 0.86:1 (958.9sqm)  The total GFA proposed is 4.3:1 (4,794.5sqm) – complies with Cl. 4.4.  The proposal fails to meet this Clause and the applicant has not submitted a Cl. 4.6 variation request.	
<b>Part 5: Miscellaneous Provisions</b>			
5.10 Heritage Conservation	The objectives of this clause are; (i) to conserve the environmental heritage of Kogarah, (ii) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views.	The site is not a heritage item and is not within a heritage conservation area.	N/A
<b>Part 6: Additional Local Provisions</b>			
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	NA	NA
6.3 Stormwater management	(2) In deciding whether to grant development consent for development, the consent authority must be satisfied that the development—	Council's Development Engineer has provided conditions of consent should the application be approved.	Yes

Clause	Standard	Proposal	Complies
	<p>(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and</p> <p>(b) includes, if practicable, on-site stormwater detention or retention to minimise stormwater runoff volumes and reduce the development's reliance on mains water, groundwater or river water, and</p> <p>(c) avoids significant adverse impacts of stormwater runoff on adjoining properties, native bushland, receiving waters and the downstream stormwater system or, if the impact cannot be reasonably avoided, minimises and mitigates the impact, and</p> <p>(d) is designed to minimise the impact on public drainage systems.</p>		

Clause	Standard	Proposal	Complies
6.7 Airspace Operations	<p>The objective of this clause is to protect airspace around airports.</p> <p>The consent authority must not grant development consent to development that is a controlled activity within the meaning of Division 4 of Part 12 of the <i>Airports Act 1996</i> of the Commonwealth unless the applicant has obtained approval for the controlled activity under regulations made for the purposes of that Division</p>	<p>The maximum height of the building is a maximum of RL 51.993m.</p> <p>CASA has provided approval for a controlled activity.</p>	Yes
6.9 Essential services	<p>Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—</p> <ul style="list-style-type: none"> <li>(a) the supply of water,</li> <li>(b) the supply of electricity,</li> <li>(c) the supply of telecommunications facilities,</li> <li>(d) the disposal and management of sewage,</li> </ul>	All services are already provided.	Yes



Clause	Standard	Proposal	Complies
	(e) stormwater drainage or on-site conservation, (f) suitable vehicular access.		
6.10 Design excellence	(1) The objective of this clause is to deliver the highest standard of sustainable architecture and urban design. (2) This clause applies to development on land referred to in subclause (3) involving— (a) the erection of a new building, or (b) additions or external alterations to an existing building that, in the opinion of the consent authority, are significant. (3) This clause applies to development on the following land— (a) land identified on the Foreshore Scenic Protection Area Map if the development is for one or more of the following purposes— (i) bed and breakfast accommodation, (ii) health services facilities, (iii) marinas, (iv) residential accommodation, except for	Refer to Urban Design comments earlier in this report.	No

Clause	Standard	Proposal	Complies
	<p>secondary dwellings, (b) land in the following zones if the building concerned is 3 or more storeys or has a height of 12 metres or greater above ground level (existing), or both, not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking—</p> <p>(i) Zone R4 High Density Residential, (ii) Zone B1 Neighbourhood Centre, (iii) Zone B2 Local Centre, (iv) Zone B3 Commercial Core, (v) Zone B4 Mixed Use, (vi) Zone B6 Enterprise Corridor, (vii) Zone IN2 Light Industrial.</p> <p>(4) Development consent must not be granted for development to which this clause applies unless the consent authority considers that the development exhibits design excellence.</p>		
6.13 Development in certain business	(2) This clause applies to land in the following zones—	The site is zoned B4.	

Clause	Standard	Proposal	Complies
zones	<p>(a) Zone B1 Neighbourhood Centre,</p> <p>(b) Zone B2 Local Centre,</p> <p><b>(c) Zone B4 Mixed Use,</b></p> <p>(d) Zone B6 Enterprise Corridor.</p> <p>(3) Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied the development will not cause a part of the ground floor of a building that is facing a street to be used for the purposes of residential accommodation or tourist and visitor accommodation.</p> <p>(4) Subclause (3) does not apply to a part of a building that is used for the following purposes—</p> <p>(a) entrances and lobbies, including as part of a mixed use development,</p> <p>(b) access for fire services,</p> <p>(c) essential services.</p> <p>(5) For development in Zone B6 Enterprise Corridor that is the erection of a new building, or alterations or</p>	<p>The ground floor is not proposed for residential or accommodation uses.</p> <p>Noted.</p> <p>NA</p>	<p>Yes</p> <p>-</p> <p>NA</p>

Clause	Standard	Proposal	Complies
	<p>additions to an existing building, that has a gross floor area on the ground floor greater than 500 square metres—</p> <p>development consent must not be granted for the development unless the consent authority is satisfied that at least 500 square metres of the gross floor area on the ground floor of the building will be used for both—</p> <p>(a) purposes other than residential accommodation or tourist and visitor accommodation, and</p> <p>(b) uses specified in subclause (4).</p>		

### Development Control Plan

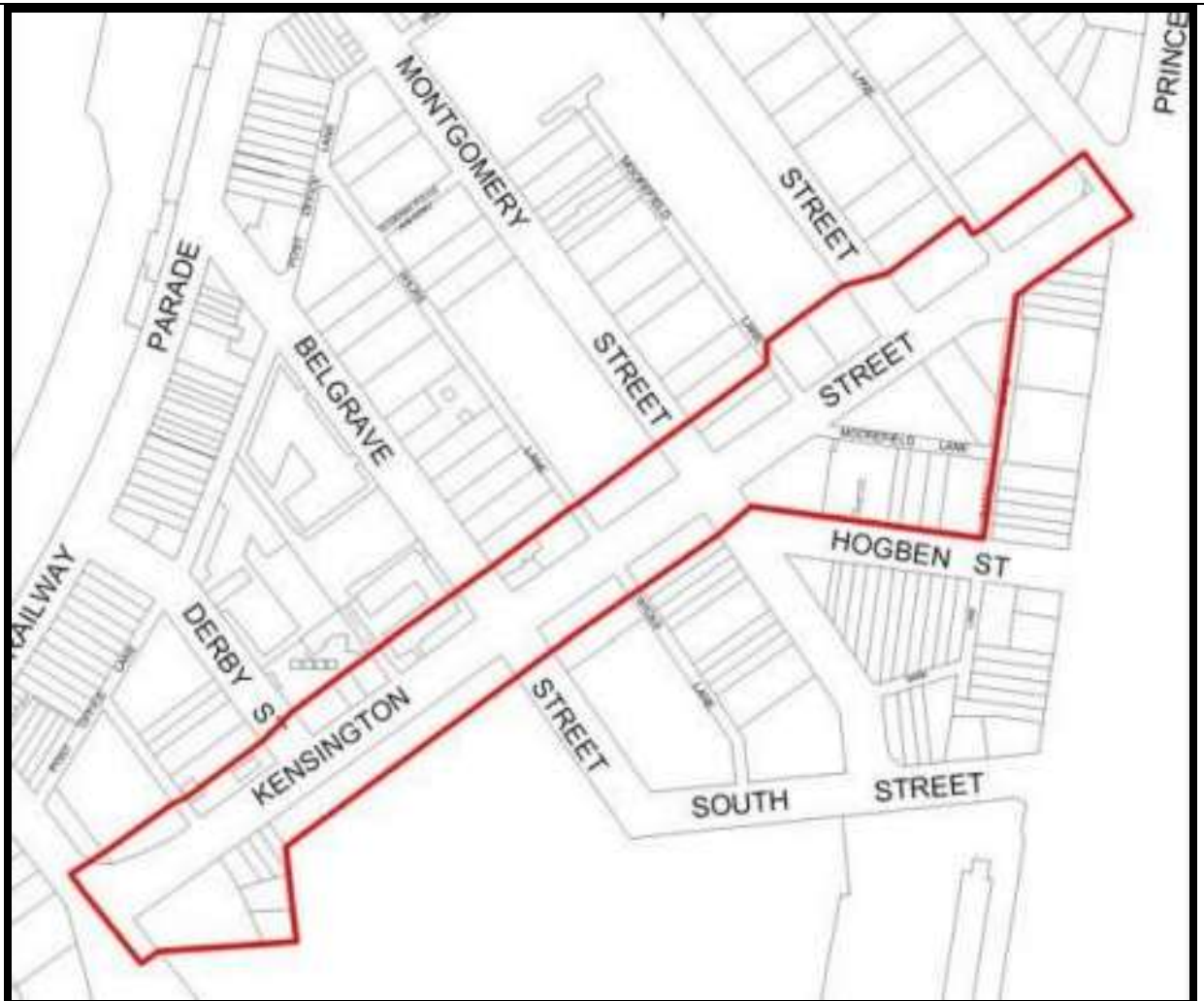
#### Georges River Development Control Plan 2021

56. The proposed development is subject to the provisions of the Georges River Development Control Plan 2021. The following comments are made with respect to the proposal considering the objectives and controls contained within the DCP.

### Part 3 – General Planning Considerations

Control	Proposal	Compliance
<b>3.10 Water Management</b>	<b>Applicable</b>	
<p>Stormwater Management</p> <p>(a) Development must comply with Council's Stormwater Management Policy.</p> <p>(b) Water Sensitive Urban Design (WSUD) principles are to be incorporated into</p>	<p>The proposal has been reviewed by Council's Development Engineer and has been found to be satisfactory with regards to this clause.</p>	<p>Yes</p>

Control	Proposal	Compliance
the design of stormwater drainage, on-site retention and detention, landscaping and within the overall design of the development.		
<b>3.12 Waste Management</b>		<b>Applicable</b>
Development must comply with Appendix 4 of the DCP.	The proposal does not comply with this document.	No
<b>3.13 Parking Access and Transport</b>		<b>Applicable</b>
Parking: 1 space per 40sqm GFA (health consulting rooms)  Required: 8 spaces	The proposal does not comply with this document.	No
<b>3.14 Utilities</b>		<b>Applicable</b>
(a) Air conditioning units and mechanical plant should be sited away from adjacent sensitive land uses and/or screened by walls or other acoustic treatments.	The proposal satisfies this requirement.	Yes
<b>Part 8.1 - Kogarah Town Centre</b>		
<b>2.6 Kensington Street Precinct</b>		



**Figure 10:** Kensington Street Precinct map

## 2.6.2 Desired Future Character Principles

### Land Uses

(a) Encourage a range of overlapping uses along Kensington Street, including commercial offices, residential, medical and public buildings.

NA

NA

### Street Frontage

(b) Provide active street frontages with retail, commercial offices, home offices and public uses.

NA

NA

(c) Address the street with major facades, building entrances and substantial tree planting.

NA

NA

### Built Form

(d) Emphasise the intersections of cross streets with corner buildings having taller elements on the corner, building

NA

NA

entrances and geometric corner elements		
(e) Create Kensington Street as the main boulevard through the town centre, lined with appropriate new medium rise development.	NA	NA
<b>Heritage</b>		
(f) Relate to heritage buildings with low rise podiums, horizontal cornices and other scale breaking devices, in adjacent development	NA	NA
<b>Pedestrian</b>		
(g) Provide pedestrian amenity and linkages from one side of Kensington Street to the other, with street awnings, street trees and pedestrian kerb crossings.	NA	NA
<b>Part 3 Built Form</b>		
<b>3.2 Heritage Items</b>		
Schedule 5 of Kogarah LEP 2012 lists heritage items which are protected. Council should be consulted early in the development process for sites that involve heritage items or are in the vicinity of a heritage item	NA	NA
<b>3.3 Consolidation of Sites</b>		
(1) In considering an application for redevelopment of a site, Council will consider the impact of the proposed development on adjoining allotments of land that will be left as isolated sites and the impact on their future development capacity	NA	NA
(2) A minimum street frontage of 18m is required for buildings taller than 3 storeys to provide a minimum workable building footprint, allowing for adequate car parking and	NA	NA



the required setbacks.		
<b>3.4 Building Heights</b>		
(1) Maximum building heights are shown in Figure 1 – Building Heights Plan	24.5m	Yes
<b>3.4.3 Building Heights in relation to corners</b>		
(1) Corner elements should be accentuated.	NA	NA
(2) Corner elements may exceed the height control by up to 4 metres above the average street wall height. The area they contain is to be included in the calculation of gross floor area.	NA	NA
<b>3.4.5 Building Height and Articulation</b>		
Where buildings are greater than four storeys, strong articulation should be provided in the form of a setback at the 5th and 6th storey, a strongly marked balcony cornice line (projection) and modulation in roof form	The proposed Levels 7 and 8 are setback from the existing top floor.	Yes
<b>3.5 Building Density</b>		
(1) The maximum floor space ratios for the Kogarah Centre are specified in the Floor Space Ratio Plan	The proposed development provides a FSR of 4.3:1 which is compliant with GRLEP 2021.	Yes
(2) The maximum floor space ratios have been calculated using building heights and setbacks specified in this DCP to achieve a realistic building envelope.	NA	NA
(3) Rooftop development, where permissible, is not included as part of the total gross floor area for the building, and is not counted as an additional storey for the purposes of calculating the allowable gross floor area for the building	Noted	Yes
<b>3.6 Building Alignment</b>		
(1) Buildings must be built to the alignments specified in Figure 3.4 below, for the	The proposed levels are setback behind the existing levels.	Yes

majority of the facade length. This control requires the building to be built predominantly to the specified building alignment; however buildings are not to have straight, flat facades.





-  Street Aligned
-  Commercial must be street aligned/residential must be setback
-  Setback whole of building minimum 3m for building with height greater than 4m
-  Setback for Railway Parade side of Post Office lane – minimum 1m between Gladstone St and Montgomery St. Refer to 5.5 for setbacks between Montgomery St and Gray St.



Figure 11: Building Alignment Plan

(2) Buildings require highly articulated facades with many projections such as stepped facades, entry porches, bay windows and balconies to provide vertical subdivisions and visual interest in the streetscape.

The additional levels are not articulated.

No

### 3.6.1 Lanes

(2) For buildings above 4m high, the whole of the building must be built to the alignments specified in

The plans do not show the site boundaries on the floor plans to determine the setback from the lane.

No

Figure 8.

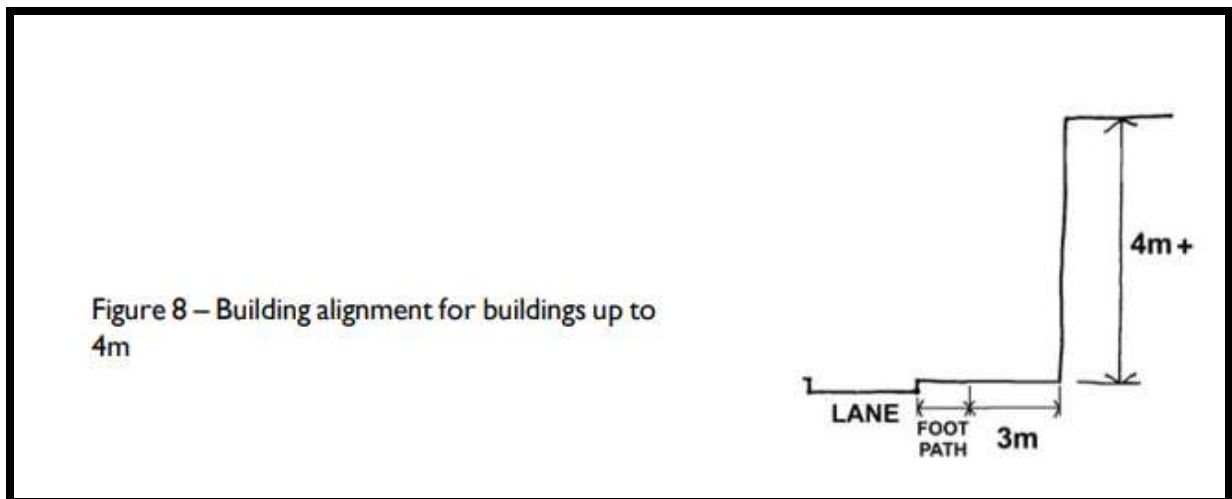


Figure 12: Building alignment for buildings 4m+.

### 3.7 Building Depth

(1) New buildings are to provide operable windows to all living and working environments	Each unit includes operable openings to the living areas.	Yes
(2) Articulate buildings using courtyards, atria and the like to achieve substantial daylighting, cross ventilation and/or stack ventilation	All apartments can achieve cross ventilation.	Yes
(5) The range of maximum building depth for residential buildings in order to allow natural light and cross ventilation should be 10m – 15m. This includes sheltered balconies (which is a balcony with a roof over it), sunrooms and the like.	Generally compliant.	Yes

### 3.8 Floor to Ceiling Heights

(1) Floor to ceiling heights should be a minimum of 3m at ground floor level, to allow for a range of uses including retail, commercial offices and home offices	NA	NA
(2) Floor to ceiling heights should be a minimum of 2.7m at upper storeys of buildings, to all habitable rooms to allow for a range of uses, and to improve the environmental performance and amenity of the building	2.7m proposed.	Yes

3.9 Parking Provision in the Kogarah Town Centre		
3.9.1 Car Parking		
(4) For commercial/retail development and other land uses parking is to be provided at the following rate: (i) 1 space per 40m2 for any floor space at ground floor level. (ii) 1 space per 50m2 for all other floor space above ground floor level.	No car parking is provided for the additional units.	No
(5) 1% of all car parking spaces are to be designated “accessible” spaces for people with mobility impairments, with a minimum of 1 space for facilities such as medical suites		
(6) For car parks between 10 to 99 spaces at least one “accessible” space must be provided.		
3.9.2 Bicycle parking		
Bicycle parking and facilities should be designed in accordance with the relevant Australian Standards	No bicycle parking is provided.	No
3.9.3 Loading Bay Facilities		
Loading bay facilities are to be provided at the following rates:  Retail <ul style="list-style-type: none"><li>floor area 15m<sup>2</sup> to 500 m<sup>2</sup> - 1 bay required.</li><li>floor area 500 m<sup>2</sup> to 1500 m<sup>2</sup> - 2 bays required</li></ul> Commercial <ul style="list-style-type: none"><li>floor area 1000 m<sup>2</sup> to 5000 m<sup>2</sup> - 1 bay required</li><li>floor area 5000 m<sup>2</sup> to 10000 m<sup>2</sup> - 2 bays required</li></ul>	NA	NA
Loading bay facilities are to be designed as follows	NA	NA

<ul style="list-style-type: none"> <li>• minimum bay width - 3.5m</li> <li>• minimum bay length for Bay 1 - 9.5m</li> <li>• minimum bay length for Bay 2 - 6.5m</li> </ul>		
<b>4. Urban Design</b>		
<b>4.1 Address and Active Street Frontages</b>		
(1) Buildings on the street frontage are to provide pedestrian amenity in the form of active street frontages, building entrances and awnings	NA	NA
(2) Buildings setback from the street frontage, are to address the street with major facades, entrances, stairs, low fences, substantial planting and other streetscapes	NA	NA
<b>4.2 Corners</b>		
(1) Buildings are to be sited on the street frontages at corners, addressing the corner	NA	NA
(2) The street intersection is to be addressed with splays, curves, building entries and other special architectural elements	NA	NA
<b>4.3 Architectural Articulation</b>		
(1) Large areas of flat facade are to be avoided. Facades should be articulated into separate sections, using steps in the facade, expressed entries, panels, bay windows, balconies, pergolas and other architectural elements	Each side elevation contains large unarticulated facades.	No
(2) Articulation elements must be integral with the building design and should consider the whole building - not just the street facade	Not proposed.	No
(3) Changes of texture and colour should complement facade articulation	Materials and finishes do not complement the proposed façade.	No
<b>4.4 Façade Composition</b>		
(1) Provide a balance of	Not achieved.	No

horizontal and vertical facade elements to relate to adjacent facades in the streetscape. Avoid simple facade designs containing only horizontal or vertical elements.		
(2) Subdivide long facades with columns, windows and other vertical elements to provide a vertical emphasis	Not achieved.	No
(3) Provide substantial cornices, balconies and other horizontal elements to subdivide the facade into a base, middle and top.	Not achieved.	No
<b>4.5 Private Open Space and Balconies</b>		
(1) Every apartment is to have at least one balcony directly accessible from the main living area, of minimum size 10 m <sup>2</sup>	Complies.	Yes
(2) The minimum dimension in any direction is to be 2.5m	Complies.	Yes
(3) There is no minimum size for a bedroom balcony (eg: Juliet balconies)	Complies.	Yes
(4) Design balconies which are recessed into the wall or enclosed with walls, columns or roofs to provide sufficient enclosure and visual firmness	Not achieved.	No
(5) Design balustrades which allow for views into, and along the street but, avoid all-glass and all-brick balustrades	Open balustrades proposed.	Yes
<b>4.6 Awnings</b>		
(1) Step awnings and other weather protection devices in relation to street level changes and building entrances.	NA	NA
(2) Avoid steeply pitched awnings which break the general alignment of awnings in the street.	NA	NA
(3) Provide architectural detail in the form of: (i) Posts	NA	NA

(ii) exposed structures and joints (iii) fascia motifs, patterns.		
(4) Provide under-awning lighting to enhance safety.	NA	NA
(5) Awnings are to be built to the street frontage where indicated in Figure 4.9	NA	NA
<b>4.7 Roof Designs</b>		
(1) Articulate roofs to provide a varied and interesting roofscape	Butterfly roof proposed.	Yes
(2) Design large projections, shade structures and pavilions to enhance the appearance of flat roofed buildings.	NA	NA
(3) Conceal lift over-runs and plant equipment (incl. satellite dishes) within well designed roof forms	Not shown on plans.	No
(4) Design steep pitched roofs with strong roof forms. Roofs should be integral part of the design of the building	N/A	N/A
(5) Penthouses are encouraged in residential developments, to create interesting skylines using setback upper storeys, special fenestration and roof decks	Not proposed.	No
<b>4.8 Visual and Acoustic Privacy</b>		
(1) Buildings are to be sited so that walls containing windows to habitable rooms are a minimum of 6m from a side or rear boundary. This will ensure a minimum distance of 12m is achieved between windows of habitable rooms	Solid walls proposed to side boundaries.	Yes
(2) Separation for balconies and terraces is to be a minimum 8m balcony to another balcony, or 7m balcony to a window of a non-habitable room. (This assumes that only habitable rooms will have balconies)	4.5m to 8m.	No
(3) Overlooking should be	Complies	Yes

<p>minimised by:</p> <p>(i) building on the perimeter of the block and building to the side boundaries of sites, with blank walls, to avoid overlooking;</p> <p>(ii) locating habitable rooms within buildings away from privacy sensitive areas</p>		
<p>(4) Screen views from windows and balconies by:</p> <p>(i) using screens in front of windows and balconies to cut out direct views;</p> <p>(ii) offsetting windows opposite each other in neighbouring walls;</p> <p>(iii) using horizontal and vertical projecting screens above, below and to the side of windows, to reduce overlooking</p>	Privacy screening is not proposed on the balconies, some of which do not comply with the setback controls.	No
<p>(5) Development is to meet or exceed the sound insulation requirements for separating walls and floors of adjoining dwellings of the Building Code of Australia</p>	This is a requirement that will need to be shown on design documentation for the Construction Certificate and achieved prior to the issue of an Occupation Certificate.	Yes
<p>(6) With particular regard to timber flooring in residential developments, appropriate insulation between floors is to achieve minimum sound attenuation of (50Rw).</p>	Should the application be approved, a condition of consent can be imposed to address this matter.	Yes
<p>(7) Submit an acoustic report demonstrating the method and acoustic rating achieved for the development with the Development Application. Issues to address include, but are not limited to, party walls, storeys, different uses and traffic noise</p>	An acoustic report was not submitted with the DA.	No
<p>(8) Site buildings and design internal layouts of rooms, courtyards, terraces, to minimise acoustic problems. The use of openings, screens and blade walls can reduce acoustic problems</p>	Complies	Yes



(9) Design restaurants and cafes to diminish the impact of noise associated with late night operation on nearby residents	N/A	N/A
(10) Blank walls are not desirable however blank walls may be built on the property boundary in certain circumstances. They should be articulated, patterned or contain appropriate public art	NA	NA
(11) For development adjacent to the railway line or with frontage to a classified road, the requirements of the ISEPP apply. Developments are to be designed to take into account the requirements of the ISEPP and any other applicable policies or guidelines	N/A	NA
<b>4.9 Landscaping and Deep Soil Planting</b>		
(1) Deep soil landscaping areas are to be provided where possible within the side boundary setback area and to the front and rear setback areas, where more than one building is located on the site, landscaping and deep soil planting should be provided to assist in privacy screening	NA	NA
(2) Landscaping should be of native species and should include species that are drought resistant and require minimal watering once established, or plants that match the rainfall and drainage conditions	NA	NA
(3) Limit turf to usable outdoor spaces.	NA	NA
<b>4.10 Location of car parking</b>		
(1) Car parking should be provided below ground.	No car parking is provided.	No
<b>4.11 Safety and Security</b>		
(1) Orient buildings towards the street, such that	Complies	Yes

building frontages and entries overlook and are clearly visible from the street and provide a sense of address and visual interest		
(2) Avoid blank walls addressing streets and any other public spaces	Complies	Yes
(3) Clearly design buildings and spaces, and the entries to buildings, delineate public, semi public and private space through the use of symbolic or actual barriers, such as low fences or landscaping, post boxes, lighting and signage	Complies	Yes
(4) Avoid building recess, alcoves or dense landscaping in places where concealment is possible	Complies	Yes
(6) Where developments have a car park or access laneway to a car park, provide windows, lighting or secondary access doors that address the car park	Complies	Yes
<b>4.12 Outdoor Advertising</b>		
None proposed or considered in the assessment of this proposal.		
<b>4.13 Housing Choice and Ancillary Requirements</b>		
(1) To achieve a mix of living styles, sizes and layouts, all residential development (or residential component within a mixed development must provide a mix of one bedroom, two bedroom and three bedroom apartments	<ul style="list-style-type: none"> <li>• 3 x 2B</li> <li>• 2 x 3B</li> </ul>	Yes
(2) Residential units must have the minimum net floor area as follows: 1 Bedroom unit = 75 m <sup>2</sup> 2 Bedroom unit = 100 m <sup>2</sup> 3 Bedroom unit = 115 m <sup>2</sup>	ADG controls are relevant.	Complies with ADG.
(3) External clothes drying facilities are encouraged. These should be provided in the form of a screened	Not provided. All apartments have space for an internal dryer.	No, however acceptable.

balcony or terrace area.		
(4) 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 <sup>2</sup> for each dwelling or unit. The storage space could be incorporated as part of the garage.	No storage is provided outside of the units.	No

LPP051-22

### **Developer Contributions**

57. The proposed development if approved would require the payment of developer contributions under Section 7.11 of the Environmental Planning and Assessment Act 1979 as the proposal is increasing the density of the locality. If the development was to be approved a condition outlining the required contributions will be imposed.

### **Impacts**

#### ***Natural Environment***

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

#### ***Built Environment***

59. The proposal is inconsistent with that anticipated for the site and represents a design that does not contribute positively to the character of the area.
60. The proposal is inconsistent with State Environmental Planning Policy 65 Design Quality Principles and does not reflect the desired future planning and design outcome for the site in its current form.
61. Accordingly, the proposal is inconsistent with the existing and future desired character of the precinct and is recommended for refusal.

#### ***Social Environment***

62. No adverse social impacts have been identified as part of the assessment. The provision of additional dwellings would in principle provide for additional housing in close proximity to a local centre for a cross-section of the community. However, the built form is not an appropriate outcome for the site.

#### ***Economic Environment***

63. The proposed development will have no adverse economic impact.

#### ***Suitability of the Site***

64. The site is zoned B4 Mixed Use. The proposal is a permissible land use within the zone, subject to development consent, however does not reflect the desired future planning and design outcome for the site.

### **Submissions, Referrals and the Public Interest**

65. The application was advertised for a period of 14 days in accordance with Council's notification policy. Two submissions have been received.
66. The concerns raised are summarised below.

Concern	Comment
Provision of parking within the adjacent development proposed at 21 Hogben Street.	<p>The DA for 21 Hogben Street has been refused.</p> <p>The lack of parking able to be provided on site or otherwise is one of the reasons for refusal of the subject application.</p>

### Referrals

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

### Council Referrals

#### Development Engineer

68. Council's Development Engineer reviewed the proposal. Conditions of development consent have been imposed if the application was to be supported.

#### Urban Designer

69. The proposal does not reflect the desired future planning and design outcome for the site in its current form as detailed earlier in this report.

#### Building Surveyor

70. Council's Building Surveyor has reviewed the proposed development and has raised no objection to the proposal subject to suitable conditions if the application was to be supported.

### External Referrals

#### Ausgrid

71. The application was referred to Ausgrid in accordance with Clause 45 of State Environmental Planning Policy (Infrastructure) 2007. No conditions were provided.

#### Sydney Airport and CASA (Civil Aviation Safety Authority)

72. The application is supported subject to specific conditions relating to the height limitation for the building and any construction equipment (such as cranes). The building must not exceed a maximum height of 51.993 metres AHD, inclusive of all lift overruns, vents, chimneys, aerials, antennas, lightning rods, any roof top garden plantings, exhaust flues etc." The application does not exceed this criterion.

### Conclusion

73. The proposal seeks consent for alterations and additions to an existing mixed use development comprising five residential units over two levels at CP/SP73412 and known as 13-19 Hogben Street, Kogarah.
74. The proposal has been assessed in accordance with the matters for consideration under Section 4.15 (1) of the Environmental Planning and Assessment Act, 1979. The proposal is considered to be an unreasonable intensification of the site. It represents an unacceptable planning and design outcome for this site and will adversely affect the character of development in the street and the immediate locality.
75. The survey plan submitted with the application was prepared in 2000, prior to the current development on the site, and as such accurate topographical details of the site have not been provided.

76. The proposal is an inappropriate response to the site when considered against the Design Quality Principles of State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development. The proposal fails to satisfy the visual privacy, communal open space, parking, storage, roof design and waste management design controls.
77. The proposal was prepared having consideration for the Kogarah LEP and DCP, however the Georges River LEP 2021 and DCP 2021 were in effect at the time the application was lodged.
78. The application proposes additional residential development when the Georges River LEP 2021 requires a minimum percentage of non-residential development on the site, with which the proposal fails to meet.
79. There is no provision for the required car parking for the additional units on the site. The application relies of the approval and construction of a development on the adjacent site at No. 21 Hogben Street (REV2022/0001), which was refused by the Local Planning Panel on 1 September 2022.
80. The proposed design, mass and form of the addition is considered inconsistent with the established and future form of mixed use developments in the precinct. The proposed development will not be sympathetic with the development in the street and immediate.
81. For the above reasons, the proposal is recommended for refusal.

### **Determination and Statement of Reasons**

#### **82. Statement of Reasons**

- The proposal is an inappropriate response to the site when considered against the Design Quality Principles of State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development. The proposal fails to satisfy the visual privacy, communal open space, parking, storage, roof design and waste management design controls.
- The proposal was prepared having consideration for the Kogarah LEP and DCP, however the Georges River LEP 2021 and DCP 2021 were in effect at the time the application was lodged.
- The application proposes additional residential development when the Georges River LEP 2021 requires a minimum percentage of non-residential development on the site, with which the proposal fails to meet. The applicant has not submitted a Clause 4.6 variation request to vary this control.
- There is no provision for the required car parking for the additional units on the site. The application relies of the approval and construction of a development on the adjacent site at No. 21 Hogben Street (REV2022/0001), which was refused by the Local Planning Panel on 1 September 2022.
- The proposed additions do not integrate harmoniously with the existing building.
- The proposal is considered to establish an undesirable precedent in the area and will not be in the public interest.

#### **Determination**

83. Pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act, 1979, as amended, the Georges River Local Environmental Planning Panel, refuses Development Application DA2021/0405 for alterations and additions to a mixed-use

development and stratum subdivision at CP/SP73412 and known as 13-19 Hogben Street, Kogarah, for the following reasons:

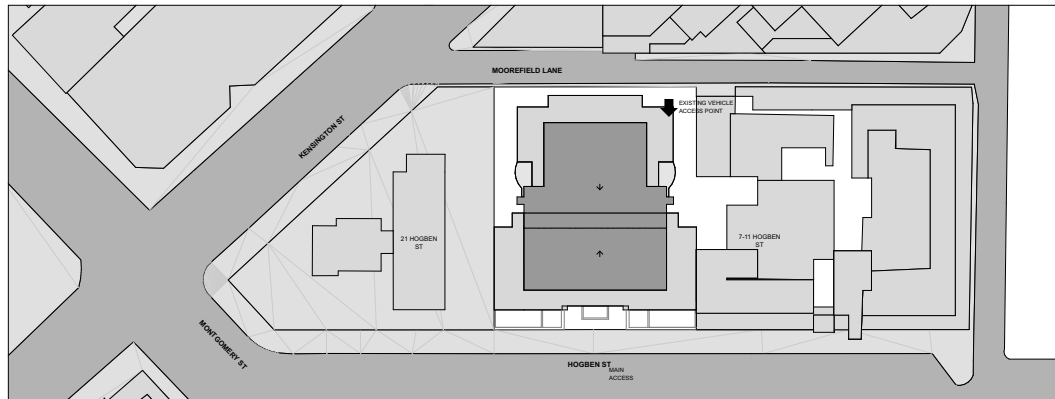
1. The proposal is unsatisfactory having regard to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the proposal is an inappropriate response to the site when considered against the Design Quality Principles of State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development. The proposal fails to satisfy the visual privacy, communal open space, parking, storage, roof design and waste management design controls.
2. The proposal is unsatisfactory having regard to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the proposal fails to meet the minimum percentage of non-residential development on the site pursuant to Clause 4.4B of the Georges River LEP 2021 and the applicant has not submitted a Clause 4.6 variation request.
3. The proposed development is unsatisfactory having regard to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 in that the proposed development in its current form is not suitable for the site.
4. The proposed development is unsatisfactory having regard to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 in that the proposed development fails to provide any car parking spaces to address the additional demand to be generated by the additional apartments proposed.
5. The proposed development is unsatisfactory having regard to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 in that the proposed development fails to satisfy the Georges River DCP controls in relation to setbacks, articulation, façade design, car parking and storage and this failure results in adverse amenity and environmental impacts for future occupants and the community.
6. The proposed development fails to satisfy the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979 in that the proposed built form of the development will be out of character with existing and recently approved developments and does not reflect the desired future character for development in the precinct and the new additions do not integrate harmoniously with the existing building.

**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.

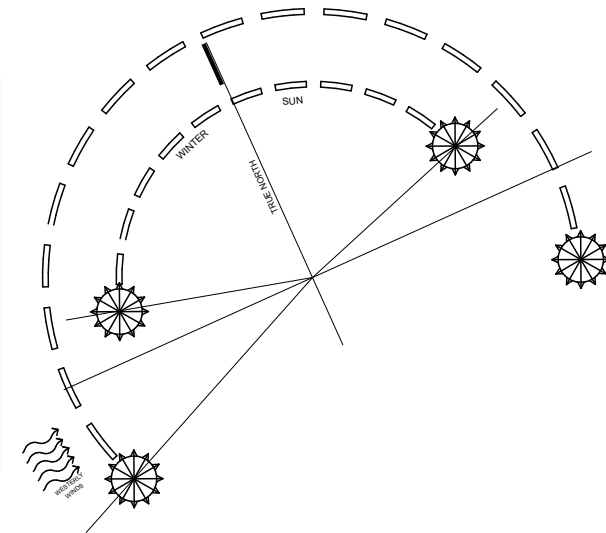
## ATTACHMENTS

Attachment [1](#)  Site Plan

Attachment [2](#)  Elevations



2  
-  
SITE PLAN  
1:646.86



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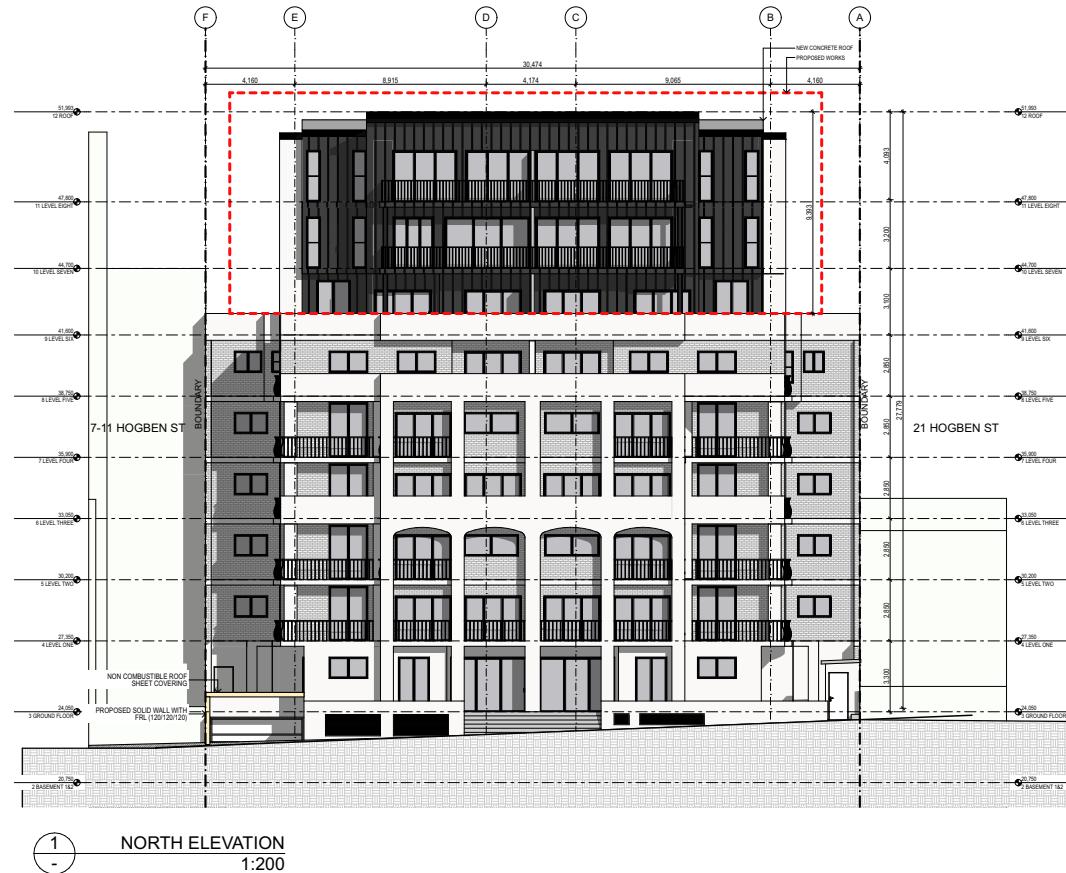
# 13-19 HOGBEN st KOGARAH CONCEPT DESIGN

SITE/LOCATION PLAN  
**INK ARCHITECTS**

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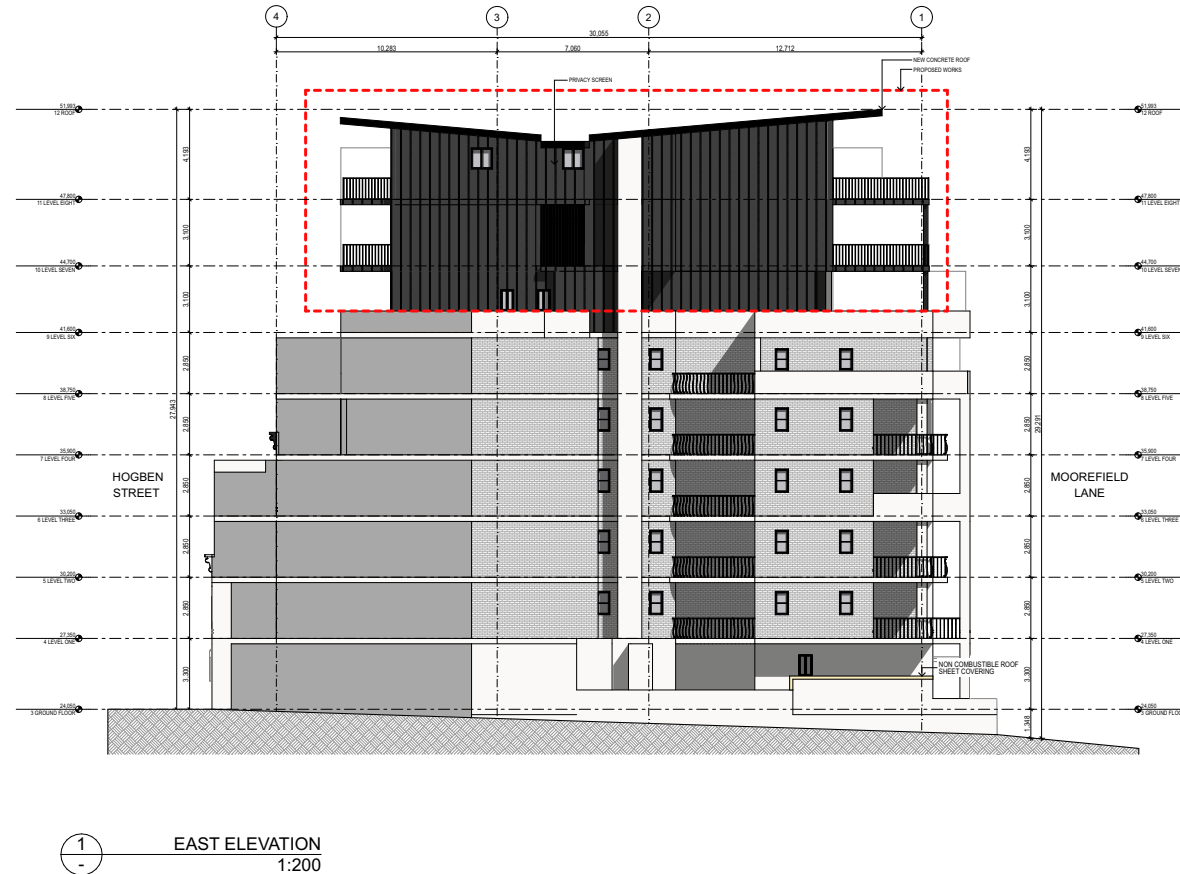
NORTH ELEVATION  
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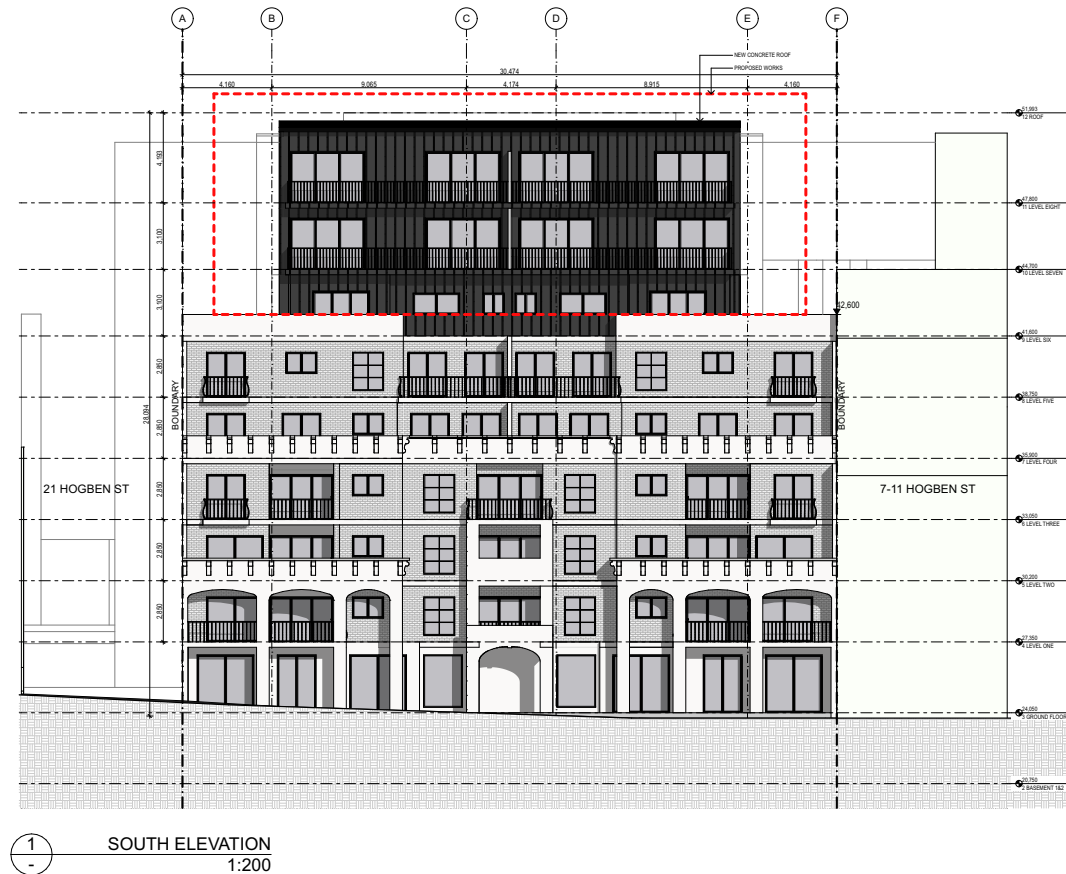
13-19 HOGBEN st  
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1 - SOUTH ELEVATION  
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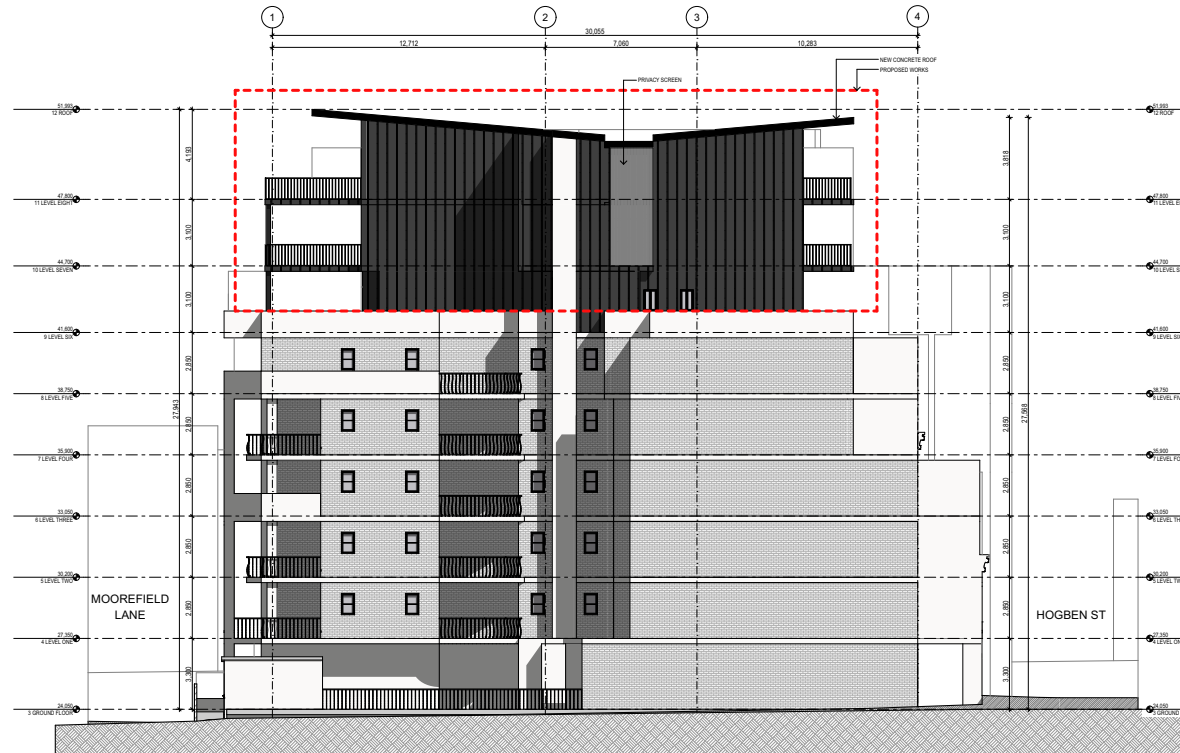
13-19 HOGBEN st  
 KOGARAH  
 CONCEPT DESIGN

SOUTH ELEVATION  
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PROJECT NO. DRAWING NO. F  
 IA 1913 DA 13 ISSUE

A3



1  
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WEST ELEVATION  
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 CONCEPT DESIGN

WEST ELEVATION  
 ARCHITECTS

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# REPORT TO GEORGES RIVER COUNCIL LPP MEETING OF THURSDAY, 20 OCTOBER 2022

LPP052-22

<b>LPP Report No</b>	<b>LPP052-22</b>	<b>Development Application No</b>	<b>MOD2022/0057</b>
<b>Site Address &amp; Ward Locality</b>	66 Mulga Road, Oatley Peakhurst Ward		
<b>Proposed Development</b>	Modification of Consent No: DA2016/0035 for demolition of existing structures and construction of a new two storey childcare centre for 51 children with basement car parking		
<b>Owners</b>	Georges River Council		
<b>Applicant</b>	Georges River Council		
<b>Planner/Architect</b>	SJB Planning / Liskowski Architects		
<b>Date Of Lodgement</b>	13/05/2022		
<b>Submissions</b>	One submission		
<b>Cost of Works</b>	\$1,727,000 (original DA)		
<b>Local Planning Panel Criteria</b>	The land is owned by Georges River Council.		
<b>List of all relevant s.4.15 matters (formerly s79C(1)(a))</b>	State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, Georges River Local Environmental Plan 2021, Georges River Development Control Plan 2021.		
<b>List all documents submitted with this report for the Panel's consideration</b>	Signage Plans, Lighting Details, Statement of Support, Site Plan, Submission		
<b>Report prepared by</b>	Independent Assessment		

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

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

### Site Plan



### Executive Summary Proposal

- The Section 4.56 modification application seeks consent to modify the original development consent DA2016/0035, as approved by the NSW Land and Environment Court on 3 April 2017, by seeking approval for an additional sign.
- Condition changes include:

Condition	Details	Proposed Modification
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Number		
1	Approved plans	Amend to reflect modified plans.
15	Development Assessment - Signage - Signage is not to be illuminated and limited to the word/s 'Ballykin' or 'Ballykin Child Care' only as nominated on the plan elevations, and of the size nominated.	Deletion of this condition with signage being regulated by condition 1.

LPP052-22

### Site and Locality

3. The childcare centre is a corner allotment located on the northern side of Mulga road and the eastern side of Gungah Bay Road and is commonly known as 66 Mulga Road, Oatley. The site has a legal property description of Lot A in DP 358712.
4. The site is rectangular in shape with a splay to its' south western corner. The site is located on the corner of Mulga Road and Gungah Bay Road Oatley. The Mulga Road frontage has a width of 15.329m with a splay of some 6.464m and a depth of the eastern boundary being is 40.235m. The allotment has an area of 780.88sqm
5. The surrounding area is characterised primarily by single storey dwelling houses with some two storey dwelling houses and multi-unit residential development forms. Further to the east along Mulga Road are a series of local shops. The adjacent land to the north of the site, 87 Gungah Bay Road, is occupied by a two storey multi-dwelling development with private open space located alongside the common boundary with the subject site. Land to the east, 64 Mulga Road, is occupied by a recently constructed two storey dwelling house.

### Zoning and Permissibility

6. The Site is zoned R2 Low Density Residential under the Georges River Local Environmental Plan 2021 ('LEP 2021'). Childcare centres are permissible development with consent.

### Submissions

7. The application was neighbour notified between 26 May 2022 and 9 June 2022. One submission was received and this is discussed further in this report.

### Planning Issues

8. The childcare centre currently contains one sign fronting Gungah Bay Road and this modification seeks approval for a second sign. The provision of a total of three signs for a childcare centre with two street frontages is considered to have planning merit and this is discussed further within this report.
9. The proposed additional Signage is consistent with the requirements for signage contained with State Environmental Planning Policy (Industry and Employment) 2021 and key planning controls contained within the Georges River LEP 2021 and DCP 2021.

### Reason for referral to the Local Planning Panel

10. The modification is referred to the Georges River Local Planning Panel as Georges River Council owns the land, and operates the facility, which is in accordance with the 'Conflict of Interest' provisions of the Local Planning Panel The Georges River Local Planning Panel is the consent authority via the Ministerial Direction of 23 February 2018.

**Conclusion**

11. The application has been assessed having regard to Section 4.56 of the Environmental Planning and Assessment (EP&A) Act 1979 and the Matters for Consideration under Section 4.15(1) of the EP&A Act 1979. Following the assessment of the proposal, it is considered that Modification No. MOD 2022/0057 is worthy of support and is recommended for approval subject to modified conditions.

**Report in Full****Site and Locality**

12. The childcare centre is a corner allotment located on the northern side of Mulga road and the eastern side of Gungah Bay Road and is commonly known as 66 Mulga Road, Oatley. The site has a legal property description of Lot A in DP 358712.
13. The site is rectangular in shape with a splay to its' south western corner. The site is located on the corner of Mulga Road and Gungah Bay Road Oatley. The Mulga Road frontage has a width of 15.329m with a splay of some 6.464m and a depth of the eastern boundary being is 40.235m. The allotment has an area of 780.88sqm
14. The site contains a two-storey childcare centre that was constructed in 2020. The site has its vehicular entry to its basement carpark from Gungah Bay Road.
15. The surrounding area is characterised primarily by single storey dwelling houses with some two storey dwelling houses and multi-unit residential development forms. Further to the east along Mulga Road are a series of local shops. The adjacent land to the north of the site, 87 Gungah Bay Road, is occupied by a two storey multi-dwelling development with private open space located alongside the common boundary with the subject site. Land to the east, 64 Mulga Road, is occupied by a recently constructed two storey dwelling house.

**Background**

16. On 3 March 2016 development application DA2016/0035 was lodged with the former Hurstville City Council for the demolition of existing structures on the land and the erection of a two (2) storey, childcare facility for 49 children and 11 employees to operate from 7:30am to 6:00pm Monday to Fridays only.
17. On 28 September 2016 the Applicant lodged a Class 1 Appeal with the NSW Land and Environment Court.
18. On 3 April 2017 the NSW Land and Environment Court (Appeal No. 2016/290679) determined the Appeal by the granting of development consent subject to conditions.
19. On 21 November 2019 a Modification Application (MOD2019/0214) was submitted to Council which sought to increase the hours of operation of the centre and alter the Plan of Management. This application was favourably determined by the GRLPP on 20 February 2020, with the Panel granting consent to the proposed changes.
20. On 24 January 2020 a Modification was submitted to Council to modify consent Condition 59 by increasing staff numbers from eleven (11) to fourteen (14). This modification was favourably determined by the GRLPP on 19 March 2020, with the Panel granting consent to the proposed changes.

21. On 19 June 2020 a section 4.55(1) (Mod 2020/0111) Correction of conditions relating to evacuation design and operational measures was approved by Council staff as these conditions were imposed in error.
22. On 13 August 2020 a Section 4.55 (1) was approved by Council staff to delete condition 2 as it was imposed in error.

### Proposal

23. The Section 4.56 modification application seeks consent to modify the original development consent DA2016/0035, as approved by the NSW Land and Environment Court on 3 April 2017, by seeking approval for an additional sign.
24. The illuminated sign is proposed to be erected immediately behind the small retaining wall on the intersection of Mulga Road and Gungah Bay Road, on the splayed portion of the boundary. The internally illuminated sign has a total height 2.12m with a signage area of 1400mm x 3000mm resulting in a total signage area of 4.2m<sup>2</sup>. The signage is proposed to display the words 'Oatley West Ealy Learning Centre' as well as the words Georges River Council and associated logo.
25. The signage is proposed to be backlit with LED lights which will be operated by a timer and limited to between 6:30am and 11:00pm daily.
26. Condition changes include:

Condition Number	Details	Proposed Modification
1	Approved plans	Amend to reflect modified plans.
15	Development Assessment - Signage - Signage is not to be illuminated and limited to the word/s 'Ballykin' or 'Ballykin Child Care' only as nominated on the plan elevations, and of the size nominated.	Deletion of this condition with signage being regulated by condition 1.

### Assessment

#### Environmental Planning and Assessment Act 1979

27. The proposal is considered to be consistent with the Objectives of the Act.

#### Section 4.56 Modification under Environmental Planning & Assessment Act, 1979

28. The proposal has been considered against 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*



29. Comment: Applications under section 4.56 of the Act cannot be granted if the modified development is not substantially the same as that which the consent was originally granted.
30. The application seeks approval for the erection of a third sign on the site. The site is still proposed to be used a childcare centre and the use of the site is in essence the same. The built form remains consistent with that approved and there is no change to the maximum number of children or approved hours of operation. The proposed additional sign is therefore considered to be minor in the scope of the originally approved works. The modification is considered to be 'substantially the same'.
- (b) *it has notified the application in accordance with:*
- (i) *the regulations, if the regulations so require, or*
- (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (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*
31. Comment: In accordance with the provisions of Councils Public Notification process, the application was neighbour notified between 26 May 2022 and 9 June 2022. One submission was received, and this is discussed further in this report.
32. As the original development application (DA2016/0035) was determined by the Land & Environment Court, it is required that all original objectors be notified of the Section 4.56 Modification Application. All properties within a 50m radius were notified of the modification.
- (d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*
33. Comment: The application was formally notified and one submission was received. The issues raised in this submission are addressed later in this assessment report.
- (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.*
34. Comment: The Modification Application does not result in any alteration to the approved child care centre in terms of children numbers, days and hours of operation but relates only to the provision of a second business identification sign on the site.

## Section 4.15 Evaluation

35. In determining a Section 4.56 modification the provisions of Section 4.15 of the EP&A Act 1979 (where relevant) need to be considered as part of the assessment. The following considers the proposal in respect to these requirements.

### State Environmental Planning Policies

36. Compliance with the relevant State Environmental Planning Policies (SEPPs) are discussed in the table below and where relevant in further detail below it.

State Environmental Planning Policy	Complies
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Yes – no change
State Environmental Planning Policy (Resilience and Hazards) 2021	Yes – no change
State Environmental Planning Policy (Industry and Employment) 2021	Yes -
State Environmental Planning Policy (Transport and Infrastructure) 2021	Yes – no change

### State Environmental Planning Policy – (Industry and Employment) 2021

37. This SEPP came into effect on 1 March 2022 and incorporated the provisions of two now repealed SEPP's being:
- State Environmental Planning Policy (Western Sydney Employment Area) 2009; and
  - State Environmental Planning Policy No 64—Advertising and Signage.
38. Chapter 2 – contains planning rules and controls for the employment land within the former Western Sydney Employment SEPP. The site is not identified as being within the Western Sydney Employment Area and accordingly this chapter is not applicable to this development.
39. Chapter 3 – Advertising and signage' contains planning provisions from within the former SEPP 64 for advertising and signage in NSW.
40. The aims of Chapter 3 are:
- (a) *to ensure that signage (including advertising:*
    - (i) *is compatible with the desired amenity and visual character of an area, and*
    - (ii) *provides effective communication in suitable locations, and*
    - (iii) *is of high quality design and finish, and*
  - (b) *to regulate signage (but not context) under Part 4 of the Act, and*
  - (c) *to provide time-limited consents for the display of certain advertisement, and*
  - (d) *to regulate the display of advertisements in transport corridors, and*
  - (e) *to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.*
41. The current modification is seeking consent for the installation of an additional building identification sign and therefore Part 3 of the SEPP that relates to advertising signs is not relevant.
42. Clause 8(b) of the SEPP states that:  
*A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied:*

- (a) *that the signage is consistent with the objectives of this Policy as set out in clause 3 (1)(a), and*
- (b) *that the signage the subject of the application satisfies the assessment criteria specified in Schedule 1.*
43. The proposed signage is consistent with the aims and objectives of the policy in that the signage:
- (i) is compatible with the desired amenity and visual character of an area, and
  - (ii) provides effective communication in a suitable location, and
  - (iii) is of high quality design and finish.
44. As required by clause 8(b), an assessment against the criteria contained in Schedule 1 is provided below:

Clause	Comment
<b>1. Character of the area</b>	
<i>Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?</i>	<p>The proposed sign is the third proposed sign for the site and is consistent with the scale of signage in the wider precinct for non-residential land uses in residential areas.</p> <p>The signage is modest and the building after the erection of the additional sign will still present as a building in a landscaped setting.</p>
<i>Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?</i>	There is no particular theme for advertising in the locality however, the proposed signage is consistent with the prevailing patterns of signage within the wider vicinity of the site for non-residential land uses in a residential area.
<b>2. Special areas</b>	
<i>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?</i>	<p>The proposed signage does not detract from the amenity or visual quality of any of the mentioned aspects.</p> <p>The proposed signage is designed to complement and be consistent with the theme for signage in the wider area and is also appropriately sized and located.</p>
<b>3. Views and vistas</b>	
<i>Does the proposal obscure or compromise important views?</i>	The sign results in no impacts to view corridors.
<i>Does the proposal dominate the skyline and reduce the quality of vistas?</i>	The sign does not impact on the skyline or unacceptably reduce the quality of vistas.
<b>4. Streetscape, setting or landscape</b>	
<i>Is the scale, proportion and form of the proposal appropriate for the</i>	The scale, proportion and form of the sign is appropriate for the streetscape and setting noting consistency with the surrounding patterns of signage in

Clause	Comment
<i>streetscape, setting or landscape?</i>	the wider locality and the childcare centre with the additional sign, will still present as a building in a garden setting.
<i>Does the proposal contribute to the visual interest of the streetscape, setting or landscape?</i>	The proposal contributes to the visual interest of the streetscape.
<i>Does the proposal reduce clutter by rationalising and simplifying existing advertising?</i>	The proposed signage is designed to be consistent with the theme, colour and scheme of the existing context and is appropriately sized and located. Furthermore, the proposed signage will complement existing signage within the site.
<i>Does the proposal screen unsightliness?</i>	No the sign does not screen unsightliness.
<i>Does the proposal protrude above buildings, structures or tree canopies in the area or locality?</i>	Signage is contained below the roof of the building.
<i>Does the proposal require ongoing vegetation management?</i>	No.
<b>5. Site and building</b>	
<i>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?</i>	The signage is compatible with the scale and proportion of the existing building on the site and is consistent with the theme, colour, and scheme of the existing signage on-site.
<i>Does the proposal respect important features of the site or building, or both?</i>	The extent of signage respects the form and scale of the building.
<i>Does the proposal show innovation and imagination in its relationship to the site or building, or both?</i>	The signage is designed to complement the building form.
<b>6. Associated devices and logos with advertisements and advertising structures</b>	
<i>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?</i>	No, however the signage is integrated with the overall building.
<b>7. Illumination</b>	
<i>Would illumination result in unacceptable glare?</i>	No the internally illuminated sign will not result in unacceptable glare.
<i>Would illumination affect safety for pedestrians, vehicles or aircraft?</i>	No
<i>Would illumination detract from the amenity of any</i>	No

Clause	Comment
<i>residence or other form of accommodation?</i>	
<i>Can the intensity of the illumination be adjusted, if necessary?</i>	Yes
<i>Is the illumination subject to a curfew?</i>	Yes, a proposed condition of consent recommends that the sign be turned off at 11pm .
<b>8. Safety</b>	
<i>Would the proposal reduce the safety for any public road?</i>	No
<i>Would the proposal reduce the safety for pedestrians or bicyclists?</i>	No
<i>Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?</i>	No

45. Given the above, it is considered that the proposed signage satisfies the requirements of the SEPP.

#### **Draft Environmental Planning Instruments**

46. A Draft Environmental SEPP was exhibited from 31 October 2017 to 31 January 2018. The consolidated SEPP proposes to simplify the planning rules for a number of SEPPs. The proposal is not inconsistent with the provisions of this Draft Instrument.
47. A Draft State Environmental Planning Policy – Remediation of Land exists, this amendment does not undermine the requirements of this instrument.

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

48. A Centre Based Child Care Facility remains permissible with development consent on the site that is zoned R2 Low Density Residential.
49. The development remains consistent with the zone objectives including:

*To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

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

50. Sections 3.18 and 4.2.3 of the DCP contain controls for signage and these are discussed in the following table.

Georges River DCP	Comment	Complies
<b>3.18 Advertising and Signage</b>		
Signs should be designed and located to:		
i. Relate to the use of the premises.	The additional sign relates to the use of the site as a	Yes

Georges River DCP	Comment	Complies
ii. Be consistent with best practice guidelines.	child care centre.	
iii. ii Be integrated with the architecture of the supporting building, not obscure significant architectural features and maintain the dominance of the architecture.	Consistent	Yes
iv. iv. Be limited in number to avoid cluttering, distraction and unnecessary repetition.	The additional sign does not obscure significant architectural features on the building.	Yes
v. iv. Be limited in number to avoid cluttering, distraction and unnecessary repetition.	The site has two frontages and this will be the third sign for the site. It does not overwhelm the site.	Yes
vi. Not cover mechanical ventilation inlets or outlets.	Not applicable	N/A
vii. Not comprise a roof sign.	The sign is at ground level	Yes
viii. Not comprise an above awning sign.	The sign is at ground level	Yes
ix. Not comprise a flag pole sign	The sign is at ground level	Yes
x. ix. Not compromise road or pedestrian safety including cyclists.	The sign is at ground level	Yes
xi. x. Be a minimum of 2.6 metres above any footpath where the sign is not flush with the wall.	The sign is at ground level	Yes
xii. Be at least 600mm from a kerb or roadway edge where the sign is over a public road.	The sign is located within the property and not within 600mm of the kerb.	Yes
Signs must be securely fastened to the structure or building to which they are attached and must comply with the applicable requirements of the BCA and relevant Australian Standards.	Capable of complying and this will be further assessed at the construction certificate stage.	Yes
In addition to the above, illumination of signage should: i. Be integrated with the design of the sign.	The sign is internally illuminated.	Yes

Georges River DCP	Comment	Complies
ii. ii. Not cause light spillage into nearby residential properties	The low-level nature of the sign and the nearby street light will ensure that it doesn't cause light spillage to surrounding residential properties.	Yes
iii. . Not use complex displays, moving signs, flashing lights or the like that hold driver's attention beyond 'glance appreciation', and	The sign is static and doesn't incorporate moveable parts or flashing lights.	Yes
iv. Be fitted with an automatic timing device, controlling the illumination hours	A condition is recommended to ensure this.	Yes
In residential zones, signage should not be illuminated.	The sign is internally illuminated, however give the low level of the sign and the existing illuminating levels having regards to street lighting it is not considered that the illumination will cause a nuisance.	Variation
All commercial advertising should comply with SEPP No.64-Advertising and Signage	Discussed previously within this report.	Yes
Business identification signs (refer to Figure 2 below) should: i. Identify the significant owners, tenants and uses of buildings. ii. Consolidate signs for multiple tenancies. iii. iv. Be displayed in English, but may include a translation in another language not larger than the English message.  v. Not incorporate advertising of products and services that are not directly related to the approved use of the premises.	The sign identifies the use and owner of the building.  The building contains a single tenancy.  The sign is in English.    The sign does not incorporate advertising of third-party products.	Yes  Yes  Yes   Yes
For child care centres in	The sign is in a residential	Variation

Georges River DCP	Comment	Complies
<p>residential zones, advertising should be limited to not more than one sign per child care centre which:</p> <ul style="list-style-type: none"> <li>i. Has a maximum area of 0.5m<sup>2</sup> ; and</li> <li>ii. Serves only to identify the name and phone number of the child care centre and the hours of operation.</li> </ul>	<p>area, is the third sign for the site, is illuminated and has an area of 4.2m<sup>2</sup></p> <p>The site is located on an illuminated intersection and on this basis the illumination is considered appropriate and.</p> <p>The proposed additional signage on the site is modest and will assist with identifying the use of the site and does not dominate the façade or the streetscape. On this basis the larger size is considered to have planning merit.</p>	

### Developer Contributions

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

### Planning Agreements

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

### EP&A Regulation 2021

53. No matters within the Regulation are affected by the modification.

### Impacts

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

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

### Suitability of the site for the development

55. The site is zoned R2 – Low Density Residential. The proposal is a permissible form of development in this zone. The proposed changes do not affect the suitability of the site for the development, and do not impact the development potential of the adjoining allotments.

### Submissions and the Public Interest

56. The application was notified in accordance with the provisions of Section 4.56 of the Environmental Planning and Assessment Act 1979. The application was neighbour notified between 26 May 2022 and 9 June 2022.
57. One submission was received and this is discussed in the table below.



Submission	Comment
We do not have a problem with the two proposed illuminated business identification signs although we do consider the proposal for them to be illuminated 24 hours a day seven days a week would be a waste of the Communities' rates. Normally this type of illumination only operates from 5.30 pm to 12.00 am depending on the seasons.	<p>The application seeks approval for the additional sign to be illuminated between 6:30am and 11:00pm daily.</p> <p>These hours are considered appropriate, but a condition is recommended to ensure that the sign is not illuminated during daylight when illumination is not necessary. This will ensure that electricity is not unnecessarily utilised,</p>
What we would like to know are all the proposed amendments to the NSW Land and Environment Court Conditions 1 and 15 of the Development Consent DA 2016/0035, relating to the original approved architectural plans?	This report and the applicants Statement of Environmental Effects confirms that the modification of condition 1 relates to the approval of the third sign that this modification seeks approval for.
<p>At this stage, we are more concerned about all the other work in addition to the two signs for which Council have not provided any details. To clarify the current situation, it would be appreciated if the Council could provide plans and a detailed list of the work proposed for the estimated cost of \$1,727,000.00.</p> <p>Please Note: In the event that the Council outlays a further \$1,727,000.00 on this development after already spending approximately \$7.5 million on the current Child Care Centre \$9.2 million is considered a significant cost to outlay for this type of business with a maximum of 51 children.</p>	<p>The modification only seeks approval for an additional sign.</p> <p>The cost of the works for the new sign is not \$1.7 million.</p>

### The public interest

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

### Conclusion

59. The application has been assessed having regard to the Section 4.56 and the Matters for Consideration under Section 4.15(1) of the Environmental Planning and Assessment Act 1979. Following the assessment of the modifications, it is considered that Modification No. MOD2022/0057 is considered worthy of support subject to updated conditions.
60. The changes required to the existing notice of determination are limited to condition numbers 1, 15 and 68A.

### Determination and Statement of Reasons

#### Statement of Reasons

61. The reasons for this recommendation are:
- The proposal remains consistent with the original reasons for approval;

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

#### Determination

62. Pursuant to Section 4.56 of the Environmental Planning and Assessment Act 1979 that the Georges River Local Planning Panel grant consent to Modification Application MOD2022/0057 for modifications to DA2016/0035 in accordance with the conditions of consent previously imposed at Lot A in DP 358712. known as 66 Mulga Road, Oatley, subject to the amendments in the below conditions of consent:

### **Schedule A – 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:

Reference No.	Date	Description	Revision	Prepared by
DA 01	01/03/2017	Site Plan	F	Laurie Liskowski Architect
DA_02	01/03/2017	Basement Floor Plan	F	Laurie Liskowski Architect
DA 03	01/03/2017	Ground Floor Plan and Kitchen Detail Plan	F	Laurie Liskowski Architect
DA 04	01/03/2017	First Floor Plan	F	Laurie Liskowski Architect
DA 05	01/03/2017	East and West Elevation	F	Laurie Liskowski Architect
DA_06	01/03/2017	North, South and South West Signage Elevation	F	Laurie Liskowski Architect
DA_07	01/03/2017	Long Sections	F	Laurie Liskowski Architect
DA 08	01/03/2017	Sections	F	Laurie Liskowski Architect
DA 22	01/03/2017	Fence Details	F	Laurie Liskowski Architect
LA-1591 s34 01	28/02/2017	Landscape Draft Plan	F	Greenscape Design and Associates
LA-1591 s34_014	28/02/2017	Landscape First Floor Plan	F	Greenscape Design and Associates

LA-1591 s34_03	28/02/2017	Landscape Section	F	Greenscape Design and Associates
LA-1591 s34_07	23/01/2017	Typical Details	D	Greenscape Design and Associates
-	01/03/2017	Acoustic Assessment	7	Acoustic LoQic
-	15/3/2017	Emergency Management Manual	1	First 5 Minutes
15767 coo 01	16/02/201 6	General Notes	B	Engineering Studio Civil and Structural
15767 C01 01	16/02/201 6	Sediment and Erosion Control Plan	B	Engineering Studio Civil and Structural
15767 C01 02	16/02/201 6	Sediment and Erosion Details	B	Engineering Studio Civil and Structural
15767 CO2 01	16/02/201 6	Roof Stormwater drainage plans	B	Engineering Studio Civil and Structural
15767 CO2 02	16/02/2016	Roof Stormwater Details Sheet 1	B	Engineering Studio Civil and Structural
15767 CO2 03	16/02/201 6	Roof Stormwater Details Sheet 2	B	Engineering Studio Civil and Structural
15767 C03 01	16/02/2016	Basement Stormwater Drainage Plan	8	Engineering Studio Civil and Structural
15767 C03 02	16/02/201 6	Basement Stormwater Details Sheet	B	Engineering Studio Civil and Structural
<b>Drawing 180701 A101 - Issue D</b>	<b>18/2/22</b>	<b>Signage site plan</b>	<b>C</b>	<b>Laurie Liskowski Architects</b>
<b>Artwork approval form (2 plans)</b>	<b>8/4/20</b>	<b>Detailed signage Plan</b>	<b>B</b>	<b>Eyevisy Graphic Solutions</b>

This condition has been amended by MOD2022/0057 (DA2016/0035)

## 2. Service Approval

This condition has been deleted by MOD2020/0153 (DA2016/0035).

## 3. Fees to be paid to Council - 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.

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 94 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.**

**Form of payment for transactions \$500,000 or over - 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) Fees to be paid:

**Fee types, bonds and contributions**

<b>Fee Type</b>
Long Service Levy (to Long Service Corporation)
Builders Damage Deposit
Inspection Fee for Refund of Damage Deposit
Section 94(A)

**The following fees apply where you appoint Council as your Principal Certifying Authority (PCA). (If you appoint a private PCA, separate fees will apply),**

PCA Services Fee	\$2,629.38
Construction Certificate Application Fee	\$2,629.38
Construction Certificate Imaging Fee	\$236.00

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.

4. **Long Service Levy** - Submit evidence of payment of the Building and Construction Industry Long Service Leave Levy to the Principal Certifying Authority. Note this amount is based on the cost quoted in the Development Application, and same may increase with any variation to estimated cost which arises with the Construction Certificate application. To find out the amount payable go to [www.lspc.nsw.gov.au](http://www.lspc.nsw.gov.au) or call 131441. **Evidence of the payment of this levy must be submitted with the Construction Certificate application.**
5. **Damage Deposit - Minor Works** - In order to insure against damage to Council property the following is required:
  - (a) Payment to Council of 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) Payment to Council of a non refundable inspection fee to enable assessment of any damage and repairs where required: **\$145.00.**
  - (c) 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.

- (d) Prior to 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, shall be submitted to Council
- (e) Payments pursuant to this condition are required to be made to Council before the issue of the Construction Certificate.
- (f) 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.

6. **Section 94A Contributions** - As at the date of Development Consent a contribution of **\$17,270.00** has been levied on the subject development pursuant to Section 94A Contributions Plan. The amount to be paid is to be adjusted at the time of the actual payment, in accordance with the provisions of the Section 94A Development Contributions Plan.

**The contribution must be paid prior to the release of a Construction Certificate as specified in the development consent**

**Please contact Council prior to payment to determine whether the contribution amounts have been indexed from that indicated above in this consent and the form of payment that will be accepted by Council.**

**Form of payment for transactions \$500,000 or over - 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).**

Contributions must be receipted by Council before a Construction Certificate is issued.

The Section 94A Contributions Plan may be inspected at Council's Customer Service Centres or online at [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au).

## **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.

### **7. Engineering - Section 138 Roads Act 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.**

A separate approval is required to be lodged and approved 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):

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

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

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

The relevant Application Forms for these activities can be downloaded from Georges River Council’s website at: [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au)

For further information, please contact Council’s Customer Service Centre on (02) 9330 6400.

8. **Engineering - 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:

The following road frontage works will be required to facilitate access to and from the proposed development site:

- (a) Construct a 1.50m wide x 80mm thick concrete path for the full length of the frontage of the site along Gungah Bay Road and Mulga Road, Oatley in accordance with Council’s Specifications for footpaths.
- (b) Construct a 150mm thick concrete vehicular crossing reinforced with F72 fabric in accordance with Council’s Specifications for vehicular crossings.

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

To apply for approval:

- (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](http://www.georgesriver.nsw.gov.au)
- (b) In the Application Form, quote the Development Consent No. (eg DA2016/0134) and reference this condition number (eg Condition 23)
- (c) Lodge the application form, together with the associated fees at Council’s Customer Service Centre, during business hours. Refer to Section P1 and P2, in Council’s adopted Fees and Charges for the administrative and inspection charges associated with Vehicular Crossing applications.

Please note, the application must be accompanied with a detail design of vehicular crossing and footpath, and must satisfy following requirements:

- Driveway profile must comply with the Australian Standards AS2890.1:2004.
- Footpath cross-fall shall not exceed 3%.
- Footpath gradient (long section) shall not exceed 1:14.
- Retain the existing levels at the boundary between property and Council road reserve; the maximum allowable change is + or – 80mm.
- Proposed driveway shape and width should comply with Council's standard driveway shape as shown on Council's application form.

Once approved, all work shall be carried out by a private contractor in accordance with Council's Specification for Vehicular Crossings and Associated Works **prior to the issue of the Occupation Certificate.**

### 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.

9. **Sydney Water - Section 73 Certificate** - 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 Coordinator. Please refer to the Plumbing, Building and Developing section of Sydney Water's website to locate a Water Servicing Coordinator in your area. Visit: [www.sydneywater.com.au](http://www.sydneywater.com.au)

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 Coordinator, 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.

10. **Sydney Water - Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the Sydney Water Act must be submitted to the Principal Certifying to the issue of the Occupation/Subdivision or Strata Certificate.
11. **Sydney Water - Trade Waste Agreements** - A Trade Waste Agreement with Sydney Water may be required. Details of any work required to comply with the agreement must be detailed on the plans lodged with the Construction Certificate. If no trade waste agreement or grease trap is required, a letter from Sydney Water to this effect must be submitted with the application for the **Construction Certificate**.

### PRIOR TO THE ISSUE OF 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.

12. **Development Assessment - Erosion and Sedimentation Control** - Erosion and sediment controls must be provided to ensure:



- (a) Compliance with the approved Erosion and Sediment Control Plan
- (b) Removal or disturbance of vegetation and top soil is confined to within 3m of the approved building area (no trees to be removed without approval)
- (c) all clean water run-off 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 before the commencement of work (including demolition and excavation) and must remain until the issue of the Occupation Certificate.

**13. Development Assessment - Design Changes** - The following design changes are required and are to be incorporated into the plans to be lodged **with the Construction Certificate application**.

- (a) The approved concept stormwater plans shall be amended to:
  - (i) be in accordance with the development as depicted on the approved architectural and landscape plans, as modified by conditions of this consent;
  - (ii) ensure that no structures are place within the perimeter landscaped areas along the frontage of the land to either Mulga Road and Gungah Bay Road
  - (iii) include an On Site Detention system, and
  - (ii) indicate 150mm. (min.) diameter pipelines draining surface inlet pits and grated trench drains.

These design changes are to be incorporated into the Detailed Hydraulic Plans submitted for approval with the Construction Certificate Application.

- (b) The approved landscape plan LA-1591 s34\_01 Rev F is to be amended to include a continuous dense hedge planting to the footway boundary to Mulga Road, to a maximum height of 1.2m, with the treatment of remaining depth of landscaped area be as per the submitted landscape plans.
- (c) The surface treatment of the eastern side of the Ground Floor external play area, for a distance of 3m from the side boundary, is to be modified, to be suitable for 'quiet' passive play only. No play equipment is to be located in this area.
- (d) Toilet and hand basin facilities shall be provided in accordance with ACECQA certification, or a minimum of eleven (11) toilets and basins, whichever is the lesser. These shall be incorporated into the plans, without any increase to the footprint of accommodation on either level of the approved development.
- (e) All management controls and acoustic treatment recommendations in Sections 7 and 8 of the acoustic report, Childcare Centre Acoustic Assessment - 66 Mulga Road, Rev.7, dated 1 March 2017 and prepared by Acoustic Logic, are to be adopted and incorporated into the plans.



- (f) All parking management measures as recommended are to be implemented, including:
  - a. provision of an automated lit sign located at the entry of the car park at the frontage to Gungah Bay Road, to read “Car Park Full” identifying when the basement car park is available and/or full.
  - b. A sign to
    - i. encourage parent/carer use of the Basement Car Park at the driveway entry;
    - ii. use of spaces is for pick up and drop off only.
- (g) **All design and operational measures recommended in approval Emergency Management Manual for addressing the practical process of evacuation (in order to determine the minimum number of staff to facilitate that event, and the provision of required equipment/ space to achieve that outcome) shall be incorporated into the plans, without any increase to the footprint of accommodation on either level of the approved development along with:**
  - (a) **An evacuation diagram indicating a suitable evacuation assembly area including clear egress paths to the evacuation assembly area; and**
  - (b) **The location of the assembly area and details of the evacuation procedures must be included in the Emergency Management Manual documentation.**

**Note: The Emergency Management Manual shall be updated to ensure compliance with AS 3754-2010 – Planning for Emergencies in facilities, BCA and WH&S.**

**This condition has been amended by MOD2020/0111(DA2016/0035).**

- 14. Development Assessment - Amendments to Operational Plan of Management -**  
 The approved Operational Plan of Management dated **January 2020** is to be modified and reissued as follows:
- (a) to deter parking on street except during events (i.e. end of term gatherings/ student shows); and to be specific to the subject car park (i.e., not generic) (Annexure C);
  - (b) confirm operation is only 50 weeks per year - Section 3;
  - (c) staffing shall at all times be as required by the approved emergency plan for efficient evacuation and/ or Service Approval from the relevant Regulatory Authority for NSW under Part 3 of the Children (Education and Care Services) National Law (NSW) whichever is the greater number of staff, but not more than 11 staff in total;
  - (d) no events are permitted after 6pm externally, or use of external play areas during activities permitted in Section 9;
  - (e) section 15 shall be updated to reflect the recommendations of the emergency plan, including training for staff as per that report and/ or any trials or practise events;
  - (f) section 19: only signage is permitted as per the approved plans, ie. no banners; site advertising or physical site branding;
  - (g) incorporate all parking management measures required by the consent;
  - (h) the centre to ensure adequate provision of a minimum of six (6) evacuation cots and tie ropes as recommended.

**This condition is amended as part of MOD2019/0214 (DA2016/0035)**

**15. Development Assessment - Signage**

**This condition has been deleted by MOD2022/0057 (DA2016/0035)**

**16. Development Engineering - Stormwater Systems with Basement -**

Reference No.	Date	Description	Revision	Prepared by
Job No. 15767 Drawing No. C02.01	16/2/16	Roof Stormwater Drainage Plan	B	Engineering Studio Civil and Structural
Job No. 15767 Drawing No. C03.01	16/2/16	Basement Stormwater Drainage Plan	B	Engineering Studio Civil and Structural

The above submitted stormwater plan, as amended by Condition 13(a) of this consent, has been assessed as a concept plan only and no detailed assessment of the design has been undertaken.

The underground basement car park must pump to and all other stormwater must drain by gravity to the street gutter in Gungah Bay Road.

The design of the proposed drainage system must be prepared by a qualified practising hydraulics engineer (with details of qualifications being provided) and be submitted for approval with the Construction Certificate application.

**17. Development Engineering - Stormwater - Protection of basement from inundation of stormwater waters -**

Reference No.	Date	Description	Revision	Prepared by
Job No. 15767 Drawing No. C02.01	16/2/16	Roof Stormwater Drainage Plan	B	Engineering Studio Civil and Structural
Job No. 15767 Drawing No. C03.01	16/2/16	Basement Stormwater Drainage Plan	B	Engineering Studio Civil and Structural

The above submitted stormwater plan as modified by Conditions 13(a) of this consent has been assessed as a concept plan only and no detailed assessment of the design has been undertaken.

A crest is to be provided in the driveway and driveway ramp retaining walls constructed to levels that provide protection of the underground basement from the inundation of surface waters in a 1:100yr ARI storm event.

Evidence from an appropriately qualified person that this design requirement has been adhered to shall be submitted **with the Construction Certificate application**.

#### 18. Development Engineering - Stormwater System

Reference No.	Date	Description	Revision	Prepared by
Job No. 15767 Drawing No. C02.01	16/2/16	Roof Stormwater Drainage Plan	B	Engineering Studio Civil and Structural
Job No. 15767 Drawing No. C03.01	16/2/16	Basement Stormwater Drainage Plan	B	Engineering Studio Civil and Structural

The above submitted stormwater plan as modified by Condition 13(a) of this consent has been assessed as a concept plan only and no detailed assessment of the design has been undertaken.

- (a) All stormwater shall drain by gravity to Council's kerb and gutter directly in front of the Gungah Bay Road property boundary of the development site in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2003 (as amended).
- (b) All overflows of roof waters from any rainwater tank shall drain by gravity to Council's kerb and gutter directly in front of the Gungah Bay Road property boundary of the development site in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2003 (as amended).
- (c) All other impervious surface water runoff such as driveways and footpaths shall drain by gravity to Council's kerb and gutter directly in front of the Gungah Bay Road property boundary of the development site.

The design of this proposed drainage system must be prepared by a qualified practising hydraulics engineer (with details of qualifications being provided) and be submitted for approval with the Construction Certificate application.

#### 19. Development Engineering - Stormwater Drainage Plans

Reference No.	Date	Description	Revision	Prepared by
Job No. 15767 Drawing No. C02.01	16/2/16	Roof Stormwater Drainage Plan	B	Engineering Studio Civil and Structural
Job No. 15767 Drawing No. C03.01	16/2/16	Basement Stormwater Drainage Plan	B	Engineering Studio Civil and Structural

The above submitted stormwater plan as modified by Condition 13(a) of this consent has been assessed as a concept plan only and no detailed assessment of the design has been undertaken.

Stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a qualified practising hydraulics engineer (with details of qualifications being provided) in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (1987) and Council's Stormwater Drainage Guidelines, shall accompany the application for the Construction Certificate.

## 20. Development Engineering - On Site Detention

Reference No.	Date	Description	Revision	Prepared by
Job No. 15767 Drawing No. C02.01	16/2/16	Roof Stormwater Drainage Plan	B	Engineering Studio Civil and Structural
Job No. 15767 Drawing No. C03.01	16/2/16	Basement Stormwater Drainage Plan	B	Engineering Studio Civil and Structural

The above submitted stormwater plan as modified by Condition 13(a) of this consent has been assessed as a concept plan only and no detailed assessment of the design has been undertaken.

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

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

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

- (b) 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:

*"This is an on-site detention basin/tank and is subject to possible surface overflow during heavy storms."*

Full details shall accompany the application for the Construction Certificate

## 21. Health - Food Premises - Plans and Specifications - Details of the construction and fit out of food premises must be submitted to Council's Environmental Health Officer. The plans and specifications must demonstrate compliance with the:

- *Food Act 2003 (as amended);*

- *Food Regulation 2010 (as amended);*
- *Food Standards Code as published by Food Standards Australia;*
- *New Zealand and Australian Standard AS4674:2004 Design, Construction and fit out of food premises (as amended);*
- *Sydney Water - Trade Waste Section.*

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

- 22. Health - Food Premises - Waste Facility** - Details of the construction and fit out of the waste facility of the food premises must be submitted to Council's Environmental Health Officers for approval. Such details must demonstrate compliance with the *Food Act 2003 (as amended)*, *Food Regulation 2010 (as amended)*, the *Food Standards Code* as published by Food Standards Australia and New Zealand and Australian Standard AS 4674:2004 *Design, construction and fit out of food premises (as amended.)* and must be:

- (a) provided with a hose tap connected to the water supply;
- (b) paved with impervious floor materials;
- (c) coved at the intersection of the floor and the walls;
- (d) graded and drained to a waste disposal system in accordance with the requirements of the relevant regulatory authority (Sydney Water);
- (e) adequately ventilated (mechanically or naturally) so that odour emissions do not cause offensive odour as defined by the Protection of the Environment Operations Act 1997;
- (f) fitted with appropriate interventions to meet fire safety standards in accordance with the Building Code of Australia.

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

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

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

- 24. Health - Food Wash Sink** - In addition to the wash up sinks and hand wash basin, a designated food wash sink is to be provided in the food preparation area for the purpose of food preparation where foods are prepared by immersion in water.

Food wash sink must be provided with adjacent loading space to aid in the process of food preparation.

- 25. Engineering - 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).

- 26. Building - Fire Safety Measures prior to Construction Certificate** - 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 Certifying Authority. Such list must also specify the minimum standard of performance for each essential fire safety measure included in the list. The Council or Certifying Authority will then issue a Fire Safety Schedule for the building.

27. **Building - Structural details** - Structural plans, specifications and design statement prepared and endorsed by a suitably qualified practising structural engineer who holds the applicable Certificate of Accreditation as required under the Building Professionals Act 2005 shall be submitted along with the Construction Certificate application to the Certifying Authority for any of the following, as required by the building design:
- (a) piers
  - (b) footings
  - (c) slabs
  - (d) columns
  - (e) structural steel
  - (f) reinforced building elements
  - (g) swimming pool design
  - (h) retaining walls
  - (i) stabilizing works
  - (j) structural framework
28. **Building - Access for Persons with a Disability** - Access and sanitary facilities for persons with disabilities must be provided to the premises/building in accordance with the requirements of the Premises Standards, the Building Code of Australia, and AS 1428.1. Details must be submitted with the Construction Certificate application.
29. **Building - Slip Resistance- Commercial, Retail and Residential Developments** - All pedestrian surfaces in areas such as foyers, public corridors/hallways, stairs and ramps as well as floor surfaces in the wet rooms in any commercial/retail/residential 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.
30. **Basement Car Park** - Parking spaces shall be clearly designated (sign posted and marked on ground) and line marked prior to the issuing of an Occupation Certificate. Signage, pavement symbols and line marking shall comply with Australian Standards, AS1742, Manual of Uniform Traffic Control Devices and NSW Road Transport (Safety and Traffic Management Regulations 1999).
31. **Basement Car Park** - The basement car park must comply with Australian Standards, AS2890.1 (2004): Parking Facilities Part 1: Off street car parking and AS2890.6:2009 Off Street parking for people with disabilities.
32. **Driveway** - Any wall or fence or solid object on either side of the driveway/vehicular crossing where it meets the Council's road reserve at the boundary must comply with sight distance requirements stipulated in the Australian Standards AS2890.1.
33. **Waste - 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 Principal Certifying Authority and copy provided to the Manager - Environmental Services, Georges River Council prior to the issue of any Construction Certificate.

- 34. Waste - Waste Storage Containers - Commercial/Industrial** - Appropriate waste and recycling containers and facilities will need to be provided for all specific end use businesses in accordance with the following waste generation rates:-

- (a) Retail Trading - shops, to 100 square metres - 0.1-0.2 cubic metres per 100 square metres of floor area per day;
- (b) Restaurants and Food Shops - 0.3-0.6 square metres per 100 meals, plus up to 0.15 cubic metres of beverage containers per 100 meals; and,
- (c) Office - 0.01-0.03 cubic metres per 100 square metres of floor area per day.

All waste and recycling containers shall be stored in an approved waste storage area that is large enough to store the required number of bins, appropriate for the number of units and intended uses of the building, and is to be located in an area of the building that can be adequately serviced by waste collection vehicles.

If the Waste Storage Area is located in a part of the building that cannot be easily accessed by service providers, it will be the responsibility of the Owners Corporation to present the bins for collection to the kerb-side.

Details of the Waste Storage Area must be illustrated on the plans submitted with the application for the Construction Certificate.

- 35. Waste - Waste Storage Containers - Child Care Centre** - All waste and recycling containers shall be stored in an approved waste storage area, located in an area of the site that is satisfactory for these purposes. Facilities are to be provided in accordance with any requirements of the NSW Department of Community Services.

Details of the Waste Storage Area must be illustrated on the plans submitted with the application for the Construction Certificate.

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

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

- 36. Building regulation - Site sign - Soil and Erosion Control Measures** - Prior to the commencement of works (including demolition and excavation), the durable site sign issued by Georges River 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.

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

contained in the work plan comply with the safety requirements of the Standard. The work plans and the safety statement shall be submitted to the Principal Certifying Authority 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 and Safety Act 2011 and the NSW Work Health and Safety Regulation 2011 unless specified in the Act and/or Regulation that a license is not required.

The asbestos removal work shall also be undertaken in accordance with the How to Safely Remove Asbestos: Code of Practice published by Work Cover NSW.

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

- 38. Development Assessment - 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 Georges River Council advising of the demolition date, details of the WorkCover 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.
- 39. Development Assessment - 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.
- 40. Engineering - Dial before your dig** - The applicant shall contact "Dial Before You Dig on 1100" to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Council's Engineers for their records.
- 41. Building - Registered Surveyor's Report - During Development Work** - A report must be submitted to the Principal Certifying Authority 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.
- (h) Other.

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

- 42. Building - 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 developer's expense.

#### **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.

- 43. Development Assessment - Hours of construction, demolition and building related work** - Any work activity or activity associated with the development consent that requires the use of any tools (including hand tools) or any power operated plant and machinery that creates noise on or adjacent to the site shall not be performed, or permitted to be performed, except between the hours of 7.00 am to 5.00 pm, Monday to Saturday inclusive. No work or ancillary activity shall be permitted to be performed on any Sunday, Good Friday, Christmas Day or any Public Holiday. A penalty infringement notice may be issued for any offence.

In addition to the foregoing requirements, construction work on all buildings (except that on single dwelling houses and associated structures on the site of a single dwelling house) shall be prohibited on Saturdays and Sundays on weekends adjacent to a public holiday.

- 44. Development Assessment - 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 separately by Council.
- 45. Development Assessment - Removal and Filling of Swimming Pools**

- (a) The site of the swimming pool must be filled (if necessary) so as to restore the site to the ground level (existing) adjacent to the pool, taking into account any sloping of the site, and
- (b) The swimming pool must not be filled with building demolition waste of any kind and if constructed as a concrete shell must be demolished so as to allow ground water to escape or drain to groundwater and
- (c) The fill must be certified clean imported soil or virgin excavated material (VENM) and compacted, and
- (d) Any piping or similar material must be removed from the site before the site is filled.

- 46. Development Engineering - Physical connection of stormwater to site** - No work is permitted to proceed above the ground floor slab level of the building until there is physical connection of the approved stormwater drainage system from the land the subject of this consent to Council's kerb and gutter in Gungah Bay Road
- 47. Engineering - 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 and/or under Section 68 of the Local Government Act 1993. Penalty Infringement Notices may be issued for any offences and severe penalties apply.
- 48. Building - Structural Engineer's Certification during construction** - The proposed structure must be constructed in accordance with details designed and certified by the practising qualified structural engineer. All structural works associated with the foundations, piers, footings and slabs for the proposed building must be inspected and structurally certified for compliance by an independent practising geotechnical and structural engineer. In addition a Compliance or Structural Certificate, to the effect that the building works have been carried in accordance with the structural design, must be submitted to the Principal Certifying Authority at each stage of construction or prior issue of the Occupation Certificate.
- 49. Waste - 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 whatsoever or in association with the work on site. Copies of all receipts for the disposal, or processing of all such materials shall be submitted to the Principal Certifying Authority and a copy provided to the Manager Environmental Services, Georges River Council.

#### **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.

- 50. Development Assessment - Completion of Landscape Works** - All landscape works must be completed before the issue of the Final Occupation Certificate.
- 51. Development Engineering - Positive Covenant for On-site Detention Facility** - A Positive Covenant is to be created over any on-site detention facility.

This covenant is to be worded as follows:

*"It is the responsibility of the lots burdened to keep the "On-Site Detention" facilities,*

*including any ancillary pumps, pipes, pits etc, clean at all times and maintained in an efficient working condition. The "On-Site Detention" facilities are not to be modified in any way without the prior approval of Council."*

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

The Positive Covenant shall be registered at the NSW Department of Lands prior to the issue of a Final Occupation Certificate.

- 52. Development Engineering - Works as Executed and Certification of Stormwater works** - Prior to the issue of an Occupation Certificate, the Principal Certifying Authority 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 Certifying Authority and Georges River Council, from a suitably qualified and experienced Hydraulic Consultant/Engineer.

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

The works-as-executed drainage plan must be prepared by a suitably qualified and experienced Hydraulic Engineer in conjunction with a Registered Surveyor and the works-as-executed plan must include the following details (as applicable):

- (a) The location of any detention basin/s with finished surface levels;
- (b) Volume of storage available in any detention areas;
- (c) The location, diameter, gradient and material (i.e. PVC, RC etc) of all stormwater pipes;
- (d) The orifice size/s;
- (e) Details of any pumping systems installed (including wet well volumes).

- 53. Health - Noise from Mechanical plant and equipment** - Noise from the operation of mechanical, equipment, ancillary fittings, machinery, mechanical ventilation system and/or refrigeration systems must not give rise to offensive noise as defined under 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 Environment Protection Authority.

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

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

- (a) An inspection of the fit out of the Food Premises must be arranged with Council's Environmental Health Officer;
- (b) a satisfactory final inspection must have been undertaken by Council's Environmental Health Officer; and

- (c) the Food Premises must notify and register with Georges River Council of its business details.

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

- (a) Construct a 1.50m wide x 80mm thick concrete path for the full length of the frontage of the site in Gungah Bay Road and Mulga Road, Oatley in accordance with Council's Specifications for footpaths.
- (b) Construct a 150mm thick concrete vehicular crossing reinforced with F72 fabric in accordance with Council's Specifications for vehicular crossings.

A private contractor shall carry out the above work, at the expense of the beneficiary of this consent and in accordance with Council's *Specification for Vehicular Crossings and Associated Works*.

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

**56. Building - Fire Safety Certificate before Occupation or Use** - In accordance with Clause 153 of the Environmental Planning and Assessment Regulation 2000 (the Regulation), 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 Regulation. The Fire Safety Certificate must be in the form required by Clause 174 of the Regulation. In addition, each essential fire or other safety measure implemented in the building or on the land on which the building is situated, such a Certificate must 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 owner) to the Commissioner of Fire and Rescue NSW and a further copy is to be displayed in a frame and fixed to a wall inside the building's main entrance.

## 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.

**57.** The number of children is to be limited to a maximum of forty nine (49) children, or as determined by the Service Approval from the relevant Regulatory Authority for NSW under Part 3 of the Children (Education and Care Services) National Law (NSW), whichever is the lesser number.

**58. Development Assessment - Allocation of 11 required car parking spaces** - Car parking associated with the development is to be allocated as follows:

- (a) Staff: 6 spaces
- (b) Parents: 5 spaces

(c) Accessible: 1 space (to be a parent space)

- 59. Development Assessment - Child and Staff Numbers** - The child care centre is approved to have a maximum of ~~eleven (11)~~ **fourteen (14)** staff members during the approved hours of operation.

**This condition is amended as part of MOD2020/0017 (DA2016/0035)**

- 60. Development Assessment - Child Care Centre - Staff to Child Ratios** - The licensee of a centre based or mobile children's service must ensure that the ratio of primary contact staff to children being provided with the service is:
- (a) 1:4 in respect of all children who are under the age of 2 years, and,
  - (b) 1:5 in respect of all children who are 2 or more years of age but under 3 years of age, and
  - (c) 1:10 in respect of all children who are 3 or more years of age but under 6 years of age.

If a centre based or mobile children's service is being provided to a group of children who are not all in the same age bracket, the licensee of the service must ensure that the ratio of primary contact staff to children in the group is the ratio specified in subclause (a)-(c) for the age bracket in which the youngest child in the group belongs.

- 61. Development Assessment - Hours of operation** - The approved hours of operation shall be restricted to the following:

**Monday to Friday 7:00am – 7:00pm, a maximum of 50 weeks per annum. Staff may vacate the property up until 7:30pm.**

**This condition is amended as part of MOD2019/0214 (DA2016/0035)**

- 62. Engineering - Entering and Exiting of vehicles** - All vehicles shall enter and exit the premises in a forward direction.
- 63. Engineering - Car Park** - All allocated car parking spaces shall be freely available at all times for the parents/carers of children of the child care centre.
- 64. Development Assessment - Maintenance of Landscaping** - All trees and plants forming part of the landscaping must be maintained on an ongoing basis. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilizing, pest and disease control and any other operations required to maintain healthy trees, plants and turf areas.
- 65. Development Assessment - Plan of Management** - The development is to operate at all times in accordance with the Operational Plan of Management dated **January 2020** as amended by Condition 14. No change is to be made to the Plan of Management without the prior written approval of the Council.

**This condition is amended as part of MOD2019/0214 (DA2016/0035)**

- 66. Health - Final Acoustic Report - Verification of Noise report** - Within three (3) months from the issue of an Occupation Certificate, an acoustical assessment is to be carried out by an appropriately qualified person, 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 with the application are effective in attenuating noise to an acceptable noise level and that the use of the does not give rise to “offensive noise” as defined under the provision of the Protection of the Environment Operation Act 1997 (as amended).

67. **Health - Noise Control** - The use of the premises must not give rise to the transmission of ‘offensive noise’ to any place of different occupancy. ‘Offensive noise’ is defined in the Protection of the Environment Operations Act 1997 (as amended).
68. **Health - 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.
- 68A. The illuminated sign on the corner of Mulga Road and Gungah Bay Road shall only be illuminated between 6:30am and 11pm daily when low light levels require illumination. In regards to low light levels the sign shall not be illuminated for more than 60 minutes after dawn and for more than 30 minutes before dusk.

**This condition has been added by MOD2022/0057 (DA2016/0035)**

69. **Health - 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.

No vegetation, article, building material, waste or the like shall be ignited or burnt whatsoever or in association with the work on site.

70. **Health - Storage of goods outside buildings** - There shall be no storage of any goods external to the building with the exception of waste receptacles.
71. **Health - Food premises - Maintenance of food premises** - The food premises must be maintained in accordance with the Food Act 2003 (as amended), Food Regulation 2010 (as amended); the Food Standards Code as published by Food Standards Australia and New Zealand and Australian Standard AS 4674-2004 - Construction and fit out of food premises (as amended).
72. **Health - Food premises - Final Acoustic Report Verification** - Within three (3) months from the issue of an Occupation Certificate, an acoustical assessment is to be carried out by acoustic engineer 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 with the application are effective in attenuating noise to an acceptable noise level and that the use does not give rise to “offensive noise” as defined under the provision of the Protection of the Environment Operation Act 1997 (as amended).
73. **Health - 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).

74. **Health - Smoke Free Legislation** - The premises must comply with the Smoke Free Environment Act 2000 (as amended).
75. **Health - Restricted use** - No amplified equipment or live bands permitted in the outdoor play area at any time.
76. **Health - Acoustic report** - Noise control measures must be adopted and maintained in accordance with the Acoustic report submitted by Acoustic Logic Consultancy Pty Ltd, Project No. 20151608 (as amended).
77. **Child Care Centre Use** - The proposal must adequately satisfy all legislative and industry requirements relating to the child care use at all times.
78. **Building - Annual Fire Safety Statement** - In accordance with Clause 177 of the Environmental Planning and Assessment Regulation, 2000 the owner of the building premises must cause the Council to be 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 twelve (12) months after the date on which the fire safety certificate was received.
  - (b) Subsequent annual fire safety statements are to be given within twelve (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 and Rescue NSW, and a further copy is to be prominently displayed in the building.

## ADVICE

This advice has been included to provide additional information and where available direct the applicant to additional sources of information based on the development type.

79. **Health - Acoustical Engineer Contacts and Reference Material** - Further information including lists of Acoustic Engineers can be obtained from:
  - **Australian Acoustical Society** - professional society of noise-related professionals: [www.acoustics.asn.au](http://www.acoustics.asn.au)
  - **Association of Australian Acoustical Consultants** - professional society of noise related professionals: [www.aaac.org.au](http://www.aaac.org.au)
  - **NSW Industrial Noise Policy** - Office of Environment & Heritage: [www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)
80. **Health - Food Premises - Advice** -

### Copies of food related documents and Standards:

- Copies of the Australian Standards can be obtained from *Standards Australia Customer Service* on telephone 1300 654646 or by visiting the website:

[www.standards.com.au](http://www.standards.com.au)

- Copies of the Food Safety Standards Code (Australia) may be obtained by contacting the Food Standards Australia New Zealand Authority on Telephone: (02) 6271-2222, e-mail: [info@foodstandards.gov.au](mailto:info@foodstandards.gov.au) or by visiting the website: [www.foodstandards.gov.au](http://www.foodstandards.gov.au) Copies of the NSW Standards for Construction & Hygienic Operation of Retail Meat Premises may be obtained by contacting the NSW Food Authority on 1300 552 406, e-mail: [contact@foodauthority.nsw.gov.au](mailto:contact@foodauthority.nsw.gov.au) or by visiting the website [www.foodauthority.nsw.gov.au](http://www.foodauthority.nsw.gov.au)

## Notification of Food Business

Section 100 of the *Food Act* 2003 requires:  
100 Notification of conduct of food business

*“(1) The proprietor of a food business must not conduct the food business unless the proprietor has given written notice, in the approved form, of the information specified in the Food Safety Standards that is to be notified to the appropriate enforcement agency before the business is conducted. Maximum penalty: 500 penalty units in the case of an individual and 2,500 penalty units in the case of a corporation”*

**Notification** can be done on-line at [www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au)

The provisions of the Food Act 2003 may change over time and irrespective of the conditions of consent, compliance with this *Act*, regulations, food standards and other standards adopted under the Food Act (as amended) are mandatory. The *Food Act* and applicable regulations can be accessed free of charge at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)

## 81. Health - Noise - Advice

### Noise related conditions

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

### Useful links relating to Noise:

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



- 82. Development Assessment - Site Safety Fencing** - Site fencing must be erected in accordance with WorkCover 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.

For more information visit [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

- 83. Development Assessment - 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.

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.

### **Schedule B – 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](http://www.legislation.nsw.gov.au).

It is the responsibility of the beneficiary of this consent to determine which prescribed conditions apply.

- 84. Clause 97A – BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
- 85. Clause 98 – Building Code of Australia & Home Building Act 1989** - Requires all building work to be carried out in accordance with the Building Code of Australia. In the case of residential building work to which the Home Building Act 1989 relates, there is a requirement for a contract of insurance to be in force before any work commences.
- 86. Clause 98A – Erection of Signs** - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the Principal Certifying Authority and the Principal Contractor.
- 87. Clause 98B – Home Building Act 1989** - If the development involves residential building work under the Home Building Act 1989, no work is permitted to commence unless certain details are provided in writing to Council. The name and licence/permit number of the Principal Contractor or Owner Builder and the name of the Insurer by

which work is insured under Part 6 of the Home Building Act 1989.

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

### **Schedule C – 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](http://www.legislation.nsw.gov.au).

It is the responsibility of the beneficiary of this consent to determine which operational and statutory conditions apply.

- 89. 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.

- 90. Appointment of a Principal Certifying Authority** - The erection of a building must not commence until the beneficiary of the development consent has:

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

If the work is not going to be undertaken by an Owner-Builder, then the beneficiary of the consent must:

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

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

- 91. Notification of Critical Stage Inspections** - No later than two (2) days before the building work commences, the PCA must notify:

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

- 92. Notice of Commencement** - The beneficiary of the development consent must give at least two (2) days notice to the Council and the PCA of their intention to commence the erection of a building.

A **Notice of Commencement Form** is attached for your convenience.

93. **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.
94. **Notice to be given prior to critical stage inspections** - The principal contractor for a building site, or the owner-builder, must notify the principal certifying authority at least 48 hours before each required inspection needs to be carried out.

Where Georges River Council has been appointed PCA, forty eight (48) hours notice in writing, or alternatively twenty four (24) hours notice by facsimile or telephone, must be given to when specified work requiring inspection has been completed.

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

Only the Principal Certifying Authority appointed for the building work can issue the Occupation Certificate.

An **Occupation Certificate** Application Form is attached for your convenience.

#### **Advisory Note:**

**Service Approval from the relevant Regulatory Authority for NSW under Part 3 of the Children (Education and Care Services) national Law (NSW) for the approved development is to be obtained prior to the operation of the childcare centre.**

**This advisory note has been added by MOD2020/0153 (2016/0035).**

#### **ATTACHMENTS**

Attachment  1  Site and Signage Plans



FOR	ISSUE	DATE	AMENDMENT	<p><b>FOR CONSTRUCTION</b></p> <p>ALL BUILDING WORK TO COMPLY WITH BCA AND SAA CODES AND RELEVANT AUTHORITIES REQUIREMENTS</p> <p>ALL BUILDING WORK TO COMPLY WITH LOCAL COUNCIL REQUIREMENTS</p> <p>ALL BUILDING WORK TO COMPLY WITH STRUCTURAL ENGINEERS SPECIFICATIONS AND RELEVANT SAA CODES</p> <p>ALL BUILDING WORK TO COMPLY WITH ELECTRICAL ENGINEERS SPECIFICATIONS AND RELEVANT SAA CODES</p> <p>ALL BUILDING WORK TO COMPLY WITH PLUMBING ENGINEERS SPECIFICATIONS AND RELEVANT SAA CODES</p> <p>ALL BUILDING WORK TO COMPLY WITH MECHANICAL ENGINEERS SPECIFICATIONS AND RELEVANT SAA CODES</p> <p>ALL BUILDING WORK TO COMPLY WITH LANDSCAPE ARCHITECTS SPECIFICATIONS AND RELEVANT SAA CODES</p> <p>ALL BUILDING WORK TO COMPLY WITH CIVIL ENGINEERS SPECIFICATIONS AND RELEVANT SAA CODES</p> <p>ALL BUILDING WORK TO COMPLY WITH ENVIRONMENTAL ENGINEERS SPECIFICATIONS AND RELEVANT SAA CODES</p> <p>ALL BUILDING WORK TO COMPLY WITH FIRE ENGINEERS SPECIFICATIONS AND RELEVANT SAA CODES</p> <p>ALL BUILDING WORK TO COMPLY WITH SAFETY ENGINEERS SPECIFICATIONS AND RELEVANT SAA CODES</p> <p>ALL BUILDING WORK TO COMPLY WITH HEALTH ENGINEERS SPECIFICATIONS AND RELEVANT SAA CODES</p> <p>ALL BUILDING WORK TO COMPLY WITH INDUSTRIAL ENGINEERS SPECIFICATIONS AND RELEVANT SAA CODES</p> <p>ALL BUILDING WORK TO COMPLY WITH MARINE ENGINEERS SPECIFICATIONS AND RELEVANT SAA CODES</p> <p>ALL BUILDING WORK TO COMPLY WITH MINING ENGINEERS SPECIFICATIONS AND RELEVANT SAA CODES</p> <p>ALL BUILDING WORK TO COMPLY WITH PETROLEUM ENGINEERS SPECIFICATIONS AND RELEVANT SAA CODES</p> <p>ALL BUILDING WORK TO COMPLY WITH POWER ENGINEERS SPECIFICATIONS AND RELEVANT SAA CODES</p> <p>ALL BUILDING WORK TO COMPLY WITH RAIL ENGINEERS SPECIFICATIONS AND RELEVANT SAA CODES</p> <p>ALL BUILDING WORK TO COMPLY WITH ROAD ENGINEERS SPECIFICATIONS AND RELEVANT SAA CODES</p> <p>ALL BUILDING WORK TO COMPLY WITH SHIPPING ENGINEERS SPECIFICATIONS AND RELEVANT SAA CODES</p> <p>ALL BUILDING WORK TO COMPLY WITH SURVEYING ENGINEERS SPECIFICATIONS AND RELEVANT SAA CODES</p> <p>ALL BUILDING WORK TO COMPLY WITH TELLER ENGINEERS SPECIFICATIONS AND RELEVANT SAA CODES</p> <p>ALL BUILDING WORK TO COMPLY WITH THERMAL ENGINEERS SPECIFICATIONS AND RELEVANT SAA CODES</p> <p>ALL BUILDING WORK TO COMPLY WITH TRANSPORT ENGINEERS SPECIFICATIONS AND RELEVANT SAA CODES</p> <p>ALL BUILDING WORK TO COMPLY WITH WATER ENGINEERS SPECIFICATIONS AND RELEVANT SAA CODES</p> <p>ALL BUILDING WORK TO COMPLY WITH WIND ENGINEERS SPECIFICATIONS AND RELEVANT SAA CODES</p> <p>ALL BUILDING WORK TO COMPLY WITH WOOD ENGINEERS SPECIFICATIONS AND RELEVANT SAA CODES</p> <p>ALL BUILDING WORK TO COMPLY WITH YACHT ENGINEERS SPECIFICATIONS AND RELEVANT SAA CODES</p>	<p><b>PROPOSED NEW CHILDCARE CENTRE LOCATED AT 66 MULGA ROAD OATLEY</b></p>	TRUE NORTH	<p>Scale: 1: 100 @ A1</p> <p>Date: 15.10.2019</p> <p>Drawing Number: 180701 A101</p>
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Eyevisy Graphic Solutions  
12/51 Bourke Road  
Alexandria 2015

**SIGN BOX:**

o/a size 3000mm (w) x 1400mm (h) x 58mm (d)  
Internal 50mm aluminium frame  
10mm opal acrylic letters to protrude "Oatley West Early Learning Centre"  
Dragon to be cut as a solid 10mm opal acrylic shape with vinyl applied to face of acrylic  
GR Council logo to be 10mm acrylic with clear digital print to face  
Digital print of Timber on cast vinyl with gloss anti-graffiti laminate (will have a join)  
Gloss black aluminium composite panel to the back of the aluminium frame  
Internal LED's.

FRONT VIEW

SIDE VIEW

Timber background finish TBC.



58 mm

Protruding  
10mm opal  
acrylic



**ARTWORK APPROVAL FORM**

Client: Oatley West Early Learning  
Job Name: Oatley West Early Learning  
Centre light box

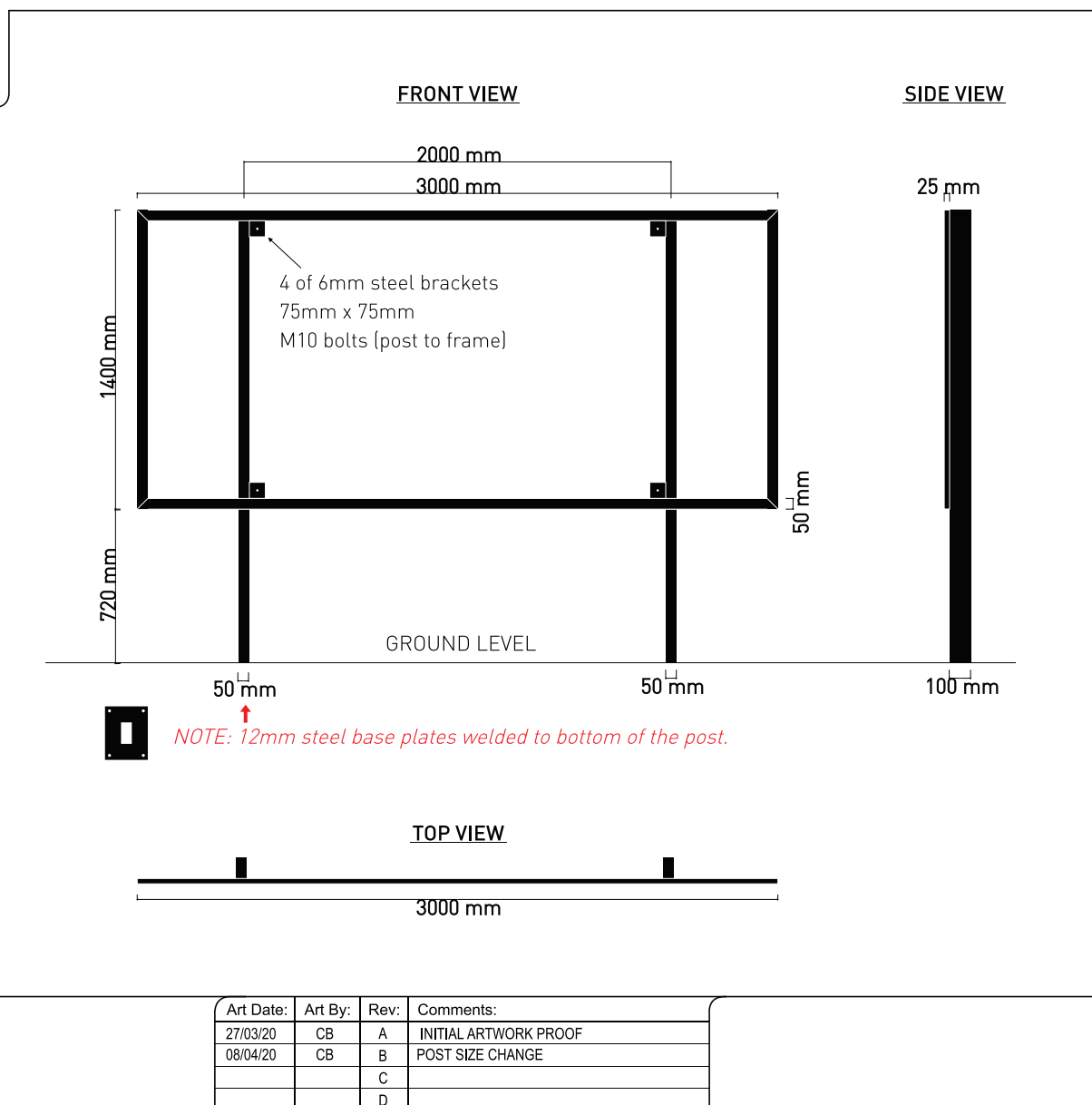
Art Date:	Art By:	Rev:	Comments:
27/03/20	CB	A	INITIAL ARTWORK PROOF
08/04/20	CB	B	BACKGROUND TIMBER CONFIRMATION
		C	
		D	



Eyevisy Graphic Solutions  
 12/51 Bourke Road  
 Alexandria 2015

**POSTS / FRAME:**

100mm x 50mm x 3mm SHS steel  
 25mm x 50mm x 3mm RHS steel frame at  
 3000mm x 1400mm bolted to main post  
 Posts / frame painted 2pac Gloss Black  
 Sign set up 720mm above ground level

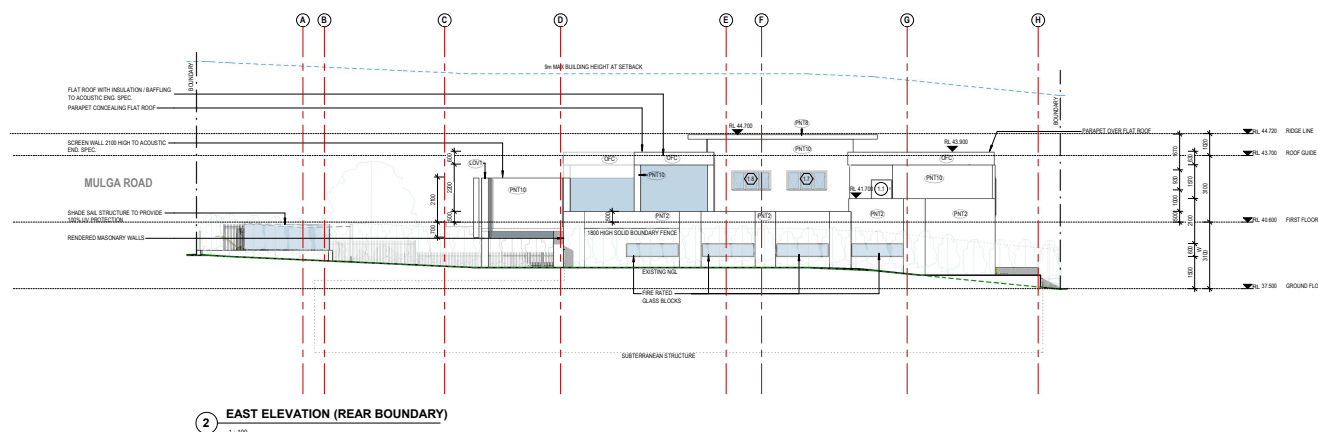
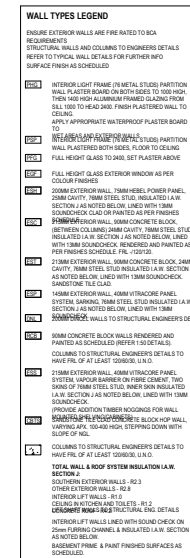


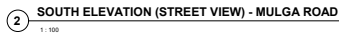
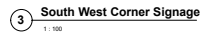
**ARTWORK APPROVAL FORM**

Client: Oatley West Early Learning  
 Job Name: Oatley West Early Learning  
Centre light box

Art Date:	Art By:	Rev:	Comments:
27/03/20	CB	A	INITIAL ARTWORK PROOF
08/04/20	CB	B	POST SIZE CHANGE
		C	
		D	



[illegible]



**NOTE:**

EXISTING KERB & GUTTER WHERE SHOWN FOR CONTEXT ONLY

ALL EXISTING PERIMETER CONDITIONS REFER SITE PLAN

REFER TO 1:50 DRAWINGS FOR ALL NET AREA DETAILS

REFER TO SCHEDULES FOR ALL FINISHES, FF&E

EVACUATION STAGING AREAS ARE TO BE HIGHLIGHTED AS PER THE EMERGENCY MANAGEMENT MANAGEMENT PLAN WITH COLOR AND SIGNAGE OF FIRE DEPARTMENT

PLACE AN AUTOMATED ID SIGN, INDICATING "CARPARK FULL" ON THE FRONTAGE TO GUNDA BAY RD

LIFT SHUTT TO BE FIRE SEPARATED I.A.W. BCA WITH CONSTRUCTION OF FIRL 120/120/125. LIFT DOOR HATED AN FR. OF 400. LIFT INDICATION PANEL TO BE FIRE RATED

BASEMENT TO BE FIRE SEPARATED I.A.W. BCA WITH CONSTRUCTION OF FIRL 120/120/125

ALL PENETRATIONS AND OPENINGS FOR SERVICES TO BE FIRE PROTECTED I.A.W. C3.12, C3.13, C3.15

ENSURE WATER PROOFING TO NET AREAS

UNLESS ALL EXPOSED CONCRETE AND PAVING IS WATERPROOF AS SPECIFIED.

FOR TENDER	ISSUE	DATE	AMENDMENT	FOR CONSTRUCTION	PROPOSED NEW CHILDCARE CENTRE LOCATED AT 66 MULGA ROAD OATLEY	TRUE NORTH
		27-08-2018		ALL BUILDING WORK TO COMPLY WITH BCA AND SAA CODES AND REGULATE AUTHORITIES REQUIREMENTS		Scale: 1 : 100 @ A1
Construction		14-02-2019	Issue FOR CONSTRUCTION	1. SITE CONCEPT AND TOWN PLANNING USE AND ANALYSIS, FINANCIAL SPECIFICATIONS AND BUILDING SAA CODES		Scale: 1:150 11/19
Construction		15-11-2019	Issuing and signage amendments	2. LARGER SCALE DRAWINGS TAKE PRECEDENCE OVER SMALLER		
			Sign sheet added	4. AMENDMENTS TO BE COMPILED ON SITE, CONTACT THE ARCHITECT IF ANY DOUBT OR DISCREPANCY ARISES		
				READ FIGURING DIMENSIONS IN REFERENCE TO SCALES		
				© COPYRIGHT REMAINS WITH LUSKOWSKI ARCHITECTS	LUSKOWSKI ARCHITECTS	Suite 107 Level 1, 59 Great Buckingham St, Redfern, NSW 2010 <small>Unincorporated Australian Entity - not a company  <a href="http://www.luskowski.com.au">www.luskowski.com.au</a>            P 02 9216 5878 E <a href="mailto:info@luskowski.com.au">info@luskowski.com.au</a></small>
						Drawing Number: 180701 A202 C