
AGENDA - LPP

Meeting:	Georges River Local Planning Panel (LPP)
Date:	Thursday, 15 December 2022
Time:	4.00pm
Venue:	Blended Meeting Online and Georges River Civic Centre Corner Dora and MacMahon Streets, Hurstville
Participants:	Stephen Alchin (Chairperson) Deborah Laidlaw (Expert Panel Member) Annette Ruhotas (Expert Panel Member) George Vardas (Community Representative)

1. On Site Inspections – Carried out by Panel Members prior to meeting	
2. Opening	
3. Consideration of Items and Verbal Submissions	
LPP057-22	99A Forest Road, 83 and 89 Durham Street, 6 and 12 Jack Brabham Drive, Hurstville – DA2021/0463 (Report by Principal Planner)
LPP058-22	2-8 Macpherson Street, Hurstville – MOD2022/0101 (Report by Principal Planner)
LPP059-22	12 month delegation of functions from Georges River Local Planning Panel to Manager Development and Building for certain development varying Clause 6.12(5) of the Georges River Local Environmental Plan 2021 (Report by Manager Development and Building)
4. Local Planning Panel Deliberations in Closed Session	
5. Confirmation of Minutes	

**REPORT TO GEORGES RIVER COUNCIL
LPP MEETING OF THURSDAY, 15 DECEMBER 2022**

LPP057-22

LPP Report No	LPP057-22	Development Application No	DA2021/0463
Site Address & Ward Locality	99A Forest Road, 83 and 89 Durham Street, 6 and 12 Jack Brabham Drive, Hurstville Hurstville Ward		
Proposed Development	Use of retail carpark as a public carpark		
Owners	Hville FCP Pty Ltd and East Quarter Group Pty Ltd		
Applicant	Genevieve Henry		
Planner/Architect	Mecone		
Date Of Lodgement	25/11/2021		
Submissions	32 submissions (first notification period)		
Cost of Works	\$234,000.00		
Local Planning Panel Criteria	Determination by the Georges River Local Planning Panel is in the public interest given the number of submissions received.		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, Georges River Local Environmental Plan 2021, Hurstville Development Control Plan No. 2 – Amendment No. 12.		
List all documents submitted with this report for the Panel's consideration	Statement of Environmental Effects, Architectural Plans, Plan of Management, Traffic and Parking Report, Submissions		
Report prepared by	Principal Planner		

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

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

Site Plan



Executive Summary

Proposal

1. This development application seeks consent for the use of the existing retail car park as a public car park.
2. The applicant's description is as follows:

To ensure that the retail parking on the site is available to service customers of retail development on the site, rather than all day or long stay visitors or residents this application seeks to implement a timed and paid parking arrangement. Such arrangements define the car park as a 'public car park', rather than an ancillary aspect of the approved development on the site, thereby requiring a DA for change of use.

The proposed development relates to the operation of the approved retail car park is located on Level B1 (Stage 2 development) and Level 1 (Ground Floor) (Stage 3 development) at the East Quarter development. It can be accessed from Forest Road, Durham Street and Jack Brabham Drive and its extension.

The proposal does not seek to modify the number of approved car parking spaces and the overall retail car parking spaces will remain at 180 as approved. There are no major design modifications proposed to the car park layout other than the minor changes to accommodate the parking control system at the entry and exit points of the car park with clear wayfinding signage at entry and exit points.

Site and Locality

3. The subject site is located on the southern side of Forest Road, known as the East Quarter development. The site is known as 93 and 99A Forest Road, 83 and 89 Durham Street, 6 and 12 Jack Brabham Drive, Hurstville and is legally described as Lots 6, 12, 14 and 15 in DP270611 and CP/SP103638.
4. The site forms part of the East Quarter Development site which is a three-stage development comprising nine buildings. Stage 1 comprising of Buildings C and D and Stage 2 comprising of Buildings A, B and E, of the East Quarter Development are completed and occupied.
5. Construction of Stage 3 (DA2016/0218) of the East Quarter Development which immediately adjoins the subject building to the east and will contain a Woolworths supermarket, is nearing completion.
6. The use of the existing car park entry and exits onto Forest Road and Jack Brabham Drive were approved as part of this consent.
7. The site and surrounding land are zoned B4 Mixed Use.

Zoning and Permissibility

8. The subject site is zoned B4 Mixed Use under the provisions of Georges River Local Environmental Plan 2021, which came into effect on 8 October 2021. The proposal relates to the existing and/or approved car parks and is a permissible use in the zone with development consent.

Hurstville Development Control Plan No 2

9. The provisions of Hurstville Development Control Plan No 2 (HDCP) are applicable to the proposed development. The proposal generally satisfies the applicable provisions contained within the HDCP.

Submissions

10. The DA was publicly notified to neighbours for a period of fourteen (14) days in November 2021 in accordance with Council's notification policy.
11. 32 submissions were received primarily objecting to the access for retail parkers through resident and visitor parking areas. The use of the Forest Road and Jack Brabham Drive car park entry/exits by the retail component of the development was approved under DA2016/0218.
12. The application was re-notified in November 2022 as the site was not described correctly on the original notification letter. No submissions were received.

Background

13. On 17 June 2004, development consent No. 03/DA-1046 was granted for a mixed residential/retail/commercial development comprising seven (7) buildings and basement parking including demolition of factory building and remediation of site at 95 Forest Road, Hurstville. The development consent was for the entire site known as "East Quarter" and incorporated Stages 1, 2 and 3. The development consent has been modified on twelve (12) occasions.
14. On 8 November 2011 the Joint Regional Planning Panel granted a deferred commencement development consent for development application No. 11/DA-21 to remediate the site and construct a mixed retail/commercial/residential development comprising three (3) buildings containing basement car parking area, ground floor retail, first floor commercial, and 258 residential units (known as Stage 2) at 93 Forest Road, Hurstville. The deferred commencement consent was activated on 12 January 2012. This development consent replaces Stage 2 of development consent 03/DA-1046.
15. Development consent 11/DA-21 has been modified on five (5) occasions. The modifications relate to deferring payment of Section 94 contributions, internal and external alterations, and reallocation of car parking spaces from Stage 3 to Stage 2.
16. DA11/DA-21 has been modified since the approval date, with the most recent modification, 2011/DA-21 Rev5 approved on 17 April 2013. This modification related to Building B.
17. DA2016/0218 was approved by the Sydney South Planning Panel, for "Mixed use development comprising 556 units and 4345 square metres of retail space in two buildings of 9 & 21 storeys with basement and ground floor parking and associated landscaping works.". This application replaced the previously approved Stage 3 component of DA No. 2003-1046 and includes two buildings, being 9 and 21 storeys in height with associated basement, landscaping and road works which is currently under construction. The use of the existing car park entry and exits onto Forest Road and Jack Brabham Drive were approved as part of this consent.
18. This application relates to the retail parking spaces in Stage 2 and Stage 3 of the development as shown in Figure 1.



Figure 1: Retail car park applicable to the proposed timed/paid parking

Reason for Referral to the Local Planning Panel

19. This application is referred to the Georges River Local Planning Panel for determination due to the number of submissions received objecting to the proposal.

Conclusion

20. The application has been assessed having regard to the Matters for Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, the provisions of the relevant State Environmental Planning Policies, Local Environmental Plans and Development Control Plans. The proposal complies with the objectives and controls of the applicable policies and is recommended for approval subject to conditions of consent.

Report in Full

Description of the Proposal

21. This development application seeks consent for the use of the existing retail car park as a public car park.
22. The applicant's description is as follows:

To ensure that the retail parking on the site is available to service customers of retail development on the site, rather than all day or long stay visitors or residents this application seeks to implement a timed and paid parking arrangement. Such arrangements define the car park as a 'public car park', rather than an ancillary aspect of the approved development on the site, thereby requiring a DA for change of use.

The proposed development relates to the operation of the approved retail car park is located on Level B1 (Stage 2 development) and Level 1 (Ground Floor) (Stage 3 development) at the East Quarter development. It can be accessed from Forest Road, Durham Street and Jack Brabham Drive and its extension.

The proposal does not seek to modify the number of approved car parking spaces and the overall retail car parking spaces will remain at 180 as approved. There are no major design modifications proposed to the car park layout other than the minor changes to accommodate the parking control system at the entry and exit points of the car park with clear wayfinding signage at entry and exit points.

Equipment

The car park access equipment proposed include the following items:

- *High speed entry boom gates and entry stations*
- *High speed exit boom gates and exit stations with pay on exit facility*
- *ANPR (Automatic Number Plate Recognition at the entry and exit (and at each residential roller door)*
- *Automated Pay Machines located on retail car parking level B1.*

Retail customer access

Customers will enter the car park via an entry boom gate where a ANPR (Automatic Number Plate Recognition) Camera will capture the vehicle's license plate.

Customers will exit the car park via separate boom gates and the vehicle's number plate will again be read by the ANPR Camera. If they are within the free parking time limit, the exit gate will rise to allow vehicle egress.

If the customer stays longer than the free parking period, the customer can make payment according to parking fees at an Automated Pay Station or at the exit gate with a credit/ debit card.

Retail staff access

Designated staff will be provided with an electronic fob that can be scanned at the exit boom gates to allow free exit regardless of time spent in the car park.

Residents and residential visitors

The residential and retail car parking are separated by roller doors. LPR cameras will record movement in and out of the residential area to ensure residents and visitors are not charged if they are required to traverse the retail car park. However, charges will be made if residents and visitors park for extended periods in the retail, rather than the residential car park.

Monitoring and maintenance

An InterPark representative will be at the site for general maintenance including replacing receipt rolls and other consumables, general equipment cleaning and testing equipment is functioning correctly. They can also assist customers with any issues regarding payments, faulty equipment or egress issues.

The car park is monitored 24/7 by InterPark's Remote Monitoring Centre and equipment damage and faults will be identified in any of the following ways through Remote Monitoring Centre staff or a customer pushing the intercom button on the Auto Pay Machine or entry / exit gate.

Most faults can be fixed remotely by the InterPark staff in the Remote Monitoring Centre. In the case of a fault which cannot be repaired remotely, an InterPark staff member or third-party repairer will generally attend the site Monday-Friday between 8am-5pm.

23. Existing residential and retail access to the car park is from Forest Road (Figure 2) and Jack Brabham Drive (Figure 3), and access to the supermarket, retail and residential parking for Stage 3 is currently under construction (Figure 4).



Figure 2: Forest Road car park entry and exit



Figure 3: Jack Brabham Drive car park entry and exit



Figure 4: Stage 3 construction

24. The figures below show the Basement and Level 1 parking areas, with the parking areas distinguished as follows:

- i. Yellow – residential
- ii. Blue – retail
- iii. Purple – visitor parking for Building E
- iv. Grey - residential



Figure 5: Basement 1 – overall plan

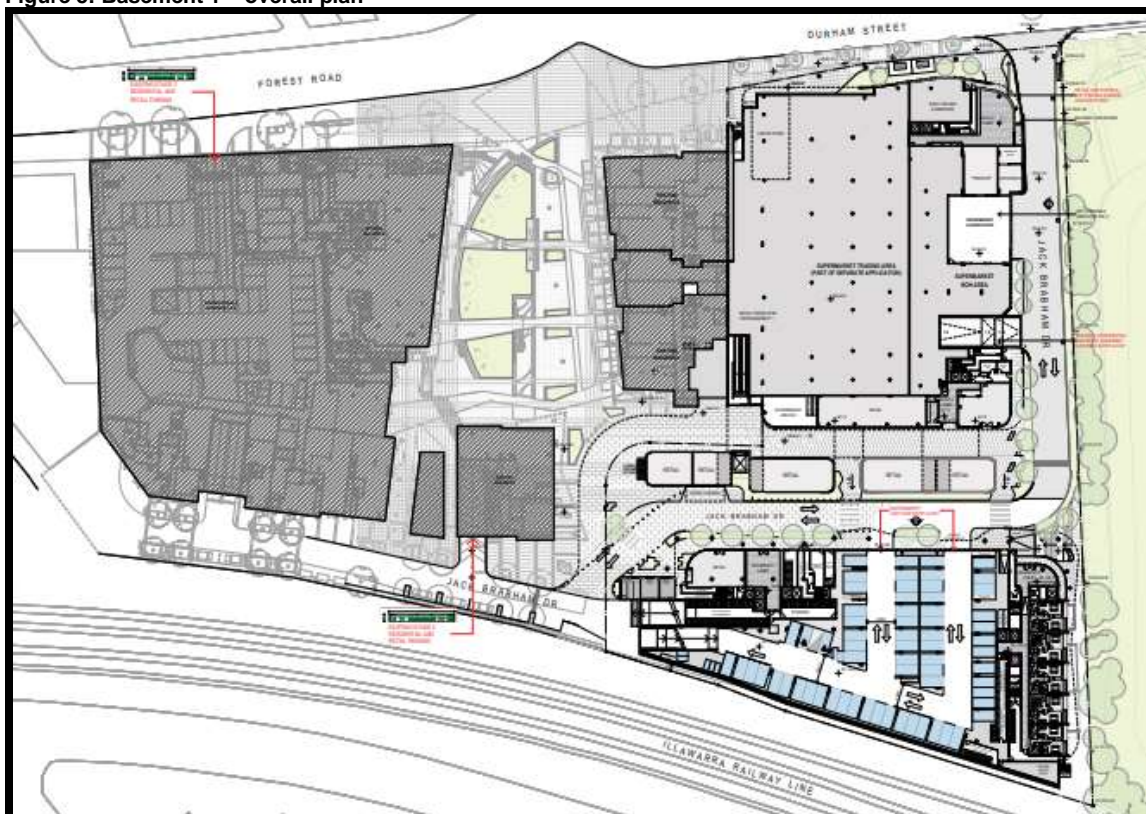


Figure 6: Level 1 – overall plan



Figure 7: Retail car park applicable to the proposed timed/paid parking

Description of the Site and Locality

25. The subject site is located on the southern side of Forest Road, within a development known as the East Quarter. The site is known as 93 and 99A Forest Road, 83 and 89 Durham Street, 6 and 12 Jack Brabham Drive, Hurstville and is legally described as Lots 6, 12, 14 and 15 in DP270611 and CP/SP103638.
26. The site is located within the Hurstville City Centre, within the *Eastern Bookend Precinct* (shown pink in the figure below).

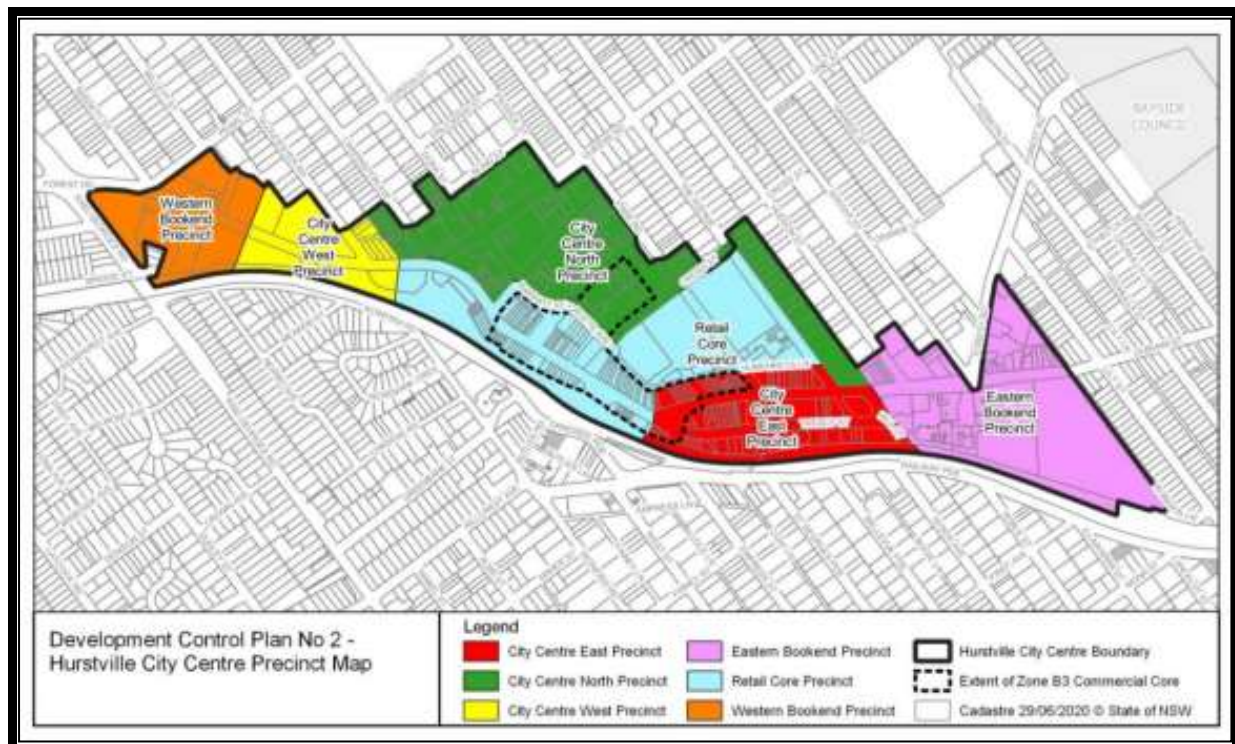


Figure 8: Hurstville City Centre precinct map

27. The car park is located beneath the East Quarter Development site which is a three-stage development comprising nine buildings. Stage 1 comprising of Buildings C and D and Stage 2 comprising of Buildings A, B and E, of the East Quarter Development are completed and occupied.



Figure 9: East Quarter from Forest Road looking east



Figure 10: East Quarter from Forest Road looking west

28. Construction of Stage 3 of the East Quarter Development which immediately adjoins the subject building to the east is currently underway.
29. The site and surrounding land are zoned B4 Mixed Use.

State Environmental Planning Policies (SEPPs)

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

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

State Environmental Planning Policy (Biodiversity and Conservation) 2021

31. The relevant part of the above Policy that apply to this application is Chapter 11 – Georges River Catchment.

Chapter 11 – Georges River Catchment

32. The primary relevant aims and objectives of this plan are:
 - *to maintain and improve the water quality and river flows of the Georges River and its tributaries and ensure that development is managed in a manner that is in keeping with the national, State, regional and local significance of the Catchment,*
 - *to protect and enhance the environmental quality of the Catchment for the benefit of all users through the management and use of the resources in the Catchment in an ecologically sustainable manner,*

- *to ensure consistency with local environmental plans and also in the delivery of the principles of ecologically sustainable development in the assessment of development within the Catchment where there is potential to impact adversely on groundwater and on the water quality and river flows within the Georges River or its tributaries,*
- *to establish a consistent and coordinated approach to environmental planning and assessment for land along the Georges River and its tributaries and to promote integrated catchment management policies and programs in the planning and management of the Catchment,*

33. The proposal is consistent with the objectives and purpose of Chapter 11 of the SEPP.

State Environmental Planning Policy (Resilience and Hazards) 2021

34. Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 is relevant to the proposal.
35. 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.
36. 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.
37. The proposal relates to existing basement car parking areas. No disturbance to soils is required.

State Environmental Planning Policy (Transport and Infrastructure) 2021

38. 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 (Industry and Employment) 2021

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



Figure 11: Eastern elevation signage location and detail

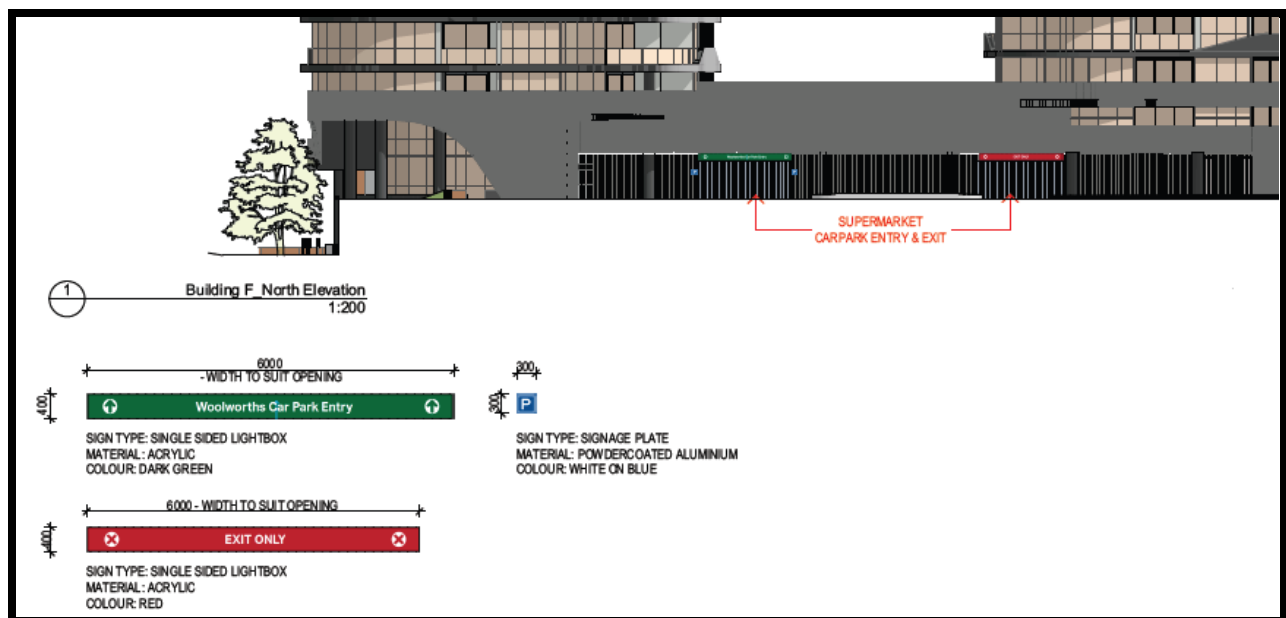


Figure 12: Northern elevation signage location and detail

42. An assessment of the proposal against Schedule 5 of the SEPP is provided in the table below.

Assessment Criteria	Proposal	Compliance
1 Character of the area <ul style="list-style-type: none"> Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located? Is the proposal consistent with a particular theme for outdoor advertising in the area or locality? 	<p>The proposed signage is compatible within commercial signage in this precinct.</p> <p>There is no particular theme in the locality.</p>	<p>Yes</p> <p>Yes</p>

Assessment Criteria	Proposal	Compliance
2 Special areas <ul style="list-style-type: none"> Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas? 	The site is not located in a special area.	Yes
3 Views and vistas <ul style="list-style-type: none"> Does the proposal obscure or compromise important views? Does the proposal dominate the skyline and reduce the quality of vistas? Does the proposal respect the viewing rights of other advertisers? 	<p>No as fixed to the façade of the building.</p> <p>No, as fixed to the facade of the building.</p> <p>Yes, as fixed to the facade of the building.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
4 Streetscape, setting or landscape <ul style="list-style-type: none"> Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape? Does the proposal contribute to the visual interest of the streetscape, setting or landscape? Does the proposal reduce clutter by rationalising and simplifying existing advertising? Does the proposal screen unsightliness? Does the proposal protrude above buildings, structures or tree canopies in the area or locality? Does the proposal require ongoing vegetation management? 	<p>Yes, as fixed to the facade of the building.</p> <p>The signage is appropriate for the streetscape.</p> <p>N/A</p> <p>N/A</p> <p>No, as fixed to the facade of the building.</p> <p>No ongoing vegetation management required.</p>	<p>Yes</p> <p>Yes</p> <p>N/A</p> <p>N/A</p> <p>Yes</p> <p>Yes</p>
5 Site and building <ul style="list-style-type: none"> Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located? Does the proposal respect important features of the site or building, or both? 	<p>Yes the scale, form and height is consistent with surrounding development.</p> <p>The signage is suitably located on the façade of the building.</p>	<p>Yes</p> <p>Yes</p>

Assessment Criteria	Proposal	Compliance
<ul style="list-style-type: none"> Does the proposal show innovation and imagination in its relationship to the site or building, or both? 	The proposal is building identification signage.	Yes
6 Associated devices and logos with advertisements and advertising structures <ul style="list-style-type: none"> 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? 	N/A as fixed to the facade of the building.	NA
7 Illumination <ul style="list-style-type: none"> Would illumination result in unacceptable glare? Would illumination affect safety for pedestrians, vehicles or aircraft? Would illumination detract from the amenity of any residence or other form of accommodation? Can the intensity of the illumination be adjusted, if necessary? Is the illumination subject to a curfew? 	Illumination not proposed. Illumination not proposed. Illumination not proposed. Illumination not proposed. Illumination not proposed.	N/A N/A N/A N/A N/A
8 Safety <ul style="list-style-type: none"> Would the proposal reduce the safety for any public road? Would the proposal reduce the safety for pedestrians or bicyclists? Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas? 	No, as fixed to the façade of the building. No, as fixed to the façade of the building. No, as fixed to the façade of the building.	Yes Yes Yes

Environmental Planning Instruments

Georges River Local Environmental Plan 2021

Zoning

43. The subject site is zoned B4 Mixed Use under the provisions of the Georges River Local Environmental Plan 2021 (GRLEP2021). Refer to zoning map below. The proposed development is ancillary to the mixed-use development occupying the site which is a permissible land use in the zone.

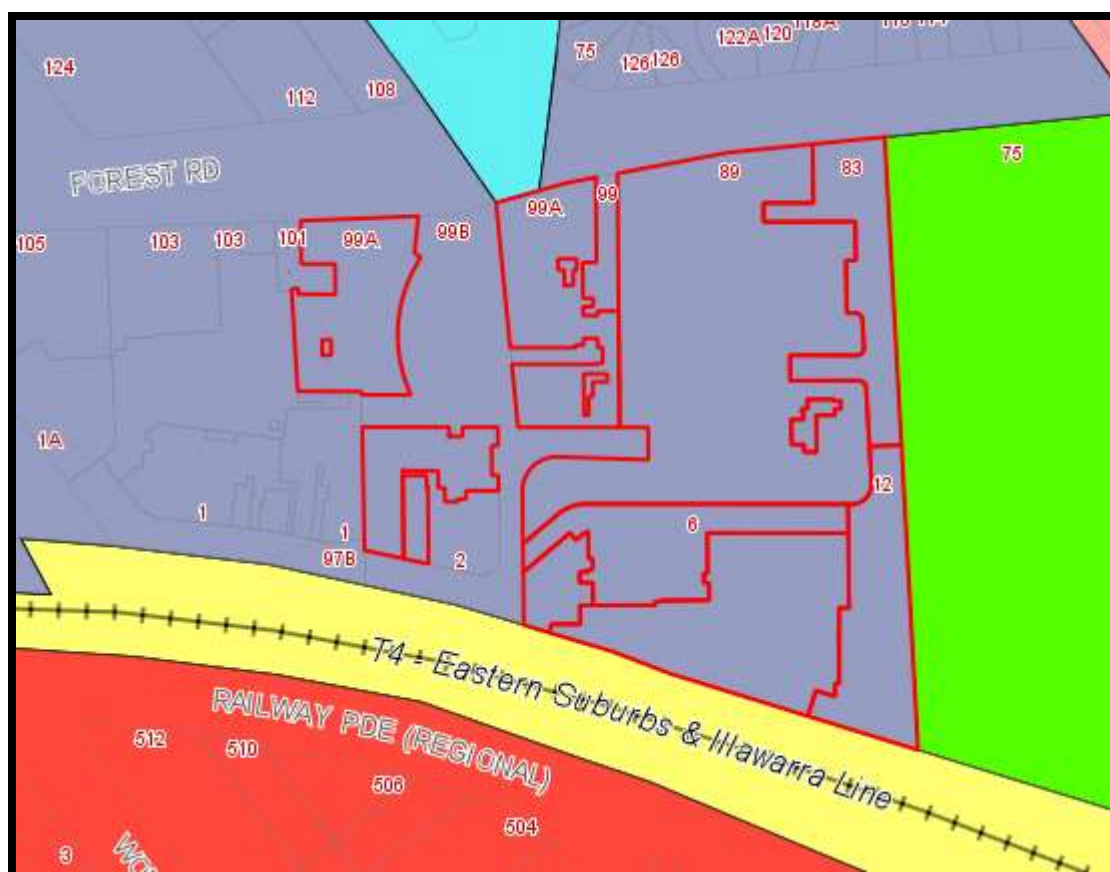


Figure 13: Zoning map (GRLEP 2021) (site edged red)

44. 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.
45. The proposal satisfies the objectives of the B4 Zone as it is ancillary to the existing mixed-use development on the site.
46. The extent to which the proposed development complies with the Georges River Local Environmental Plan 2021 (GRLEP 2021) is detailed and discussed in the table below.

Clause	Standard	Proposed	Complies
Part 1 – Preliminary			
1.2 – Aims of the Plan	In accordance with Clause 1.2 (2)	The development is consistent with the aims of the plan.	Yes
1.4 – Definitions	car park means a building or place primarily used for the purpose of parking motor vehicles, including any manoeuvring space and access thereto, whether operated for gain	The proposed development relates to approved car parking areas of a mixed use/shop top housing development.	Yes

Clause	Standard	Proposed	Complies
	or not.	Change of use from a retail car park to a public car park is permissible.	
Part 2 - Permitted or prohibited development			
2.3 - Zone objectives and Land Use Table	Meets objectives of B4 Mixed Use Zone. Development must be permissible with consent.	The proposal, a car park, is an innominate use and is permissible with development consent.	Yes
Part 4 - Principal Development Standards			
4.3 – Height of Buildings	30m, 35m, 60m, 65m as identified on Height of Buildings Map	The proposal does not change the existing height of any building on the site.	NA
4.4 – Floor Space Ratio	3.5:1 as identified on Floor Space Ratio Map	The proposal does not change the existing FSR of any building on the site.	NA
4.4B – Exceptions to floor space ratio – non-residential uses	Minimum 0.3:1 commercial FSR	The proposal does not change the existing FSR of any building on the site.	NA
Part 5 - Miscellaneous Provisions			
5.7 – Development below mean high water mark	(2) Development consent is required to carry out development on any land below the mean high water mark of any body of water subject to tidal influence (including the bed of any such water).	The proposal does not involve works below the Mean High Water Mark.	Yes
5.10 – Heritage conservation	In accordance with Clause 5.10 (2)	The site is not a heritage item and not located within the vicinity of any heritage items. Site is not in a heritage conservation area.	Yes
5.11 – Bush Fire Hazard Reduction	Bush fire hazard reduction work authorised by the Rural Fires Act 1997 may be carried out on any land without development consent.	The subject land is not within a bush fire prone area.	Yes
Part 6 - Additional Local Provisions			

Clause	Standard	Proposed	Complies
6.1 – Acid sulfate soils	(2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.	The site is not affected by acid sulfate soils.	NA
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 proposal does not involve earthworks.	NA
6.3 – Stormwater Management	(2) In deciding whether to grant development consent for development, the consent authority must be satisfied that the development— (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 (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 (c) avoids significant	The proposal does not involve stormwater works.	NA

Clause	Standard	Proposed	Complies
	<p>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>		
6.9 – 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,</p> <p>(b) the supply of electricity,</p> <p>(c) the supply of telecommunications facilities,</p> <p>(d) the disposal and management of sewage,</p> <p>(e) stormwater drainage or on-site conservation,</p> <p>(f) suitable vehicular access.</p>	The existing access to the car park is to be retained.	Yes
6.10 - Design excellence	<p>(2) This clause applies to development on land referred to in subclause (3) involving—</p> <p>(a) the erection of a new building, or</p> <p>(b) additions or external alterations to an existing building that, in the opinion of the consent authority, are significant.</p>	NA	NA

Clause	Standard	Proposed	Complies
	<p>(3) This clause applies to development on the following land—</p> <p>(a) land identified on the Foreshore Scenic Protection Area Map if the development is for one or more of the following purposes—</p> <p>(i) bed and breakfast accommodation,</p> <p>(ii) health services facilities,</p> <p>(iii) marinas,</p> <p>(iv) residential accommodation, except for secondary dwellings,</p> <p>(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,</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> <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>		

Clause	Standard	Proposed	Complies
	<p>(5) In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters—</p> <p>(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,</p> <p>(b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,</p> <p>(c) whether the development detrimentally impacts on view corridors,</p> <p>(d) how the development addresses the following matters—</p> <p>(i) the suitability of the land for development,</p> <p>(ii) existing and proposed uses and use mix,</p> <p>(iii) heritage issues and streetscape constraints,</p> <p>(iv) the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,</p> <p>(v) bulk, massing and modulation of buildings,</p> <p>(vi) street frontage heights,</p> <p>(vii) environmental impacts such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity,</p>		

Clause	Standard	Proposed	Complies
	(viii) pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of pedestrian networks, (ix) the impact on, and proposed improvements to, the public domain, (x) achieving 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.		
6.13 – Development in certain business zones	(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. (4) Subclause (3) does not apply to a part of a building that is used for the following purposes— (a) entrances and lobbies, including as part of a mixed use development,	There is not change proposed to the ground floor of the building.	Yes

Clause	Standard	Proposed	Complies
	(b) access for fire services, (c) essential services.		

Development Control Plans

Hurstville Development Control Plan No. 2 - Amendment No. 12

47. The proposal is subject to the provisions of the Hurstville Development Control Plan No. 2 (HDCCP2). The extent to which the proposal meets the relevant controls is described in the following tables.

Chapter 4.7 Eastern Bookend

Requirement	Proposal	Comply
<p>4.7.2 Desired Future Character</p> <p>The Eastern Bookend is to define, and create a sense of entry. This will be achieved through strong built form statements and feature public domain treatment. Residential use will dominate upper levels of development and optimise commanding views.</p>	There is no change to the built form of the existing buildings.	NA
<p>4.7.3 Key Land Use Principles</p> <p>1. Defining entry to the City Centre</p> <p>The Eastern Bookend Precinct will be characterised by a higher intensity of built form, allowing for taller buildings on designated sites to define the eastern entry to the City Centre. Buildings situated along sites identified with significant frontages are to respond to their gateway context. Buildings and public domain will delineate entry to the City through innovative design. Landmark architecture will define points of interest, especially its prominent position on the axis of Forest Road. All new development is to respond to the public realm, requiring building scale and form to retain a pedestrian scale at street level.</p> <p>2. High Density Residential Land Uses</p> <p>Mixed-use development will be promoted. This Precinct is to provide a transition between the City Centre and surrounding residential areas. Where land adjoins established residential areas, controls require that new development be suitably designed to maintain the amenity of adjoining residential and recreational land uses.</p>	<p>There is no change to the built form of the existing buildings.</p> <p>There is no change to the built form of the existing buildings.</p>	<p>NA</p> <p>NA</p>

Chapter 5 Controls for Residential, Commercial and Mixed Use Development

LPP057-22

Requirement	Proposal	Comply
5.2 Built Form Character Principles	There is no change to the built form of the existing buildings.	NA
5.3 Built Form Controls	There is no change to the built form of the existing buildings.	NA
5.4 Transport, Traffic, Parking and Access	There is no change to the number of parking spaces existing within the development. There is no change to the ratio of residential, visitor or retail parking spaces.	Yes

Chapter 6.1.5 Signage

Requirement	Proposal	Comply
<i>B3 Commercial Core and B4 Mixed Use</i>		
(a) Advertising on or attached to buildings should align and relate to the architectural design lines on a building facade or, in the absence of architectural detail or decoration, relate to the design lines of adjacent buildings.	The signs are suitably located above/beside the car park entry/exit and attached to the wall.	Yes
(b) Council discourages advertising signs on a building facade that are displayed on or above first floor level.	Not proposed.	Yes
(c) The wording (or advertising content) on any sign should relate to the premises on which the sign is erected or the activities carried on or within the premises, except in the case of a Billboard Sign where it can be demonstrated that general advertising will have no detrimental impact on nearby residential areas or pedestrians, or cause a distraction to motorists.	Complies – the signs state: 'Residential and Retail Carpark', 'Woolworths Car Park Entry', 'Exit Only' and 'P'.	Yes
(d) Council will consider retractable awnings (incorporating advertising) that are attached to walls or fixed awnings to provide shade and other weather protection for shop fronts and seating areas.	Not proposed.	NA
(e) Shop front windows should permit a view into the shop premises, including to the cash register from the street, for security reasons.	Not applicable.	NA
Context and Siting of Signage		

Requirement	Proposal	Comply
(a) The proposed advertising sign does not have any negative impacts on any views, vistas or skylines.	Complies – attached to the wall of the building.	Yes
(b) The proposed advertising sign is appropriate to the streetscape, setting or landscape, and not dominating in terms of its scale, proportion and form.	6m x 0.6m or 0.4m located above/beside entry/exit to car park.	Yes
(c) The size, height, shapes and colour of the proposed advertising sign is compatible with the site and its locality, and any buildings on which the advertising is situated. Signage should not be the dominant visual element on a building.	Complies.	Yes
(d) The cumulative impacts of multiple signage in the vicinity, and the number of existing signs on the premises will be considered. Council may place limits on the maximum number of signage allowed on any building or site.	Minimal signage exists on the buildings in the proposed locations of the new signs.	Yes
General Appearance, Content and Maintenance		
(a) Council discourages signs prone to deterioration and may request removal of redundant, unsafe, unsightly or objectionable signage.	Located such that maintenance can be undertaken when required.	Yes
(b) Council may require provision for maintenance of signage and discourages signage on common boundaries where maintenance difficulties could occur	Not located on common boundaries. Located such that maintenance can be undertaken when required.	Yes
Traffic and Pedestrian Safety		
(a) The proposed advertising, whether illuminated or not, must not impact adversely on the safety for pedestrians, cyclists and on any public road.	No impact as fixed to the wall of the building above/beside the car park entry/exit.	Yes
(b) Signage must be securely fastened to the structure or building to which it is attached, and must comply with all relevant Australian Standards and Building Code of Australia requirements.	Complies.	Yes
(c) Free standing signboards must be located	Not proposed.	NA

Requirement	Proposal	Comply
and designed so that they do not pose any safety risk to pedestrians or motorists.		
(d) Signage must not be liable to interpretation as an official traffic sign or to be confused with instructions given by traffic signals or other devices, or block the view of traffic signals or signs.	Complies.	Yes
(e) Signs facing roads with high traffic volumes, traffic lights or major intersections may be referred to the Roads and Maritime Services (RMS) for comment.	Not required for the proposed signage.	NA
Illumination and Electrical Wiring		
(a) The lighting intensity and hours of illumination must not unreasonably impact on any residential properties, adjoining or within the locality.	The signs are not illuminated.	NA
(b) The lighting intensity of an advertising sign must be capable of modification or control after installation.	The signs are not illuminated.	NA
(c) Illuminated signage must minimise the spill effects or escape of light beyond the subject sign, and must not compromise safety for pedestrians, vehicles or aircraft.	The signs are not illuminated.	NA
(d) Council may impose a curfew on sign illumination between 11pm to 6am the following day, or restrict illumination to hours of operation for late night trading premises, where it is considered that adjoining residential areas will be unreasonably impacted by the illuminated sign.	The signs are not illuminated.	NA
(e) Illuminated signage are generally inappropriate on sites fronting laneways, which serve as a buffer between residential, and business and retail areas.	The signs are not illuminated.	NA
(f) Illuminated signage in residential zones will be considered on their merits, where it can be demonstrated that spillage of light into adjoining or nearby residential properties will be minimal.	The signs are not illuminated.	NA
(g) Electrical wiring to illuminated signs or spotlights is to be concealed.	The signs are not illuminated.	NA
Wording and Content		

Requirement	Proposal	Comply
(a) All signage must be displayed in English but may include a translation in another language. Any translated message must be accurate and complete, and using wording and/or numbering that is not larger than the English message.	Complies.	Yes
(b) Signs must be attractive and professionally sign written.	Complies.	Yes
(c) Changes in the content or message of an signage are allowed without the approval of Council provided that: <ul style="list-style-type: none"> ▪ The advertising structure has been approved by Council; ▪ The size and dimensions of the sign remain as approved, or are reduced; ▪ There is no change to the intensity of, or hours of illumination; ▪ Moving or flashing messages or symbols are not proposed; and ▪ The message is not likely to cause distraction to motorists. 	Noted.	-
(d) The name or logo of the person who owns or leases an advertisement or advertising structure must not be greater than 0.25m ² and may appear only within the advertising display area.	Not proposed.	NA
(e) Where a business or organisation offers a product or service, the name of the business or organisation should have greater dominance over the product or service advertising.	Not proposed.	NA
(f) The wording and content of the advertising sign must not: <ul style="list-style-type: none"> ▪ Offend nearby sensitive land uses (churches, schools, day care centres); ▪ Contain undesirable discriminatory advertising messages as specified in the AntiDiscrimination Act 1977; ▪ Encourage unlawful purchase, excessive consumption of alcohol; or ▪ Promote anti-social behaviour. 	Complies.	Yes

Requirement	Proposal	Comply
Heritage Items		
(a) In all circumstances signage on the site of a heritage item or draft heritage item under the Hurstville LEP 2012, or that is subject to an Interim Heritage Order under the Heritage Act 1977, or that is listed on the State Heritage Register under that Act, requires development consent.	Not applicable.	NA
(b) Signage next to or in the vicinity of a heritage item should be designed and located in a manner which enhances and complements the item and streetscape, and does not dominate or detract from the heritage item.	Not applicable.	NA
(c) Applications for such signage will be considered on the merit of each individual case.	Not applicable.	NA
Signs on Parked Vehicles		
Signage on parked vehicles (cars, trucks, motorcycles, trailers etc.) is prohibited where the vehicle is unregistered or the principal purpose of the vehicle is for advertising purposes.	Not applicable.	NA
Large Developments		
Signage for large commercial type developments and those that contain multiple tenancies should be the subject of a co-ordinated approach to the design and siting of signs. Only one directory board will generally be permitted for multiple occupancy buildings.	Not applicable.	NA
New Developments		
For new buildings, the location, type and total number of advertising signs should be considered at the development application stage so that they can be integrated into the design of buildings. This information is to be included as part of any development application for a new building.	Not applicable.	NA

48. The proposed change from a retail car park to a paid public car park is supported as it will encourage the use of the parking spaces by retail customers rather than commuters or long stay visitors to the site and surrounding developments, and the number of existing car parking spaces is uncaged by the proposal.

Developer Contributions

49. The proposed development would require payment of developer contributions under Section 7.12 of the Environmental Planning and Assessment Act 1979. If the development consent is granted a condition outlining the required contributions will be imposed.

Impacts***Natural Environment***

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

Built Environment

51. The proposal represents an appropriate outcome for the site with respect to the existing development on the site and is an appropriate response to the context of the site and its B4 Mixed Use zoning.

Social Impact

52. No adverse social impacts have been identified as part of the assessment.

Economic Impact

53. No adverse economic impacts have been identified as part of the assessment.

Suitability of the site

54. The site is zoned B4 Mixed Use. The proposal is ancillary to the existing mixed use development on the site.

Submissions and the Public Interest

55. The DA was publicly notified to neighbours for a period of fourteen (14) days in November 2021 in accordance with Council's notification policy. 32 submissions were received primarily objecting to the access for retail parkers through resident and visitor parking areas. The use of the Forest Road and Jack Brabham Drive car park entry/exits by the retail component of the development was approved under DA2016/0218.
56. The application was re-notified in November 2022 as the site was not described correctly on the original notification letter. No submissions were received.
57. The issues raised in the submissions received in 2021 are addressed below.

Issues	Comments
Use of the resident and visitor entry and exits by retail customers	The use of the Forest Road and Jack Brabham Drive car park entry/exits by the retail component of the development was approved under DA2016/0218. The application seeks only to charge for
Safety of personal items in storage cages	Access to personal storage cages is currently available to any resident or visitor to the car park. The proposal does not change this arrangement.
Use of visitor parking spaces by retail customers	The use of the car park for retail customers was approved under DA2016/0218.
Access by the public to the ground floor of the residential building	Access to the ground floor by any visitor is currently available from the car park or from street level and access is unaltered by the proposal.

Traffic impacts on local roads	The introduction of timed parking will not increase traffic movements. The traffic and parking impacts were assessed at the time of the development applications for the buildings and car parks and deemed a suitable redevelopment of the site.
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Referrals

Council Referrals

Traffic Engineer

58. The application was referred to Council's Traffic Engineer for comment. No objection raised to the proposal subject to conditions of consent including:

Jack Brabham Drive- 10kph Shared Zone - Subject to the approval of the Georges River Council Local Traffic Committee, Jack Brabham Drive in the section in front of buildings F1 and F2 Stage 3 having a 10kph shared zone.

Contact shall be made with Council's Traffic Engineer for further discussions and the submission of an application. If approved, the zone with its associated pavement markings and signage shall be installed prior to the implementation of the timed and paid parking scheme with all costs being met by the applicant

Speed Humps and Signage - Speed humps and a "STOP" sign shall be installed within the site at the following locations to reduce the speed of vehicles before entering onto a footpath area.

- The exit ramp to Forest Road
- The exit ramp on Jack Brabham Drive at 2 Jack Brabham Drive

Details of the number, location, and dimensions of the speed humps shall be submitted to the Principal Certifying Authority for approval and installed prior to the implementation of timed and paid parking scheme.

External Referrals

Ausgrid

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

Conclusion

60. This development application seeks consent for the use of the existing retail car park as a public car park on land known as 93 and 99A Forest Road, 83 and 89 Durham Street, 6 and 12 Jack Brabham Drive, Hurstville and is legally described as Lots 6, 12, 14 and 15 in DP270611 and CP/SP103638.
61. The proposal has been assessed using the matters for consideration listed in Section 4.15 of the Environmental Planning and Assessment Act 1979. The proposal is considered to be a reasonable for this site and will be consistent with the desired future character of development in this location and immediate locality.
62. The proposal has been assessed against the provisions of the relevant SEPPs, Georges River LEP 2021 and Hurstville DCP No 2 with which the proposal meets all relevant objectives and controls.

Determination and Statement of Reasons

Statement of Reasons

63. The reasons for this recommendation are:

- The use of the existing retail car park as a timed and paid public car park will not adversely impact the operation of the car park or have adverse traffic impacts on local roads.

Determination

64. Pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act, 1979 (as amended), Development Application DA2021/0463 for use of the retail car park as a public car park on Lots 6 and 10 in DP270611 known as 93 and 99A Forest Road, Hurstville, is granted Development Consent subject to the following conditions:

Development Details

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

Description	Reference No.	Date	Revision	Prepared by
Basement 1 – Overall Plan	CPMP-DA2004	28/6/2021	A	DKO Architecture
Level 1 – Overall Plan	CPMP-DA2005	28/6/2021	A	DKO Architecture
East Elevation	CPMP-DA3100	28/6/2021	A	DKO Architecture
North Elevation	CPMP-DA3200	15/6/2021	D	DKO Architecture

Reports relied on:

- Traffic and Parking Review, dated 10 September 2021, prepared by MLA Transport Planning.
- Car Park Operations Plan prepared by InterPark.

Separate Approvals Required Under Other Legislation

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

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

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

- Placing or storing materials or equipment;

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

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

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

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

Prior to the Issue of a Construction Certificate

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

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

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

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

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

Fee Type	Fee
GENERAL FEES	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See https://portal.longservice.nsw.gov.au/bci/levy/	
Builders Damage Deposit	\$1,900.00
Inspection Fee for Refund of Damage Deposit	\$175.00
DEVELOPMENT CONTRIBUTIONS	
Georges River Council Local Infrastructure Contributions Plan 2021	\$2,340.00

General Fees

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

Development Contributions

Timing of Payment

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

Further Information

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

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

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

During Construction

6. **Hours of construction for demolition and building work** - Unless authorised by Council:
 - a. Building construction and delivery of material hours are restricted to: 7.00 am to 5.00 pm (inclusive) Monday to Saturday and no work on Sundays and Public Holidays.

- b. Demolition and excavation works are restricted to: 8.00 am to 5.00 pm (inclusive) Monday to Friday only. Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site.

7. **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.

Prior to the issue of the Occupation Certificate

8. **Jack Brabham Drive- 10kph Shared Zone** - Subject to the approval of the Georges River Council Local Traffic Committee, Jack Brabham Drive in the section in front of buildings F1 and F2 Stage 3 having a 10kph shared zone.

Contact shall be made with Council's Traffic Engineer for further discussions and the submission of an application. If approved, the zone with its associated pavement markings and signage shall be installed prior to the implementation of the timed and paid parking scheme with all costs being met by the applicant

9. **Speed Humps and Signage** - Speed humps and a "STOP" sign shall be installed within the site at the following locations to reduce the speed of vehicles before entering onto a footpath area.

- The exit ramp to Forest Road
- The exit ramp on Jack Brabham Drive at 2 Jack Brabham Drive

Details of the number, location, and dimensions of the speed humps shall be submitted to the Principal Certifying Authority for approval and installed prior to the implementation of timed and paid parking scheme.

Operational Requirements Under the Environmental Planning & Assessment Act 1979

10. **Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued.
11. **Appointment of a PCA** - The erection of a building must not commence until the applicant has:

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

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

- (a) appoint a Principal Contractor to undertake the building work. If residential building work (within the meaning of the [Home Building Act 1989](#)) is to be undertaken, the Principal Contractor must be a holder of a contractor licence; and
- (b) notify the PCA of the details of any such appointment; and

- (c) notify the Principal Contractor of any critical stage inspections or other inspections that are required to be carried out in respect of the building work.

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

- 12. Notification Requirements of PCA** - No later than two days before the building work commences, the PCA must notify:

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

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

A Notice of Commencement Form is attached for your convenience.

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

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

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

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

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

An Occupation Certificate Application Form is attached for your convenience.

Prescribed Conditions

- 17. 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.
- 18. Clause 98A - Erection of Signs** - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the PCA and the Principal Contractor.

- 19. 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](#).

END CONDITIONS

NOTES / ADVICES

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

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

2. **Appeal Rights** - Part 8 (Reviews and appeals) of the Environmental Planning and Assessment Act 1979 confers on an applicant who is dissatisfied with the determination of the application a right of appeal to the Land and Environment Court of New South Wales.
3. **Lapsing of Consent** - This consent will lapse unless the development is physically commenced within 5 years from the Date of Operation of this consent, in accordance with Section 4.53 of the Environmental Planning and Assessment Act 1979 as amended.
4. **Energy Efficiency Provisions** - Should Council be appointed as the Principal Certifying Authority, a report prepared and endorsed by an Energy Efficiency Engineer or other suitably qualified person must be submitted, detailing the measures that must be implemented in the building to comply with Basix Certificate. The proposed measures and feature of the building that facilitate the efficient use of energy must be identified and detailed on the architectural plans. At completion of the building and before the issue of an Occupation Certificate, a certificate certifying that the building has been erected to comply with the energy efficiency provisions must be submitted to the Principal Certifying Authority.
5. **Council as PCA - Total Conformity with BCA** - Should the Council be appointed as the Principal Certifier in determining the Construction Certificate, the building must comply with all the applicable deemed to satisfy provision of the BCA. However, if a performance solution is proposed it must comply with the performance requirements of the BCA, in which case, the performance solution, prepared by an appropriately qualified fire consultant, accredited and having specialist qualifications in fire engineering, must justify the non-compliances with a detailed report, suitable evidence and expert judgement.

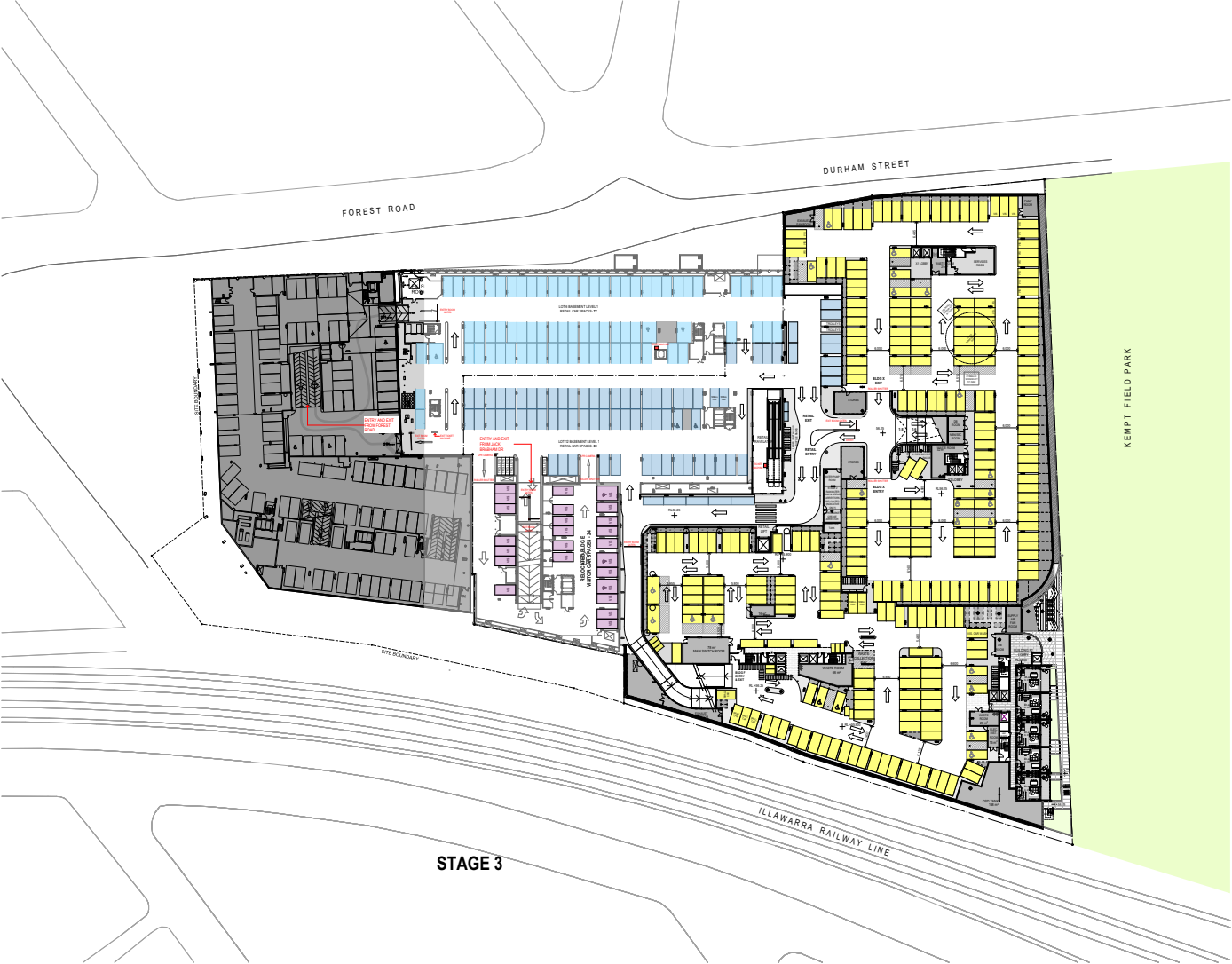
In this regard, detailed construction plans and specifications that demonstrate compliance with the above requirements of the BCA, including in relation to the provision of egress and the protection of openings etc. must be submitted with the Construction Certificate Application.

ATTACHMENTS

Attachment [↓](#)1  Architectural Plans

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Drawn: [Name] Checked: [Name] Date: [Date]
A 28/08/21 AN AN DA SUBMISSION

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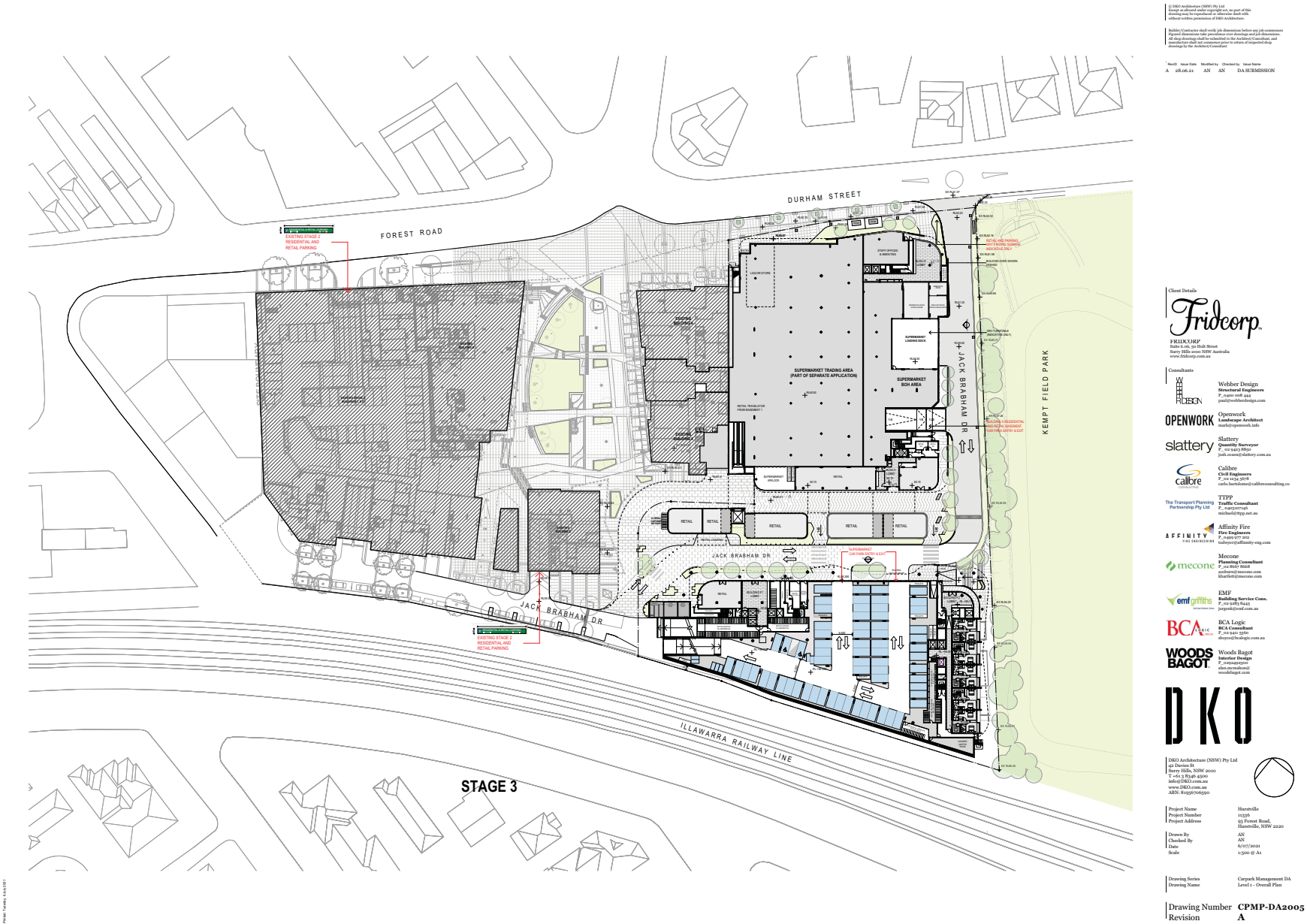
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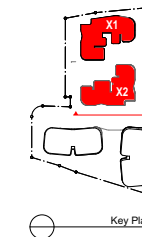
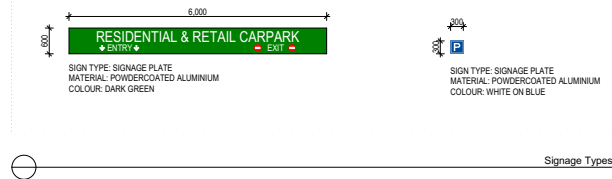
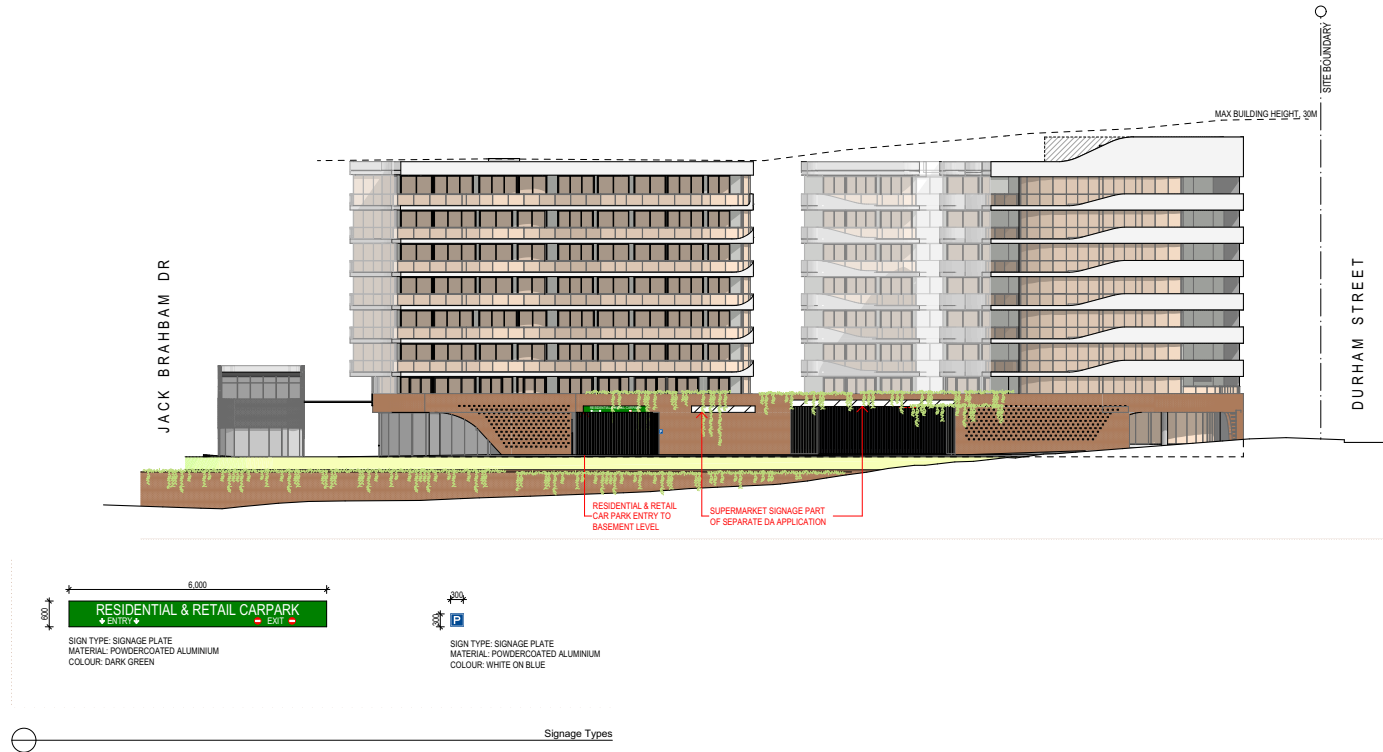
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Project Name	Hurstville
Project Number	15126
Project Address	101 Forest Road, Hurstville, NSW 2220
Drawn By	AN
Checked By	AN
Date	20/08/2021
Scale	1:500 @ A1

Drawing Series: Carpark Management DA
Drawing Name: Basement 1 - Overall Plan

Drawing Number: CPM-DA2004
Revision: A





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 DEO Architecture shall provide a copy of this drawing and all dimensions.
 All shop drawings shall be submitted to the Architect/Consultant, and
 approved by the Architect/Consultant prior to construction.
 Drawings by the Architect/Consultant.

Revised: 15/12/2022
 A 28/12/2022 AN AN DA SUBMISSION

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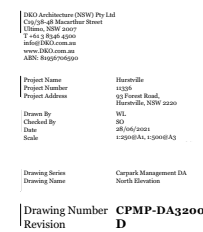
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Project Name: Hurstville
 Project Number: 15320
 Project Address: 99A Forest Road,
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Drawn By: AN
 Checked By: AN
 Date: 28/12/2022
 Scale: 1:250 (A1), 1:500 (A2)

Drawing Series: Carpark Management DA
 Drawing Name: East Elevation

Drawing Number: CPM-DA3100
 Revision: A



**REPORT TO GEORGES RIVER COUNCIL
LPP MEETING OF THURSDAY, 15 DECEMBER 2022**

LPP058-22

LPP Report No	LPP058-22	Development Application No	MOD2022/0101
Site Address & Ward Locality	2-8 Macpherson Street, Hurstville Hurstville Ward		
Proposed Development	Modifications to an approved Seniors Housing development		
Owners	NSW Land and Housing Corporation		
Applicant	NSW Land and Housing Corporation		
Planner/Architect	NSW Land and Housing / SJB		
Date Of Lodgement	30/06/2022		
Submissions	No submissions received		
Cost of Works	Original DA \$5,795,000.00		
Local Planning Panel Criteria	Determination by the Georges River Local Planning Panel is in the public interest given the modification seeks a variation to the floor space ratio greater than 10%.		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	State Environmental Planning Policy (Planning Systems) 2021, State Environmental Planning Policy (Housing) 2021, State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, Georges River Local Environmental Plan 2021, Georges River Development Control Plan 2021.		
List all documents submitted with this report for the Panel's consideration	Statement of Environmental Effects, Architectural Plans, Landscape Plan		
Report prepared by	Principal Planner		

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

Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Not Applicable
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	Not Applicable
Conditions Have draft conditions been provided to the applicant for comment?	Yes – the applicant has reviewed the conditions

Site Plan



Executive Summary Proposal

1. Development consent is sought for alterations to an approved seniors housing development.
2. The applicant seeks to modify Development Consent No DA2020/0342 in the following manner:

Ground Floor/Site Plan:

- Sliding door widths and heights amended to 2400w x 2400h
- Lawn within the Private Open Space areas amended to mass landscaping
- Main pathway changes to concrete finish
- Installation of underground pump room (6000 x 5500) and associated services/access
- Installation of a water storage tank
- Installation of pump out discharge point and 600 x 600 bin diversion pit to be connected to sewerage system
- Relocation of main electrical and comms enclosure (3200 x 600)
- Relocation of underground OSD
- Relocation of underground rainwater tank
- Relocation of water and gas metres
- Installation of large bore tank suction and booster arrangement & above ground hydrant
- All window head heights lowered to 2400 AFFL with 300mm sills
- Garbage store room shifted forward to accommodate pump room behind
- Landscaping amendments surrounding parking and driveway as recommended by the Traffic Engineer
- Garden Wall location moved to accommodate hardstand area
- Rationalisation and realignment of external walls
- Increase in internal wall widths to accommodate packing of services

First Floor:

- Additional privacy screen included to apartment 1.01 balcony
- Sliding door widths and heights amended to 2400w x 2400h
- All window head heights lowered to 2400 AFFL with 300mm sills
- Rationalisation and realignment of external walls
- Increase in internal wall widths to accommodate packing of services

Roof Plan:

- Proposed roof material changed from tile to metal roofing
- Roof form adjusted to suit conventional construction methodology
- Revised roof angle/pitch on northern building from 13.3 degrees and 24 degrees to 10.9 degrees and 19.9 degrees respectively
- Revised roof angle/pitch on the southern building from 11.4 degrees and 14.6 degrees to 8.8 degrees and 10.8 degrees respectively

3. The FSR for the development has also been amended from 0.61:1 to 0.62:1. This modification is due to the rationalisation and minor realignment of external walls, including minor increases to internal wall widths to accommodate packing of services. These amendments have resulted in a combined GFA of 743m² for each floor across both buildings (1486m² total). This is a 13m² total increase to the ground floors and a 19m² total increase to the first floors across both buildings (32m² total).
4. The development was approved under Hurstville LEP 2012. The maximum FSR under Clause 4.4 of HLEP 2012 was 0.6:1 (1,428sqm). The approved FSR of the development was 1,452sqm or 0.61:1, a variation equating to 24sqm or 1.7%.
5. This modification has been lodged under Georges River LEP 2021 and the maximum FSR under Clause 4.4 is now 0.55:1 or 1,309sqm.

6. The proposal seeks to increase the FSR of the development through the realignment of walls to accommodate services and totals 32sqm above the approved GFA but is 176.4sqm above the maximum permitted GFA under GRLEP 2021.
7. This results in a variation to the FSR standard of 0.62:1, which represents a variation of 13.5%. Referral to the Local Planning Panel is therefore in the public interest.
8. An assessment of the FSR variation is provided in this report.

Site and Locality

9. The site is known as 2-8 Macpherson Street, Hurstville and consists of four allotments (Lots 55 to 58 in DP35124). It is irregular in shape and yields a total site area of 2,381.1sqm. The site has frontage to Macpherson Street and currently situated on the site are four single storey detached dwellings.
10. The site is located in a low density residential area characterised by one and two storey dwelling houses. The adjacent properties contain a single storey dwelling house at No. 7 Low Street, which is similar in size to the existing dwellings on the site, and No. 10 Macpherson Street which contains a two storey dwelling house. The properties to the rear on Emily Street contain a mix of single and two storey dwelling houses.

Zoning and Permissibility

11. The site is zoned R2 Low Density Residential under the provisions of Georges River Local Environmental Plan 2021 (GRLEP 2021). Development for the purposes of seniors housing is made permissible under Clause 4 of the State Environmental Planning Policy (Housing) 2021.

Georges River Development Control Plan 2021

12. The provisions of Georges River Development Control Plan 2021 are applicable to the proposed development. A detailed assessment of the proposal against the relevant controls is provided later in this report.

Submissions

13. The application was notified for 14 days in accordance with Council's notification policy. No submissions were received.

Reason for Referral to the Local Planning Panel

14. This application is referred to the Georges River Local Planning Panel for determination as a discretionary decision of the Director Environment and Planning as the applicant is seeking a variation greater than 10% to the maximum Floor Space Ratio standard (the modification seeks to increase the floor space beyond that already approved).

Conclusion

15. Having regard to the matters for consideration under section 4.15(1) and 4.55(1a) of the Environmental Planning and Assessment Act 1979 and following a detailed assessment, the proposed Modification Application (MOD2022/0101) is recommended for approval subject to conditions of consent.

Report in Full

Background

16. The modification application was lodged on 30 June 2022.
17. The approved development is for demolition works, tree removal, and construction of a seniors housing development and consolidation of the site into a single lot under DA2020/0342, which was approved by the Sydney South Planning Panel on 21 May 2021.
18. This is a modification application lodged pursuant to Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 (EP&A Act) and proposes modifications to Development Consent DA2020/0342 as detailed in this report.

Approved Development

19. DA2020/0342 was submitted by the NSW Land and Housing Corporation pursuant to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 for demolition works, tree removal, and construction of a seniors housing development and consolidation of the site into a single lot.
20. The built form comprises two buildings with pedestrian and vehicular access from Macpherson Street and at-grade car parking for a total of six (6) vehicles including four accessible spaces separating the buildings.
21. The ground and first floors of the north-eastern building each contain six (6) units (3 x 1B unit and 3 x 2B units).
22. The ground and first floors of the north-western building each contain four (4) units (1 x 1B unit and 3 x 2B units).
23. Vehicular and pedestrian access to the site is provided via a driveway from Macpherson Street and five (5) ground floor units also have independent pedestrian access from Macpherson Street.
24. The approved Site Plan is shown in Figure 1. Construction is yet to commence.

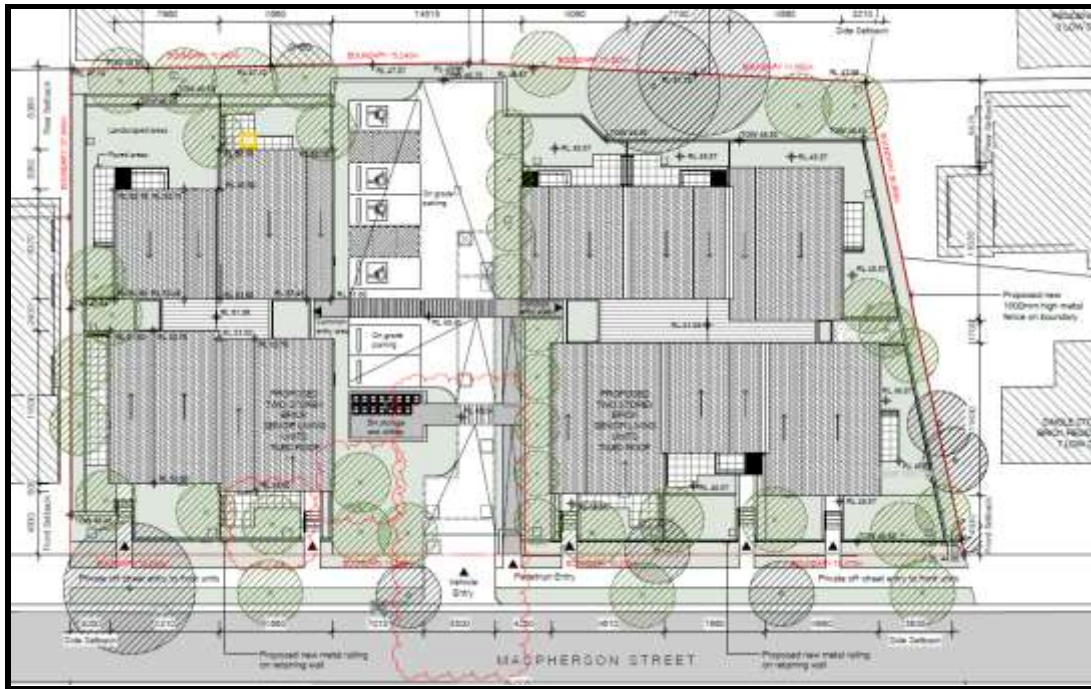


Figure 1: Approved Site Plan

Proposal

25. The applicant seeks to modify Development Consent No DA2020/0342 in the following manner:

Ground Floor/Site Plan:

- Sliding door widths and heights amended to 2400w x 2400h
- Lawn within the Private Open Space areas amended to mass landscaping
- Main pathway changes to concrete finish
- Installation of underground pump room (6000 x 5500) and associated services/access
- Installation of a water storage tank
- Installation of pump out discharge point and 600 x 600 bin diversion pit to be connected to sewerage system
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Roof Plan:

- Proposed roof material changed from tile to metal roofing
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- Revised roof angle/pitch on northern building from 13.3 degrees and 24 degrees to 10.9 degrees and 19.9 degrees respectively
- Revised roof angle/pitch on the southern building from 11.4 degrees and 14.6 degrees to 8.8 degrees and 10.8 degrees respectively

26. The FSR for the development has also been amended from 0.61:1 to 0.62:1. This modification is due to the rationalisation and minor realignment of external walls, including minor increases to internal wall widths to accommodate packing of services.
27. These amendments have resulted in a combined GFA of 743m² for each floor across both buildings (1,486m² total). This is a 13m² total increase to the ground floors and a 19m² total increase to the first floors across both buildings (32m² total).
28. The development was approved under Hurstville LEP 2012. The maximum FSR under Clause 4.4 of HLEP 2012 was 0.6:1 (1,428sqm). The approved FSR of the development was 1,452sqm or 0.61:1, a variation equating to 24sqm or 1.7%.
29. This modification has been lodged under Georges River LEP 2021 and the maximum FSR under Clause 4.4 is now 0.55:1 or 1,309sqm.
30. The proposal seeks to increase the FSR of the development through the realignment of walls to accommodate services and totals 32sqm above the approved GFA but is 176.4sqm above the maximum permitted GFA under GRLEP 2021.
31. This results in a variation to the FSR standard of 0.62:1, which represents a variation of 13.5%. The Local Planning Panel is therefore the determining authority.
32. An assessment of the FSR variation is provided in this report.
33. The proposed Site Plan is shown in Figure 2.

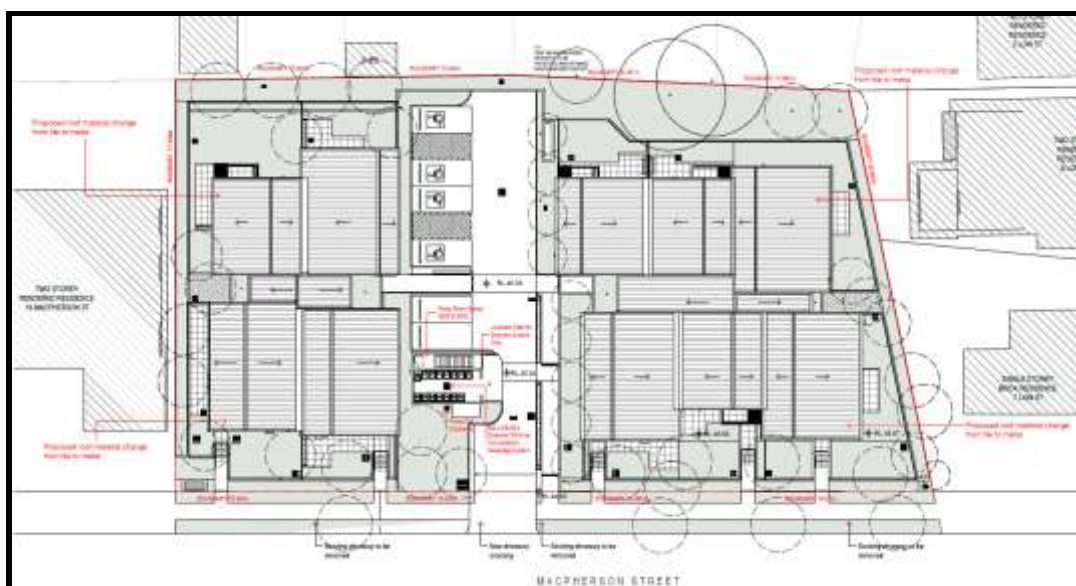


Figure 2: Proposed Site Plan

Site and Locality

34. The site is known as 2-8 Macpherson Street, Hurstville and consists of four allotments (Lots 55 to 58 in DP35124). It is irregular in shape and yields a total site area of 2,381.1sqm. The site has frontage to Macpherson Street and currently situated on the site are four single storey detached dwellings shown in the figures below.



Figure 3: No. 2 Macpherson Street



Figure 4 No. 4 Macpherson Street



Figure 5 Nos. 6 and 8 Macpherson Street

35. The site is located in a low density residential area characterised by one and two storey dwelling houses. The adjacent properties contain a single storey dwelling house at No. 7 Low Street, which is similar in size to the existing dwellings on the site (Figure 6), and No. 10 Macpherson Street which contains a two storey dwelling house (Figure 7). The properties to the rear on Emily Street contain a mix of single and two storey dwelling houses.



Figure 6 No. 7 Low Street (south-east of the site)



Figure 7 No. 10 Macpherson Street (north-west of the site)



Figure 8 Dwellings opposite the site on Macpherson Street



Figure 9 Dwellings opposite the site on Macpherson Street

Compliance and Assessment

36. The development has been assessed having regard to Matters for Consideration under Section 4.15(1) and 4.55(1a) of the Environmental Planning and Assessment Act 1979.

Section 4.55 (1a) Modification under the Environmental Planning and Assessment Act, 1979

37. The application has been made pursuant to Section 4.55(1a) of the Environmental Planning and Assessment Act 1979 to modify Development Consent DA2020/0342 determined on 21 May 2021 by the Sydney South Planning Panel. A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if it:

- (a) **Is satisfied the proposed modification is of minimal environmental impact**
The proposed modifications are minor and will have no environmental impact.
- (b) **it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all),**
The proposed development as modified would represent substantially the same development for which consent was originally granted being a seniors housing development.
- (c) **Has notified the application in accordance with the regulations or a development control plan?**
The application was notified in accordance with the provisions of council's notification policy.

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

No submissions were received.

Section 4.15 Evaluation

38. In determining a Section 4.55(1A) modifications the provisions of Section 4.15 of the EP&A Act 1979 (where relevant) need to be considered as part of the assessment. The following considers the proposal in respect to these requirements.

State Environmental Planning Policies

39. Compliance with the relevant State Environmental Planning Policies (SEPPs) are listed in the table below. The modification does not alter the level of compliance with the approved development.

State Environmental Planning Policy Title	Complies
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Yes – no change from approved
State Environmental Planning Policy (Resilience and Hazards) 2021	Yes – no change from approved
State Environmental Planning Policy (Transport and Infrastructure) 2021	Yes – no change from approved
State Environmental Planning Policy (Planning Systems) 2021	Yes – no change from approved
State Environmental Planning Policy (Building and Sustainability Index: 2004)	Yes – updated certificate has been submitted
State Environmental Planning Policy (Housing) 2021	Yes – see below

State Environmental Planning Policy (Biodiversity and Conservation) 2021

40. 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

41. 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.
42. 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).*
43. No vegetation is impacted by the amended proposal.

Chapter 11 – Georges River Catchment

44. 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,*

45. There is no change to the approved stormwater system.

State Environmental Planning Policy (Resilience and Hazards) 2021

46. Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 is relevant to the proposal.
47. 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.
48. 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.
49. A review of the site history indicates that the site has been used for residential purposes for extended periods of time, and such uses and/or development are not typically associated with activities that would result in the contamination of the site. The proposed works do not include any change to the use of the land that would result in any concerns with respect to contamination. There is no indication of previous uses that would cause contamination. In this regard there is no indication that the land is contaminated.

State Environmental Planning Policy (Transport and Infrastructure) 2021

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

State Environmental Planning Policy (Housing) 2021

52. The approved DA was lodged pursuant to SEPP Seniors Housing, which has since been repealed. SEPP (Housing) 2021 now provides controls for seniors housing developments. The table below provides an assessment of the proposed modification against the relevant clauses of Part 5 of the SEPP.

Clause	Proposed	Complies
<p>99 Neighbourhood amenity and streetscape</p> <p>Seniors housing should be designed to—</p> <ul style="list-style-type: none"> (a) recognise the operational, functional and economic requirements of residential care facilities, which typically require a different building shape from other residential accommodation, and (b) recognise the desirable elements of— <ul style="list-style-type: none"> (i) the location's current character, or (ii) for precincts undergoing a transition—the future character of the location so new buildings contribute to the quality and identity of the area, and (c) complement heritage conservation areas and heritage items in the area, and (d) maintain reasonable neighbourhood amenity and appropriate residential character by— <ul style="list-style-type: none"> (i) providing building setbacks to reduce bulk and overshadowing, and (ii) using building form and siting that relates to the site's land form, and (iii) adopting building heights at the street frontage that are compatible in scale with adjacent buildings, and (iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and (e) set back the front building on the site generally in line with the existing building line, and (f) include plants reasonably similar to other plants in the street, and (g) retain, wherever reasonable, significant trees, and (h) prevent the construction of a building in a riparian zone. 	<p>The proposed modification retains the approved presentation to the street and includes additional planting within the private open space areas of the street-facing dwellings.</p>	<p>Yes</p>
<p>100 Visual and acoustic privacy</p> <p>Seniors housing should be designed to consider the visual and acoustic privacy of adjacent neighbours and residents by—</p> <ul style="list-style-type: none"> (a) using appropriate site planning, including considering the location and design of windows and balconies, the use of screening devices and landscaping, and (b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths. 	<p>No change to existing with the exception of a lowering of the head height of windows to 2.4m.</p>	<p>Yes</p>

Clause	Proposed	Complies
<p>101 Solar access and design for climate The design of seniors housing should— (a) for development involving the erection of a new building—provide residents of the building with adequate daylight in a way that does not adversely impact the amount of daylight in neighbouring buildings, and (b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation, solar heating and lighting by locating the windows of living and dining areas in a northerly direction.</p>	No change to existing.	Yes
<p>102 Stormwater The design of seniors housing should aim to— (a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and (b) include, where practical, on-site stormwater detention or re-use for second quality water uses.</p>	No change to existing.	Yes
<p>103 Crime prevention Seniors housing should— (a) be designed in accordance with environmental design principles relating to crime prevention, and (b) provide personal property security for residents and visitors, and (c) encourage crime prevention by— (i) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins the area, driveway or street, and (ii) providing shared entries, if required, that serve a small number of dwellings and that are able to be locked, and (iii) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.</p>	No change to existing.	Yes

Clause	Proposed	Complies
104 Accessibility Seniors housing should— (a) have obvious and safe pedestrian links from the site that provide access to transport services or local facilities, and (b) provide attractive, yet safe, environments for pedestrians and motorists with convenient access and parking for residents and visitors.	No change to existing.	Yes
105 Waste management Seniors housing should include waste facilities that maximise recycling by the provision of appropriate facilities.	No change to existing.	Yes
108 Non-discretionary development standards for independent living units—the Act, s 4.15 (2) The following are non-discretionary development standards in relation to development for the purposes of independent living units—		
(a) no building has a height of more than 9.5m, excluding servicing equipment on the roof of a building,	No change to approval at 8m.	Yes
(b) servicing equipment on the roof of a building, which results in the building having a height of more than 9.5m— (i) is fully integrated into the design of the roof or contained and suitably screened from view from public places, and (ii) is limited to an area of no more than 20% of the surface area of the roof, and (iii) does not result in the building having a height of more than 11.5m,	Not proposed.	Yes
(c) the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less,	Approved: 0.61:1 Proposed: 0.62:1	On merit – refer to FSR discussion in this report
(d) for a development application made by a social housing provider—at least 35m ² of landscaped area per dwelling,	No change to existing.	Yes
(e) if paragraph (d) does not apply—at least 30% of the site area is landscaped,	NA – see above.	NA
(f) a deep soil zone on at least 15% of the site area, where each deep soil zone has minimum dimensions of 3m and, if practicable, at least 65% of the deep soil zone is located at the rear of the site,	17% provided.	Yes
(g) at least 70% of the dwellings receive at least 2 hours of direct solar access between 9am and 3pm at mid-winter in living rooms and private open spaces,	No change to existing.	Yes

Clause	Proposed	Complies
<p>(h) for a dwelling in a single storey building or a dwelling located, wholly or in part, on the ground floor of a multi-storey building—</p> <p>(i) at least 15m² of private open space per dwelling, and</p> <p>(ii) at least 1 private open space with minimum dimensions of 3m accessible from a living area located on the ground floor,</p> <p>Note— The open space needs to be accessible only by a continuous accessible path of travel, within the meaning of AS 1428.1, if the dwelling itself is an accessible one—see Schedule 4, section 2.</p>	All ground floor units have between 34sqm and 81sqm private open space, of the required dimensions and accessible from the living areas of the dwelling.	Yes
<p>(i) for a dwelling in a multi-storey building not located on the ground floor—a balcony accessible from a living area with minimum dimensions of 2m and—</p> <p>(i) an area of at least 10m², or</p> <p>(ii) for each dwelling containing 1 bedroom—an area of at least 6m²,</p>	No change to existing.	Yes
<p>(j) for a development application made by, or made by a person jointly with, a social housing provider—at least 1 parking space for every 5 dwellings,</p>	No change to existing.	Yes
<p>(k) if paragraph (j) does not apply—at least 0.5 parking spaces for each bedroom.</p>	NA – see above.	NA

Georges River Local Environmental Plan 2021

53. The subject site is zoned R2 Low Density Residential under the provisions of the Georges River Local Environmental Plan 2021. Refer to zoning map below:

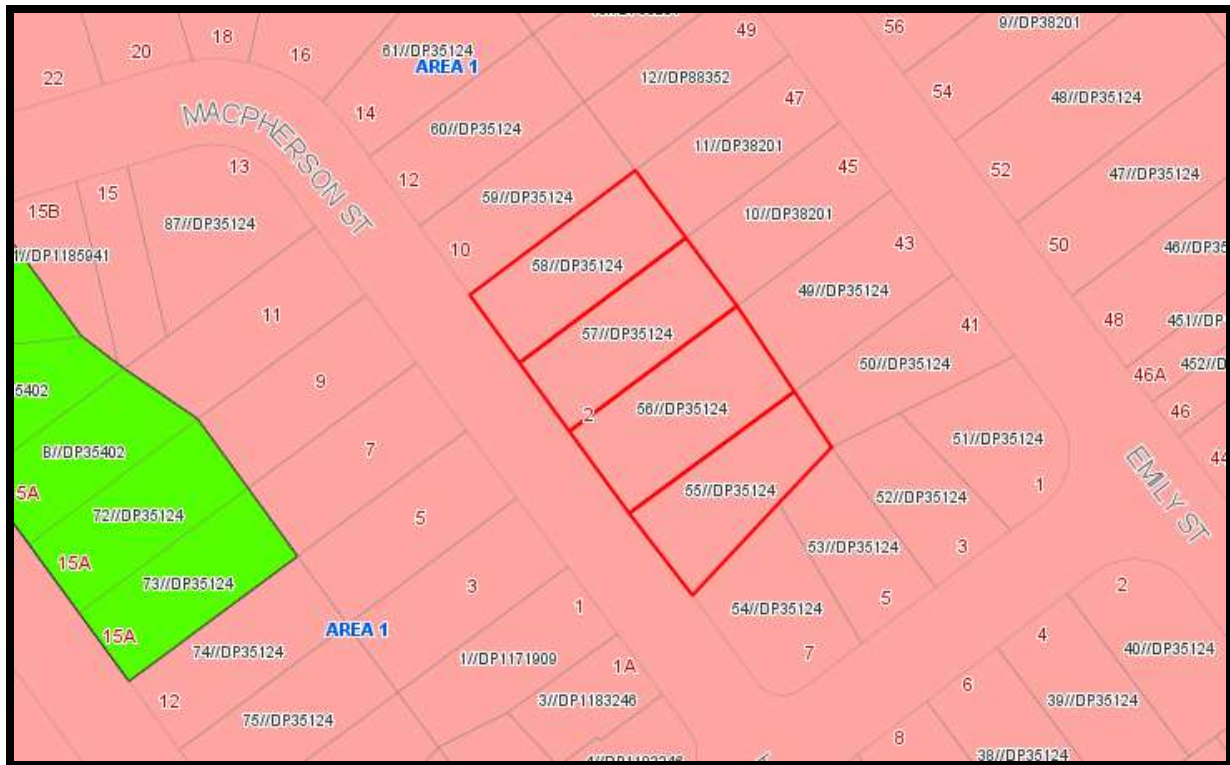


Figure 10: Zoning map (GRLEP 2021) – site edged red

54. The objectives of the zone are as follows:
- To provide for the housing needs of the community within a low density residential environment.
 - To enable other land uses that provide facilities or services to meet the day to day needs of residents.
 - To promote a high standard of urban design and built form that enhances the local character of the suburb and achieves a high level of residential amenity.
 - To provide for housing within a landscaped setting that enhances the existing environmental character of the Georges River local government area.
55. The proposed development meets the objectives of the zone by providing housing for seniors in a suitable residential area. The proposal has been designed to minimise impacts on neighbouring properties and provide a high level of amenity for future residents, within a well landscaped setting.
56. The extent to which the proposed development complies with the relevant clauses of the Georges River Local Environmental Plan 2021 (GRLEP 2021) is detailed and discussed in the table below.

Clause	Standard	Proposed	Complies
Part 4 - Principal Development Standards			
4.3 – Height of Buildings	9m as identified on Height of Buildings Map	No change from approved height.	Yes
4.4 – Floor Space Ratio	Maximum permitted FSR of 0.55:1 or 1,309.6sqm	Approved (HLEP 2012): 0.61:1 1,452sqm Proposed: 0.62:1 1,486sqm	No – 13.5% variation Refer to discussion following this table
Part 6 - Additional Local Provisions			

Clause	Standard	Proposed	Complies
6.2 – Earthworks	<p>(2) Development consent is required for earthworks unless—</p> <p>(a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or</p> <p>(b) the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.</p>	The proposed earthworks are ancillary to the proposed development and are acceptable for this form of development.	Yes
6.3 – Stormwater Management	<p>(2) In deciding whether to grant development consent for development, the consent authority must 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</p>	No objection raised by Council's Engineer no amendment to conditions required.	Yes

Clause	Standard	Proposed	Complies
	<p>mitigates the impact, and</p> <p>(d) is designed to minimise the impact on public drainage systems.</p>		
6.10 - Design excellence	<p>(2) This clause applies to development on land referred to in subclause (3) involving—</p> <p>(a) the erection of a new building, or</p> <p>(b) additions or external alterations to an existing building that, in the opinion of the consent authority, are significant.</p> <p>(3) This clause applies to development on the following land—</p> <p>(a)</p> <p>(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,</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> <p>(4) Development consent must not be granted for development to which this clause applies unless the consent authority considers that the development exhibits</p>	Not applicable.	NA

Clause	Standard	Proposed	Complies
	<p>design excellence.</p> <p>(5) In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters—</p> <p>(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,</p> <p>(b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,</p> <p>(c) whether the development detrimentally impacts on view corridors,</p> <p>(d) how the development addresses the following matters—</p> <p>(i) the suitability of the land for development,</p> <p>(ii) existing and proposed uses and use mix,</p> <p>(iii) heritage issues and streetscape constraints,</p> <p>(iv) the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,</p> <p>(v) bulk, massing and modulation of buildings,</p> <p>(vi) street frontage heights,</p> <p>(vii) environmental impacts such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity,</p> <p>(viii) pedestrian, cycle, vehicular and service access and circulation</p>		

Clause	Standard	Proposed	Complies
	requirements, including the permeability of pedestrian networks, (ix) the impact on, and proposed improvements to, the public domain, (x) achieving 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.		

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Assessment of Floor Space Ratio (FSR) variation

57. The development was approved under Hurstville LEP 2012. The maximum FSR under Clause 4.4 of HLEP 2012 was 0.6:1 (1,428sqm). The approved FSR of the development was 1,452sqm or 0.61:1, a variation equating to 24sqm or 1.7%.
58. This modification has been lodged under Georges River LEP 2021. In comparison to the Hurstville LEP, the maximum FSR under this instrument is now reduced with the maximum FSR under Clause 4.4 of the GRLEP being 0.55:1 or 1,309sqm.
59. The proposal seeks to increase the FSR of the development through the realignment of walls to accommodate services and totals 32sqm above the approved GFA but is 176.4sqm above the maximum permitted GFA under GRLEP 2021.
60. This results in a variation to the FSR standard of 0.62:1, which represents a variation of 13.5%. The Local Planning Panel is therefore the determining authority.
61. The applicant has addressed the variation in their Statement of Environmental Effects and has been reproduced below.

Clause 50 of the repealed SH SEPP set a non-refusable FSR standard of 0.5:1 to address density and scale. The FSR standard under Section 108 of the new Housing SEPP is now referred to as a non-discretionary FSR standard, however remains at 0.5:1. It should also be noted that at the time of approval the HLEP2012 set a FSR of 0.6:1 for this site. The proposed modification includes an amendment to the FSR for the development, from 0.61:1 to 0.62:1 as a result of rationalisation and minor realignment of external walls, including minor increases to internal wall widths to accommodate packing of services. These amendments have resulted in a combined GFA of 743m² for each floor across both buildings (1486m² total). This is a 13m² total increase to the ground floors and a 19m² total increase to the first floors across both buildings (32m² total).

The development was approved with an FSR of 0.61:1 as the panel were satisfied that there are sufficient planning grounds to justify contravening the LEP development standard and the development was consistent with the objectives of the HLEP 2012 and the objectives of the R2 Low Density Residential zone. This minor amendment to the FSR of the development is compatible with the existing and desired future density of residential development in the surrounding area and remains substantially in accordance with the approved plans.

There are no major changes to the design of the development, bulk, scale and layout of the building and site configuration. As such, there is no impact with regards to the ability for the modified proposal to continue to meet the design outcomes outlined in the SEPP and the Guidelines.

62. In the NSW Land and Environment Court case of *Gann & Anor v Sutherland Shire Council [2008]*, the Court held that there is power to modify a development application (via a Section 4.55 application) where the modification would result in the breach of development standards. The Court took the view that development standards within an LEP did not operate to prohibit the granting of consent if they were not complied with (and no objection pursuant to SEPP No. 1 (now relevant to a Clause 4.6 variation) had been lodged). Notwithstanding, the Court held that despite a SEPP No. 1 Objection (or Clause 4.6 variation now) not being required, a Section 96 application (this being a Section 4.56 of the EP&A Act) still requires the consent authority to take into consideration those matters referred to in Section 4.15. These matters, where relevant to the application are assessed below.

Objectives of Clause 4.4 – Floor space ratio

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

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

64. The proposal satisfies the objectives of the floor space control as the additional floor space located within the footprint of the approved building (being the realignment of walls to accommodate services) and will not add to the perceived approved bulk of the building.
65. The site is located in the R2 Low Density Residential zone, the objectives of which are:
 - *To provide for the housing needs of the community within a low density residential environment.*
 - *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
 - *To promote a high standard of urban design and built form that enhances the local character of the suburb and achieves a high level of residential amenity.*
 - *To provide for housing within a landscaped setting that enhances the existing environmental character of the Georges River local government area.*
66. The modified proposal satisfies the relevant objectives of the zone in that it does not alter the approved intensity of residential land use and continues to provide a development with high levels of amenity for residents and neighbours within a landscaped setting.
67. The minor numerical variation to the floor space development standard is acceptable on merit as the proposal meets the objectives of both the zone and the development standard.
68. On “planning grounds” the modified proposal does not alter the degree of which compliance with the zone objectives was achieved under the originally approved development. The modifications will not result in any amenity impacts on adjoining sites given the additional floor area is confined to the approved building footprint.
69. Although an objection pursuant Clause 4.6 is not required, the reasoning applied in *Wehbe v Pittwater Council* [2007] NSW LEC 827, is appropriate to rely upon to determine that the proposal is well founded despite the departure from Clause 4.4 of Georges River LEP 2021. In the judgement the Honourable Brian Preston, Chief Justice of the Land and Environment Court, set out 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy.
70. The proposal is considered to be consistent with the first of these in that the objectives of the FSR standard and the R2 zone objectives are achieved notwithstanding the numerical variation proposed.
71. Given that compliance with the zone and development standard objectives is achieved, insistence on strict compliance with the FSR standard is considered to be unreasonable and unnecessary in the circumstances. The proposal is compliant with the relevant objectives and will create no environmental impacts. The proposal is therefore justified on environmental planning grounds.
72. It is noted that in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ clarified what items a Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a “better” planning outcome:

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

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

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

Georges River Development Control Plan 2021

74. The proposed development is subject to the provisions of Part 3 of the Georges River Development Control Plan 2021.

Part 3 – General Planning Considerations

3.2.1 Trees and Vegetation

Control	Proposal	Compliance
Development is to comply with the provisions of the relevant SEPP's and Council's Tree Management Policy.	The proposal has been assessed with regards to the identified matters and complies with the identified requirements (see specialist comments).	Yes

Control	Proposal	Compliance
Development should, through its siting, design and landscape treatment, maximise habitat values and minimise disruption to connectivity through: i. Allocating 1 boundary of the site to the planting of indigenous vegetation of a	Achieved.	Yes

<p>mix of canopy species (over 3m height at maturity) and understory species (less than 3m height at maturity).</p> <p>ii. Retention and revegetation of remnant bushland elements.</p>		
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3.3 Landscaping

Control	Proposal	Compliance
<p>Landscaping on site should be incorporated into the site planning of a development to (where appropriate):</p> <p>i. Reinforce the desired future character of the locality;</p> <p>ii. Maintain significant 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;</p> <p>vi. Soften the visual impact of buildings, carparks and roads;</p> <p>vii. Cater for outdoor recreation areas;</p> <p>viii. Separate</p>	<p>The landscape scheme proposed addresses the matters identified as appropriate.</p>	<p>Yes</p>

<p>ix. conflicting uses; 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>		
Landscape planting should achieve a mature height in scale with the structures on the site.	The proposed landscaping is of an appropriate scale relative to the proposed structures.	Yes
Where landscaping is required, this should incorporate locally indigenous plants listed in the GRDCP 2021 Backyard Biodiversity Guide and Council's Tree Management Policy.	The proposal suitably incorporates locally indigenous species.	Yes

3.5 Earthworks

Control	Proposal	Compliance
Natural ground level should be maintained within 900mm of a side or rear boundary.	The proposal maintains existing ground level near site and rear boundaries.	Yes
Cut and fill should not alter natural or existing ground	The proposal does not alter natural/existing	Yes

levels by more than 1m	ground level by more than 1m	
Habitable Rooms (not including bathrooms, laundries and storerooms) are to be located above existing ground level.	Habitable rooms are located above existing ground level.	Yes
Rock outcrops, overhangs, boulders, sandstone platforms or sandstone retaining walls are not to be removed or covered.	All existing elements as specified are being retained.	Yes
Development is to be located so that the clearing of vegetation is avoided.	The proposal and associated earthworks is sited so that vegetation removal is avoided where practical and desirable.	Yes
Cut and fill within a tree protection zone of a tree on the development site or adjoining land must be undertaken in accordance with AS4970 (protection of trees on development sites).	Conditions proposed.	Conditions.
Soil depth around buildings should be capable of sustaining trees as well as shrubs and smaller scale gardens.	Adequate soil depths provided.	Yes
Earthworks are not to increase or concentrate overland stormwater flow or aggravating existing flood conditions on adjacent land.	The earthworks proposed do not impact adversely on stormwater or flood with regards to impacts on adjoining properties.	Yes
Fill material must be virgin excavated natural material (VENM)	Condition proposed.	Condition
For flood affected sites, cut and fill is to comply with the requirements of Chapter 6 of Council's Stormwater Management Policy	N/A	N/A

3.5.2 Construction Management/Erosion and Sediment Control

Control	Proposal	Compliance
Development must minimise any soil loss from the site to reduce impacts of sedimentation on	The proposal includes a sediment control plan indicating implementation of these measures.	Conditions

<p>waterways through the use of the following:</p> <ul style="list-style-type: none"> - Sediment fencing; - Water diversion; - Single entry/exit points - Filtration materials such as straw bales and turf strips. <p>Development that involves site disturbance is to provide an erosion and sediment control plan which details the proposed method of soil management and its implementation. Such measures are to be in accordance with The Blue Book – Managing Urban Stormwater, Soils & Construction by LandCom</p>	<p>Conditions are also recommended in this regard.</p>	
<p>Development is to minimise site disturbance including impacts on vegetation and significant trees and the need for cut and fill.</p>	<p>The proposal minimises cut and fill and site disturbance.</p>	<p>Yes.</p>
<p>Development which has a high potential risk to groundwater must submit a geotechnical report to address how possible impacts on groundwater are minimised.</p>	<p>N/A</p>	<p>N/A</p>

3.10 Water Management

Control	Proposal	Compliance
<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>

the design of stormwater drainage, on-site retention and detention, landscaping and within the overall design of the development.		
<p>Flood Risk Management</p> <p>(a) Development must comply with the Flooding and Overland Flow Section of Council's Stormwater Management Policy in conjunction with the NSW Government's Floodplain Development Manual 2005.</p>	The proposal has been reviewed by Council's Development Engineer and has been found to be satisfactory with regards to this clause.	Yes
<p>Water Quality</p> <p>(a) Measures to control pollutants in stormwater discharge from development sites are to be included in any development.</p> <p>(b) Runoff entering directly to waterways or bushland is to be treated to reduce erosion and sedimentation, nutrient and seed dispersal.</p>	The proposal includes a sediment control plan, and is otherwise satisfactory with regards the relevant parts of the clause.	Yes

3.11 Ecologically Sustainable Development

Control	Proposal	Compliance
All developments to comply with BASIX	See BASIX SEPP assessment	Yes
Photovoltaic solar panels	NA	NA
The use, location and		

placement of photovoltaic solar panels are to consider the potential permissible building form on adjacent properties.

Where possible, proposals for new buildings, alterations and additions, and major tree plantings are to maintain solar access to existing photovoltaic solar panels having regard to their performance, efficiency, economic viability, and reasonableness of their location

3.12 Waste Management

Control	Proposal	Compliance
Development must comply with Appendix 4 of the DCP.	The proposal complies with this document.	Yes

3.14 Utilities

Control	Proposal	Compliance
(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

3.15 Public Domain

Control	Proposal	Compliance
Public domain should be improved by new street plantings and footpath improvements	No change to approval.	Yes

3.17 Universal /Accessible Design

Control	Proposal	Compliance
Accessways for pedestrians and vehicles to be separated	Yes	Yes

3.19 Crime Prevention/Safety and Security

Control	Proposal	Compliance
<p>(a) Active spaces and windows of habitable rooms within buildings are to be located to maximise casual surveillance of the public domain.</p> <p>(b) Building entries are to be clearly visible and identifiable.</p> <p>(c) A clear transitional space between public and private areas is to be provided.</p>	The proposal incorporates the outlined measures.	Yes

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Impacts***Natural Environment***

75. The proposed modification will not directly impact the natural environment.

Built Environment

76. The proposed modification will not directly impact the built environment.

Social Impact

77. The assessment demonstrates that the proposal in its current form will have no adverse impact on the character of the locality and the amenity of neighbouring residential properties. The environmental impacts on the social environment are considered to be reasonable and the application is supported.

Economic Impact

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

Suitability of the Site

79. The site is zoned R2 Low Density Residential. The proposal will have no adverse impacts on the adjoining properties and the streetscape in its current form.

Submissions, Referrals and the Public Interest

80. The application was advertised and adjoining residents were notified by letter and given fourteen (14) days in which to view the plans and submit any comments on the proposal. No submissions were received during the neighbour notification period.

Council Referrals**Development Engineer**

81. No objections raised to the proposal. No condition changes required.

Consultant Arborist

82. Comments received by the Landscape Officer relate to the proposed 'mass planting' within the private open space areas of the units on the ground floor in lieu of the approved grass and garden areas. No objection is raised to the planting and each unit maintains the minimum area of useable open space in accordance with the SEPP.

Traffic Engineer

83. No objections raised to the proposal. Comments and conditions amended/added deleted as follows:

I have assessed the plans and documents submitted for the above modification to previously approved DA2020/0342 for a seniors housing development at 2-8 Macpherson Street, Hurstville and wish to advise no objections are raised to the modification on traffic or parking grounds.

As indicated in a "Traffic Letter" from consultant Traffix dated 7 April 2022, in order for the car parking area to comply with the requirements of AS/NZS 2890.1:2004 Parking Facilities Part 1- off street car parking, the following will need to be carried out:

1. Car Parking Space Widths

Car spaces 3 and 6 which have landscaped areas on one side causing an obstruction to car door opening will need to have those landscaped areas amended in design to allow for the spaces to be increased in width from 2.4m to 2.7m.

2. Access Aisle Width

The access aisle serving the car parking area with landscaping proposed up to the edge of the aisle directly opposite the spaces will need to have the landscaping amended in design to allow for the aisle to be increased in width from 5.8m to 6.1m

The approval conditions for DA2020/0342 did not include the submission of a construction traffic management plan (CTMP). It would be desirable to have a condition included in the modification application if possible.

There are also some changes proposed to the level of the bitumen road surface and gutter on Council's roadway at the driveway which are not to be approved.

RECOMMENDATION

It is recommended the modification application be approved subject to the following special conditions:

Car park area – design amendments – *the following shall be carried out to the design and construction of the car park area for the area to comply with the requirements of AS/NZS 2890.1:2004 Parking Facilities Part 1- off street car parking*

- (i) The landscaped areas on the sides of car spaces 3 and 6 shall be amended in design and the space widths increased to 2.7m to allow for adequate door opening.*
- (ii) The landscaped areas on the south-eastern side of the access aisle serving spaces 1 to 6 shall be amended in design to allow for the access aisle to be increased to a clear width of 6.1m.*

Details of the required amendments to the landscaping and car parking area shall be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate.

Construction vehicle and pedestrian plan of management

Prior to the issuing of a Construction Certificate, a Construction Vehicle and Pedestrian Plan of Management (CVPPM) shall be submitted to Council for the approval of Council's Senior Traffic and Parking Assessment Officer. The CVPPM shall detail, but not be limited to, details of the following:

- (a) The routes to be taken by trucks in the Georges River Council area when travelling to and from the site.*
- (b) The maximum truck size proposed during the various stages of development.*
- (c) The approved hours of construction.*
- (d) The location and length of any proposed Works Zones.*
NOTE: *The installation of Works Zones and any associated changes to existing parking control signs and Council infrastructure to implement the zones requires the prior approval of the Georges River Council Traffic Committee.*
- (e) Any changes to on street parking at and near the site during the various stages of development including during and outside the approved hours of construction.*
- (f) Any changes proposed to the movements of pedestrians and/or cyclists past the site both during and outside the approved hours of construction.*
A copy of the approved CVPPM must be kept at the site and made available to the Principal Certifying Authority or Council on request.

Civil Works Drawings- Driveway Longitudinal Sections

"Driveway Long Sections" drawing C03 Rev "C" dated 1/4/2022 prepared by Smart Structures Australia is not approved at "Driveway Longitudinal Section-B".

An amended drawing for section B shall be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate showing no changes in level between the road centreline and the gutter invert.

84. These conditions have been incorporated into the amended consent at the end of this report and the wording modified where required as the applicant is NSW Land and Housing Corporation.

External Referrals

Ausgrid

85. The application was referred to Ausgrid as per State Environmental Planning Policy (Transport and Infrastructure) 2021. Comments were received raising no concerns.

Contributions

86. The development is not subject to Section 7.11 or 7.12 Contributions.

Conclusion

87. Development consent is sought for alterations to an approved seniors housing development.

88. The proposal has been assessed with regard to the matters for consideration listed in Section 4.15 and 4.55(1a) of the Environmental Planning and Assessment Act 1979. The proposal is an appropriate response to the context of the site and will result in a good planning and urban design outcome in the locality.
89. The proposal has been assessed against the provisions of the relevant State Environmental Planning Policy, Georges River Local Environmental Plan 2021 and Georges River Development Control Plan 2021 and complies with the development standards of the Local Environmental Plan and meets the objectives of the Development Control Plan.

Determination and Statement of Reasons

Statement of Reasons

90. The reasons for this recommendation are:
- ☐ The proposed development complies with the objectives of the relevant environmental planning instruments and development control plan.
 - ☐ The proposal has been designed to generally satisfy the key provisions of the SEPP (Housing) 2021.

Determination

91. Pursuant to Section 4.55(1a) of the Environmental Planning and Assessment Act 1979, as amended, the Georges River Local Planning Panel approve MOD2022/0101 for modifications to DA2020/0342 on land known as 2-8 Macpherson Street, Hurstville subject to the following conditions:

Development Details

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

Description	Reference No.	Date	Revision	Prepared by
Site Plan	DA-0102	18/3/21	8	SJB
Floor Plan - Ground	DA-0201	18/3/21	8	SJB
Floor Plan - Level 1	DA-0202	31/7/20	7	SJB
Floor Plan - Roof	DA-0203	31/7/20	7	SJB
Elevations	DA-0501	31/7/20	7	SJB
Sections	DA-0601	31/7/20	7	SJB
Window Schedule	DA-1601	1/5/20	1	SJB
Materials and External Finishes	DA-1611	31/7/20	7	SJB
Site and Context Plan	A-0101	5/4/22	9	SJB
Floor Plan - Ground	A-0201	5/4/22	9	SJB
Floor Plan - Level 1	A-0202	5/4/22	9	SJB
Floor Plan - Roof	A-0203	5/4/22	9	SJB
Overall Elevations	A-0501	5/4/22	9	SJB
Overall Sections Sheet 1	A-0601	5/4/22	9	SJB
Overall Sections Sheet 2	A-0602	5/4/22	9	SJB

Materials and External Finishes	A-2911	5/4/22	9	SJB
Existing and Demolition Plan	DA-2501	31/7/20	7	SJB
Landscape Plan	LA LP 01/06 LA LP 01/11	18/3/21 30/3/22	06 11	Black Beetle
Landscape Plan	LA LP 02/03 LA LP 02/07	18/3/21 14/3/22	03 07	Black Beetle
Stormwater Plans	D00	20/8/20	B	Smart Structures Australia
Stormwater Plans	D01	11/3/21	D	Smart Structures Australia
Stormwater Plans	D05	11/3/21	D	Smart Structures Australia
Stormwater Plans	D10	11/3/21	D	Smart Structures Australia
Stormwater Plans	D11	20/8/20	B	Smart Structures Australia
Stormwater Plans	D15	20/8/20	B	Smart Structures Australia
Stormwater Plans	D16	20/8/20	B	Smart Structures Australia

Note: Crown Building Work – Pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979, Crown building, demolition and incidental work cannot be commenced to be carried out unless the Crown building and other development work is certified by or on behalf of the Crown to comply with the technical provisions of the State's building laws including the Building Code of Australia. It is the responsibility of the Crown Authority to ensure this statutory provision of the Act is complied with.

This condition has been amended by MOD2022/0101 (DA2020/0342)

Separate Approvals Required Under Other Legislation

2. Section 138 Roads Act 1993 and Section 68 Local Government Act 1993

Unless otherwise specified by a condition of this consent, this Development Consent does not give any approval to undertake works on public infrastructure.

Separate approval will be required under Section 138 of the Roads Act 1993 for any of the following activities carried out in, on or over a public road (including the footpath) listed below if not exempt under Section 69 of the Local Government Act 1993.

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

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

Evidence of any approval shall be provided to the Certifying Authority prior to commencement of construction.

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

Requirements of Concurrence, Integrated & Other Government Authorities

3. **Electricity Supply** - An application is required to be made to Ausgrid for a network connection. This may require the network to be extended or its capacity augmented. Evidence of this application being lodged with Ausgrid is required to be provided to the Certifying Authority. For further details, you are advised to contact Ausgrid on 13 13 65 or www.ausgrid.com.au (Business and Commercial Services).
4. **Connection to the network** - The following are to be obtained prior to work commencing:
 - (a) written clearance from the electricity supply authority stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development;
 - (b) A certificate from an approved telecommunications carrier to certify that satisfactory arrangements have been made to ensure the provision of underground telephone services to each dwelling in the development; and
 - (c) Where the site is to be connected to reticulated gas, a certificate from an approved gas carrier to certify that satisfactory arrangements have been made to ensure the provision of underground gas services to each dwelling in the development.
5. **Electricity Supply to Development** - The electricity supply to the Development must be underground.

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

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

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

Prior to the Commencement of Works (including Demolition and Excavation)

8. **Stormwater System** - The submitted stormwater plan has been assessed as a concept plan only. Final detailed plans of the drainage system, prepared by a professional engineer specialising in hydraulic engineering, shall be submitted to LAHC and Council prior to the commencement of construction works.
 - (a) All stormwater shall be drained in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).
 - (b) Stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a professional engineer who specialises in Hydraulic Engineering in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (1987) and Council's Stormwater Drainage Guidelines, shall be submitted to LAHC prior to the commencement of construction works.
9. **On Site Detention** - The submitted Concept Stormwater and OSD Plan prepared by Smart Structures Australia Consultants with reference number "Stormwater Drainage Plan", Drawing No. 180320, Issue "D", 17 Sheets, dated 11/3/2021 has been assessed as a concept plan only. The final detailed plans of the drainage system, prepared by a professional engineer specialising in hydraulic engineering, shall be submitted to LAHC and Council prior to commencement of construction works.

An OSD facility designed by a professional engineer who specialises in Hydraulic engineering must be designed, approved and installed.

The required OSD storage requirements and permissible discharge are to be calculated in accordance with Table 3 of Council's Stormwater Management Policy.

A minimum 42.92 cubic metre OSD volume is to be provided in accordance with the Stormwater Concept Plan and Council's Stormwater Management Policy.

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:

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

Full details shall be provided in the construction drawings.

- 10. Stormwater Drainage Application** - This Development Consent does not give approval to undertake new street drainage pit and pipe works on public infrastructure as per Stormwater Drainage Plan", Drawing No. 180320, Issue "D", 17 Sheets, dated 11/3/2021, prepared by Smart Structures Australia. 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 if not exempt under Section 69 of the Local Government Act 1993, for the following:

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

Evidence of any approval shall be provided to the Certifying Authority prior to commencement of construction.

- 11. Vehicular Access Grades** - All proposed works within the public road and footway shall be designed and constructed to Council's standards and specifications and a copy of the details plans submitted to Council prior to work commencing. The applicant/developer shall arrange for necessary inspections by Council whilst the work is in progress or after completion of the works.

- 12. 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) The thickness and design of the driveway shall be in accordance with Council's Specifications applying at the time construction approval is sought.

While reconfiguring, realigning and proposing any vehicular access, the applicant must submit a profile (longitudinal section) demonstrating access clearance by the B85 Design Vehicle (85% percentile vehicle in accordance with AS2890.1 2004) for the entry.

This profile (scale 1:20) is to show levels and grades from road centreline to the proposed internal garage floor level including but not limited to levels of, road centreline, changes of grade on road surface, lip of gutter, invert of gutter, back of vehicular crossing (gutter layback), front of path, back of path and boundary. The profiles provided are to also include the natural surface of the land as well as the proposed design including cut and fill dimensions.

Additional profiles are to be provided on either side of driveway when longitudinal grade of road exceeds 8%.

The profile will be used to assess suitability of proposed internal driveway levels and does not represent final footpath or road levels. The levels on Councils road related area including boundary level will be verified following the submission of an “Application for Driveway Crossing and Associated Works on Council Road Reserve” issued under Section 138 Roads Act if not exempt under Section 69 of the Local Government Act 1993. “

- a) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the applicant. The work shall be carried out in accordance with Council's specification.

- 13. Fire Safety Measures** - 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 be submitted to the Certifying Authority. Such list must also specify the minimum standard of performance for each essential fire safety measure included in the list. The Certifying Authority will then issue a Fire Safety Schedule for the building.

Note: Fire and Rescue NSW - Building - Prior to the commencement of work the applicant may be required, under Clause 144 of the Environmental Planning and Assessment Regulation, 2000, to seek written comment from FR NSW about the location of water storage tanks, construction of hydrant/booster pump and valve rooms, and any Fire Engineered Solution developed to meet the performance requirements under the Category 2 Fire Safety Provisions.

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

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

Payments must be made prior to occupation.

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

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

Fee Type	Fee
GENERAL FEES	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See https://portal.longservice.nsw.gov.au/bci/levy/	
Builders Damage Deposit Calculation is based on \$1,236 per metre of street frontage as follows: Macpherson Street: 68.2m	\$84,301.38
Inspection Fee for Refund of Damage Deposit (Minimum of two (2) inspections at \$371 per inspection)	\$742.00

General Fees

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

- 15. Site Management Plan - Major Development** - A Site Management Plan must be submitted to the Certifying Authority prior to the commencement of work, 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.

- 16. BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No. 1082949M_02 05 dated ~~18/6/20~~ 17 March 2022 must be implemented on the plans lodged with the Certifying Authority.

This condition has been amended by MOD2022/0101 (DA2020/0342)

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

- (a) Compliance with the approved Erosion & Sediment Control Plan
- (b) Removal or disturbance of vegetation and top soil is confined to within 3m of the approved building area (no trees to be removed without approval)
- (c) All clean water runoff is diverted around cleared or exposed areas
- (d) Silt fences, stabilised entry/exit points or other devices are installed to prevent sediment from entering drainage systems or waterways
- (e) All erosion and sediment controls are fully maintained for the duration of demolition, excavation and/or development works
- (f) Controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadway
- (g) All disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar
- (h) Compliance with Managing Urban Stormwater - Soils and Construction (Blue Book) produced by Landcom 2004.

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

18. 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).

18A. Car park area – design amendments – the following shall be carried out to the design and construction of the car park area for the area to comply with the requirements of *AS/NZS 2890.1:2004 Parking Facilities Part 1- off street car parking*

- (i) The landscaped areas on the sides of car spaces 3 and 6 shall be amended in design and the space widths increased to 2.7m to allow for adequate door opening.
- (ii) The landscaped areas on the south-eastern side of the access aisle serving spaces 1 to 6 shall be amended in design to allow for the access aisle to be increased to a clear width of 6.1m.

Details of the required amendments to the landscaping and car parking area shall be submitted to the Certifying Authority prior to commencement of construction.

This condition has been added by MOD2022/0101 (DA2020/0342)

18B. Construction vehicle and pedestrian plan of management

Prior to construction, a Construction Vehicle and Pedestrian Plan of Management (CVPPM) shall be submitted to Certifying Authority.

The CVPPM shall detail, but not be limited to, details of the following:

- (a) The routes to be taken by trucks in the Georges River Council area when travelling to and from the site.
- (b) The maximum truck size proposed during the various stages of development.
- (c) The approved hours of construction.
- (d) The location and length of any proposed Works Zones.

NOTE: The installation of Works Zones and any associated changes to existing parking control signs and Council infrastructure to implement the zones requires the prior approval of the Georges River Council Traffic Committee.

- (e) Any changes to on street parking at and near the site during the various stages of development including during and outside the approved hours of construction.
- (f) Any changes proposed to the movements of pedestrians and/or cyclists past the site both during and outside the approved hours of construction.

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

This condition has been added by MOD2022/0101 (DA2020/0342)

- 18C. Civil Works Drawings- Driveway Longitudinal Sections** - “Driveway Long Sections” drawing C03 Rev “C” dated 1/4/2022 prepared by Smart Structures Australia is not approved at “Driveway Longitudinal Section-B”.

An amended drawing for section B shall be submitted to the Certifying Authority prior to commencement of construction showing no changes in level between the road centreline and the gutter invert.

This condition has been added by MOD2022/0101 (DA2020/0342)

- 19. Waste Management Plan** - A final 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 commencement of work.

The final Waste Management Plan must state:

- (a) That it is the responsibility of a designated person to present the bins to the kerb no earlier than 12 hours prior to collection and remove the bins from the kerbside no later than 12 hours post collection.
- (b) Any garden waste must be removed from the property by a licensed landscape contractor.

- 20. Footpath Construction** - The following footpath works will be required to facilitate pedestrian access between the proposed development site and Barnards Avenue:

- a) Construct a New 1.5m wide footpath for the full frontage of the site in accordance with Council's Specifications for footpath and the relevant Australian Standards, applying at the time construction approval is sought.
- b) Construct a New 1.5m wide footpath on the North Western side of Low Street for the full length between Macpherson Street and Emily Street.
- c) Construct a New 1.5m wide footpath on the South Western side of Emily Street for the full length between Low Street and Barnards Avenue.

The Applicant is required to submit Public Domain Plans which are to consist of full civil engineering drawings to Australian Standards. Inclusive of proposed footpath locations, kerb ramps, cross sections, existing and proposed footpath levels, tree locations and service utility asset locations in accordance with Council's specifications for footpath and the relevant Australian Standards.

Tree Protection Measures – street trees for footpath construction

- a) The tree protection measures must be undertaken in accordance AS4970 -2009 *Protection of trees on development sites*.
- b) All trees on Council property must be protected before site set up and maintained during excavations, formwork and concrete pours.

Excavation works near trees for footpath construction

- c) To preserve all Council's street trees from excavators and concrete pours, no work shall commence until the trunk/ branches are protected, in accordance with AS4970 - 2009, *Protection of trees on development sites*, by the wrapping of geo woven fabric around the trunk 4 / 5 times and the placement of two metre long, lengths of 50mm x 100mm timber battens vertically arranged around the trunk, with 100mm spacing's. The timber battens shall be secured by wire/ hoop straps but not secured into the tree itself. The trunk/ branch protection shall be maintained intact until the completion of all works.
- d) Excavations for the purposes of footpath construction around trees located upon Council's street verge must be supervised by an AQF 5 Project Arborist to ensure that the root system will not adversely be affected.

21. Landscape Plans - All landscape works shall be carried out in accordance with the approved landscape plans and specifications, drawn by Black beetle Landscape Architecture, Ref No BB 1262, Stage C, ~~LA LP 01/05 and dated 20/08/20~~ LA LP 01/11 dated 30.03.22 and 02/07 dated 14.03.22. The landscaping shall be maintained in accordance with the approved plans, subject to the following:

- a) The proposed tree and plant species, pot/ bag size and quantities of trees and plants shall be in accordance with the proposed plant schedule and plan view (01) upon the landscape plan.
- b) All trees proposed upon the approved landscape plan shall be of 200 litre pot/ bag size, contract grown prior to landscape works and comply with AS 2303 – 2018, *Tree Stock for Landscape use* and *NATSPEC Specifying Trees: a guide to assessment of tree quality (2003)*, and be planted and maintained in accordance with Councils standard specification;
- c) If the planted trees and plants are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species. If the trees are found dead before they reach a height where they are protected by Councils Tree Management Controls, they must be replaced with the same species and pot/bag size.

This condition has been modified by MOD2022/0101 (DA2020/0342)

22. Tree Protection and Retention - The tree/s to be retained and protected are listed in the table below.

TREE SPECIES	LOCATION OF TREE / TREE NO.	TREE PROTECTION ZONE FENCING DISTANCE FROM TRUNK
T1 – <i>Callistemon viminalis</i>	Councils street tree	3.0 metres radially out from its trunk
T4 – <i>Arbutus unedo</i>	Neighbours tree, No 7 Low St	3.0 metres radially out from its trunk, into site
T5 – <i>Stenocarpus sinuatus</i>	Neighbours tree, No 7 Low St	4.8 metres radially out from its trunk into site
T6 – <i>Callistemon viminalis</i>	Councils street tree	5.6m – trunk wrap as per AS4970 -2009
T17 – <i>Cinnamomum camphora</i>	Neighbours tree at rear	6.0 metres radially out from its trunk

T18 – <i>Ficus rubiginosa</i>	Neighbours tree at rear	6.2 metres radially out from its trunk
T22 – <i>Callistemon viminalis</i>	Councils street tree	3.4 – trunk wrap as per AS4970 -2009
Tree 26 – <i>Eucalyptus scoparia</i>	Councils street tree	6 metres radially out from trunk without blocking footpath

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

Tree Protection Measures

- c) All trees on Council property, subject site and adjacent sites, to be retained must be protected before site set up and maintained during demolition, excavation and construction of the site.
- d) 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.
- e) The tree protection measures must be undertaken in accordance AS4970 -2009 Protection of trees on development sites.
- f) Details of the tree protection measures to be implemented must be provided with the construction drawings by a qualified Arborist who holds an AQF Level 5 or above in Arboriculture and who is a current practicing and financial member of an Arboricultural Association or Affiliation.
- g) 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.
- h) In accordance with AS 4970-2009 *Protection of trees on development sites*, a protective fence consisting of 2.4 x 1.8 metres high, fully supported chainmesh fence shall be used. The distance of the fence 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.
- i) The tree protection fencing must be kept in place during demolition, excavation and construction and also have a sign displaying 'Tree Protection Zone – DO NOT ENTER' attached to the fence and must also include the name and contact details of the Project Arborist.

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

Excavation works near tree to be retained

- l) All stormwater piping and excavations within the tree protection zones of any trees to be retained on the site, Councils street trees or adjacent sites, must be completed by hand and or Air Spade type of non-destructive excavations, with no machinery/ bucket type of excavations permitted.
- m) Excavations around the trees to be retained on site or the adjoining properties shall be supervised by the AQF 5 Project Arborist to ensure that the root system will not adversely be affected.
- n) Where the Tree Protection Zone (TPZ) of trees on site or adjoining sites become compromised by any excavation works, the AQF 5 Project arborist shall be consulted to establish the position of any major roots and determine the necessary measures to protect these roots. The recommendations of the Arborist shall be submitted to Council prior to any further demolition or construction works taking place.
- o) Tree Protection Zones around the trees to be retained are not to have soil level changes, building product / materials stored or services installed in this area. Any structures proposed to be built in this area of the trees are to utilise pier and beam or cantilevered slab construction.

Pier and Beam / Cantilever / Post and rail –

- p) To preserve Council's street trees and neighbouring trees, the footings of any front fencing or retaining walls, must be isolated pier and beam construction within the TPZ of trees to be retained. The piers shall be hand dug and located such that no roots of a diameter greater than 50mm are severed or injured in the process of any site works during the construction period. The beam shall be located on or above the existing soil levels.
- q) Removal or pruning of any other tree (that would require consent of Council) on the site is not approved. All pruning must be undertaken by a qualified Arborist in accordance with AS4373 -2007 Pruning of Amenity Trees and Amenity Tree Industry, Code of Practice (SafeWork NSW August 1998).

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

TREE SPECIES	NUMBER OF TREES	LOCATION
T3 – <i>Ligustrum lucidum</i>	X1	Front south corner of site
T7 – <i>Jacaranda mimosifolia</i>	X1	Front of site
T8 – <i>Pittosporum undulatum</i>	X1	Front of site

T8A – <i>Banksia integrifolia</i>	X1	Front of site
T9 – <i>Cinnamomum camphora</i>	X1	Councils street tree
T10/11/14 – <i>Olea europaea</i>	X3	Front boundary of site
T12 – <i>Livistonia australis</i>	X1	Front boundary of site
T13 – <i>Cinnamomum camphora</i>	X1	Front boundary of site
T15 – <i>Camellia japonica</i>	X1	Front of site
T16 – <i>Chamaecyparis obtusa Crippsii</i>	X1	Middle of site
T19 / 21 – <i>Cinnamomum camphora</i>	X2	Rear middle of site
T23 – <i>Ligustrum lucidum</i>	X1	Front north of site
T24 – <i>Araucaria columnaris</i>	X1	Front north of site
T25 – <i>Acacia parramattensis</i>	X1	Front north of site
T27 – <i>Ligustrum lucidum</i>	X1	Middle of site, north
T28 – <i>Banksia integrifolia</i>	X1	Rear of site, north
T29 – <i>Phoenix canariensis</i>	X1	Rear of site, north
T30 – <i>Prunus Spp</i>	X1	Rear of site, north
T31/ 32 – <i>Cinnamomum camphora</i>	X1	Rear of site, north

General Tree Removal Requirements

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).

No additional trees are to be removed on the site or neighbouring properties without the prior written approval of Council, except for exempt species within the site.

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

Primary Address

2 Macpherson Street, Hurstville NSW 2220

Unit Addresses

Unit description on DA plan	Proposed street address to comply with AS/NZS 4819:2011 and NSW Addressing Manual
G04	G01/2 Macpherson Street, Hurstville NSW 2220
G01	G02/2 Macpherson Street, Hurstville NSW 2220
G02	G03/2 Macpherson Street, Hurstville NSW 2220
G04	G04/2 Macpherson Street, Hurstville NSW 2220
G10	G05/2 Macpherson Street, Hurstville NSW 2220
G09	G06/2 Macpherson Street, Hurstville NSW 2220
G08	G07/2 Macpherson Street, Hurstville NSW 2220
G07	G08/2 Macpherson Street, Hurstville NSW 2220
G09	G09/2 Macpherson Street, Hurstville NSW 2220
G10	G10/2 Macpherson Street, Hurstville NSW 2220
1.04	101/2 Macpherson Street, Hurstville NSW 2220
1.01	102/2 Macpherson Street, Hurstville NSW 2220
1.02	103/2 Macpherson Street, Hurstville NSW 2220
1.03	104/2 Macpherson Street, Hurstville NSW 2220
1.10	105/2 Macpherson Street, Hurstville NSW 2220
1.09	106/2 Macpherson Street, Hurstville NSW 2220
1.08	107/2 Macpherson Street, Hurstville NSW 2220
1.07	108/2 Macpherson Street, Hurstville NSW 2220
1.06	109/2 Macpherson Street, Hurstville NSW 2220
1.05	110/2 Macpherson Street, Hurstville NSW 2220

Details indicating compliance with this condition must be shown on the construction plans.

- 25. 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 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 & 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.

- 26. 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. 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.

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

28. Dial before your dig - The applicant shall contact “Dial Before You Dig on 1100” to obtain a Service Diagram prior to the commencement of work. The sequence number obtained from “Dial Before You Dig” shall be forwarded to the Certifying Authority and Council for their records.

29. Registered Surveyors Report - During Development Work - A report by the Building Contractor must be submitted to the 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.
- f) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries.
- g) Completion of all Work - Detailing the location of the structure (including eaves/gutters) relative to adjacent boundaries and its height relative to the datum shown on the approved plans. A final Check Survey must indicate the reduced level of the main ridge.

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

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

During Construction

- 31. Contamination of land** - Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the certifying authority and all works on site must cease immediately.

If new information as outlined above comes to light, a detailed site contamination investigation shall be carried out by a certified contaminated land consultant in accordance with the requirements of the relevant NSW EPA Guidelines approved under the Contaminated Land Management Act 1997 including the EPA.

Guidelines for Consultants Reporting on contaminated sites shall be followed and the report shall certify the suitability of the site for the proposed development. A copy of the detailed site contamination report must be submitted to Council for review.

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

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

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

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

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

- 34. 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.
- 35. Cost of work to be borne by the applicant** - The applicant shall bear the cost of all works associated with the construction of the development that occurs on Council property. Care must be taken to protect Council's roads, including the made footway, kerbs, etc., and, where plant and vehicles enter the site, the footway shall be protected against damage by deep-sectioned timber members laid crosswise, held together by hoop iron straps and chamfered at their ends. This construction shall be maintained in a state of good repair and condition throughout the course of construction.
- 36. 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, if not exempt under Section 69 of the Local Government Act 1993.
- Penalty infringement Notices may be issued for any offences and severe penalties apply.
- 37. Road Opening Permit** - Separate approval will be required under Section 138 of the Roads Act 1993 for any of the following activities carried out in, on or over a public road (including the footpath) listed below if not exempt under Section 69 of the Local Government Act 1993:
- a) 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.
- 38. Damage within Road Reserve and Council Assets** - The owner shall bear the cost of restoring any footpath, roadway and any other Council assets damaged due to works arising as a result of the development at, near or associated with the site.
- 39. Public Utility and Telecommunication Assets** - The owner shall bear the cost of any relocation or modification required to any Public Utility Authority assets including telecommunication lines & cables and reinstate any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site.
- 40. 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 Certifying Authority.

Prior to Occupation

- 41. Restriction on use of land – SEPP (Housing for Seniors) 2004** - A Restriction on the Use of Land shall be created pursuant to Section 88E of the Conveyancing Act 1919, with the Restriction including the following wording:

'The lots burdened shall not be occupied by any person other than:

- i. Seniors or people who have a disability,*
- ii. People who live in the same household with seniors or people who have a disability,*
- iii. Staff employed to assist in the administration of and provision of services to housing provided under the SEPP (Housing for Seniors or People with a Disability) 2004.*

The terms referenced above are as defined in [State Environmental Planning Policy \(Housing for Seniors or People with a Disability\) 2004](#).

This Restriction on Use of Land shall be registered on the title relating to the subject site, prior to Occupation.

- 42. Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the [Sydney Water Act 1994 <http://legislation.nsw.gov.au/>](http://legislation.nsw.gov.au/) must be submitted to the Certifying Authority prior to Occupation.

- 43. Requirements prior to Occupation of the development - Stormwater and Onsite Detention Works** - The following shall be completed and or submitted to the PCA prior to Occupation:

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

The following shall be completed and or submitted to the Certifying Authority prior to Occupation:

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

- 44. 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.

- 45. 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.”

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.*

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

47. Stormwater drainage works – Works As Executed - Underground Tank - Prior to Occupation, 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.
- (f) The Work-As-Executed plans are prepared on the copies of the approved drainage plans and variations are marked in red ink;
- (g) The Work-As-Executed plans have been prepared by a registered surveyor certifying the accuracy of dimensions, invert levels, surface levels, storage volume etc;

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

48. Amalgamation of Four Lots into a Single Lot and Creation of Overland Flow Drainage Easement prior to Occupation

- (a) All four lots shall be amalgamated into a single lot and a Deposited Plan (with Administration Sheet) is to be prepared by a Registered Surveyor. The plan is to be submitted to Council for review and approval prior to its registration, except where the submission of the plan to Council is exempt under Section 69 of the Local Government Act 1993.
- (b) A 1.0m wide drainage easement shall be created for the benefit of the affected upstream properties that adjoin the consolidated lot as per plan prepared by Smart Structures Australia Consultants with reference number “Stormwater Drainage Plan”, Drawing No. 180320, Issue “D”, Sheet D01, dated 11/3/2021. All details shall be incorporated with the Deposited Plan and submitted to Council for review and approval prior to its registration, except where the submission of the plan to Council is exempt under Section 69 of the Local Government Act 1993.
- (c) Georges River Council should be designated as beneficiary of the easement and is to be named as the Authority whose consent is required to release, vary or modify the restriction. The restriction must be incorporated in the deposited plan and the registration with the NSW Land and Registry Services must be eventuated together with the registration of the deposited plan.

The following terms shall be included as the terms of restriction.

- i. This covenant shall bind all persons who are or claim under the registered proprietor(s) as stipulated in Section 88E(5) of the Act.

The authority having the right to release vary or modify this Restriction as to User is **Georges River Council**.

Note: The document/instrument shall be submitted to Council for approval, together with other relevant documents prior to lodgement with the NSW Land and Registry Services, except where the submission of the plan and other relevant documents, to Council, is exempt under Section 69 of the Local Government Act 1993

Evidence of registration of the easement to drain water benefitting adjoining upstream properties and burdening the title of the consolidated lot showing covenants and restrictions shall be provided to Council prior to Occupation.

49. Restriction on use of land for overland flow from upstream properties to the newly created lot - A Restriction of Use of the Land is to be created over the consolidated lot by Section 88B of the Conveyancing Act 1919 to ensure that the overland flow path of storm waters runoff arriving from upstream rear properties and passing through grassed swale along north- eastern and south eastern boundaries of the site is maintained in accordance with the assessment of the development. This Restriction shall be worded as follows:

- (a) *No obstruction or modification along the grassed swale shall be permitted without the prior consent of Georges River City Council. (This is required to allow the free flow of upstream properties surface waters runoff through the site to Macpherson Street at the front of the property).*
- (b) *No materials whatsoever shall be placed or stored in the void area underneath the ground floor slab. (This is required to keep the void clear of obstructions to allow the free flow of surface waters to and from this area).*
- (c) *No obstructions along the boundary fences of the lots burdened, (including internal dividing fences), such as raised garden beds shall be permitted. (This is required to allow the free flow of upstream rear properties surface waters through the site to Macpherson Street drainage system).*

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

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

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

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

51. **Slip Resistance** - At completion of work an in-situ (on-site) test, in wet and dry conditions, must be carried out on the pedestrian floor surfaces used in the foyers, public corridors/hallways, stairs and ramps as well as the floor surfaces in wet rooms in any commercial/retail/residential units to ascertain the actual slip resistance of such surfaces taking into consideration the effects of grout, the gradients of the surface and changes from one material to another. The in-situ test must be carried out in accordance with AS/NZS 4663:2002. Proof of compliance must be submitted to the Certifying Authority prior to occupation.
52. **Electricity Supply** - Evidence shall be provided demonstrating that the development has been connected to the Ausgrid, if required.
53. **BASIX Compliance Certificate** - A Compliance Certificate must be provided to the Certifying Authority regarding the implementation of all energy efficiency measures as detailed in the approved BASIX Certificate before Occupation.
54. **Completion of Landscape Works** - Prior to occupation, all landscape works must be completed in accordance with approved landscape plans and specifications, drawn by Black beetle Landscape Architecture and Design, ~~Dwg LA-LP-01/05, dated 20/08/20~~ LA LP 01/11 dated 30.03.22 and 02/07 dated 14.03.22.

An AQF 5 Horticulturist shall be engaged and in writing certify that all trees have been planted as per landscape plan and specifications and forwarded to the Certifying Authority.

This condition has been modified by MOD2022/0101 (DA2020/0342)

Operational Conditions (Ongoing)

55. **Housing for Seniors & People with a Disability** - The development approved under this consent constitutes "Housing for Seniors or People with a Disability" as defined under [State Environmental Planning Policy \(Housing for Seniors or People with a Disability\) 2004](#). Accordingly only those people who meet the following criteria may occupy this accommodation:
 - (a) seniors or people who have a disability,
 - (b) people who live within the same household with seniors or people who have a disability,
 - (c) staff employed to assist in the administration of and provision of services to housing provided under this Policy.

"Seniors" are any of the following:

1. people aged 55 or more years,
2. people who are resident at a facility at which residential care (within the meaning of the [Aged Care Act 1997](#) of the Commonwealth) is provided,
3. people who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider.

"People with a disability" are people of any age who have, either permanently or for an extended period, one or more impairments, limitations or activity restrictions that substantially affect their capacity to participate in everyday life.

- 56. Outdoor Lighting** - To avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads, outdoor lighting must comply with *AS 4282-2019: Control of the obtrusive effects of outdoor lighting*.
- 57. 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.
- 58. Entering & Exiting of vehicles** - All vehicles shall enter and exit the premises in a forward direction.
- 59. 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.
- 60. Maintenance of Landscaping** - All trees and plants forming part of the landscaping must be maintained. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilising, pest and disease control, replacement of dead or dying plants and other operations required to maintain healthy trees, plants and turfed areas.

Tree Protection Measures

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

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.

Prescribed Conditions

Not Applicable – Pursuant to Division 4.6 of the Environmental Planning and Assessment Act, 1979, the consent authority cannot impose conditions on a consent for which the Crown is the applicant, without the approval of the Minister.

END CONDITIONS

NOTES/ADVICES

61. **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.
62. **Access to NSW Legislations (Acts, Regulations and Planning Instruments)**
NSW legislation can be accessed free of charge at www.legislation.nsw.gov.au
63. **Noise - Noise related conditions** - Council will generally enforce noise related conditions in accordance with the Noise Guide for Local Government (<http://www.environment.nsw.gov.au/noise/nglg.htm>) and the Industrial Noise Guidelines (<http://www.environment.nsw.gov.au/noise/industrial.htm>) publish by the Department of Environment and Conservation. Other state government authorities also regulate the Protection of the Environment Operations Act 1997.

Useful links relating to Noise:

- (a) Community Justice Centres - free mediation service provided by the NSW Government (www.cjc.nsw.gov.au).
 - (b) Department of Environment and Conservation NSW, Noise Policy Section web page (www.environment.nsw.gov.au/noise).
 - (c) New South Wales Government Legislation home page for access to all NSW legislation, including the Protection of the Environment Operations Act 1997 and the Protection of the Environment Noise Control Regulation 2000 (www.legislation.nsw.gov.au).
 - (d) Australian Acoustical Society - professional society of noise-related professionals (www.acoustics.asn.au/index.php).
 - (e) Association of Australian Acoustical Consultants - professional society of noise related professionals (www.aaac.org.au).
 - (f) Department of Gaming and Racing - (www.dgr.nsw.gov.au).
64. **Sydney Water Section 73 Certificates** - The Section 73 Certificate must be a separate certificate that relates specifically to this development consent. For example, if the development consent relates to the subdivision of the land, a Section 73 Certificate for the construction of the building that is subject to a different development consent will not suffice.
65. **Electricity Supply** - This development may need a connection to the Ausgrid network which may require the network to be extended or its capacity augmented. You are advised to contact Ausgrid on 13 13 65 or www.ausgrid.com.au (Business and Commercial Services) for further details and information on lodging your application to connect to the network.
66. **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>.

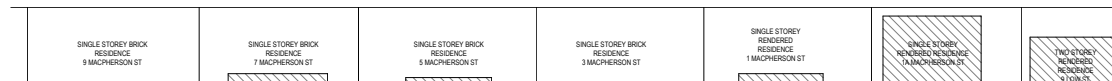
The required Long Service Levy payment can be direct to the Long Service Corporation via their web site <https://online.longservice.nsw.gov.au/bci/levy>. Payments can only be processed on-line for the full levy owing and where the value of work is between \$25,000 and \$6,000,000. Payments will be accepted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

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

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

ATTACHMENTS

Attachment  1  Site Plans and Elevations



6.5
Average
star rating

**NATIONWIDE
HOUSE**
SINCE 1978

2-8 Macpherson Street,
Hurstville,
NSW, 2220

Class 2 summary
BY02D105RA 28/10/2021

Assessor Ashkar Vaseem
101146

Accreditation No.

Address

<https://www.f5c.com.au/QRCodeLanding?PublicID=BY02D105RA&GrpCentId=>



ISSUED FOR APPROVAL

Rev	Date	Revision	By	Chk
8	18.03.2021	Issued for CIA	SC	SC
9	05.06.2022	Issued for ISA 55	SC	SC

Structural Engineer
SMART STRUCTURES

Mechanical / Hydraulic Engineer
CENTRIC ENGINEERS

Electrical Engineer

Fire Engineer
CENTRIC ENGINEERS

Civil & Stormwater Engineer
SMART STRUCTURESBCA Consultant
BCA VISION

Basic

Landscape

Client _____

 | Plan

Project _____

2-8 Macpherson St
Hurstville NSW 2220

Drawing Name _____

Site & Context Plan

Data	Scale
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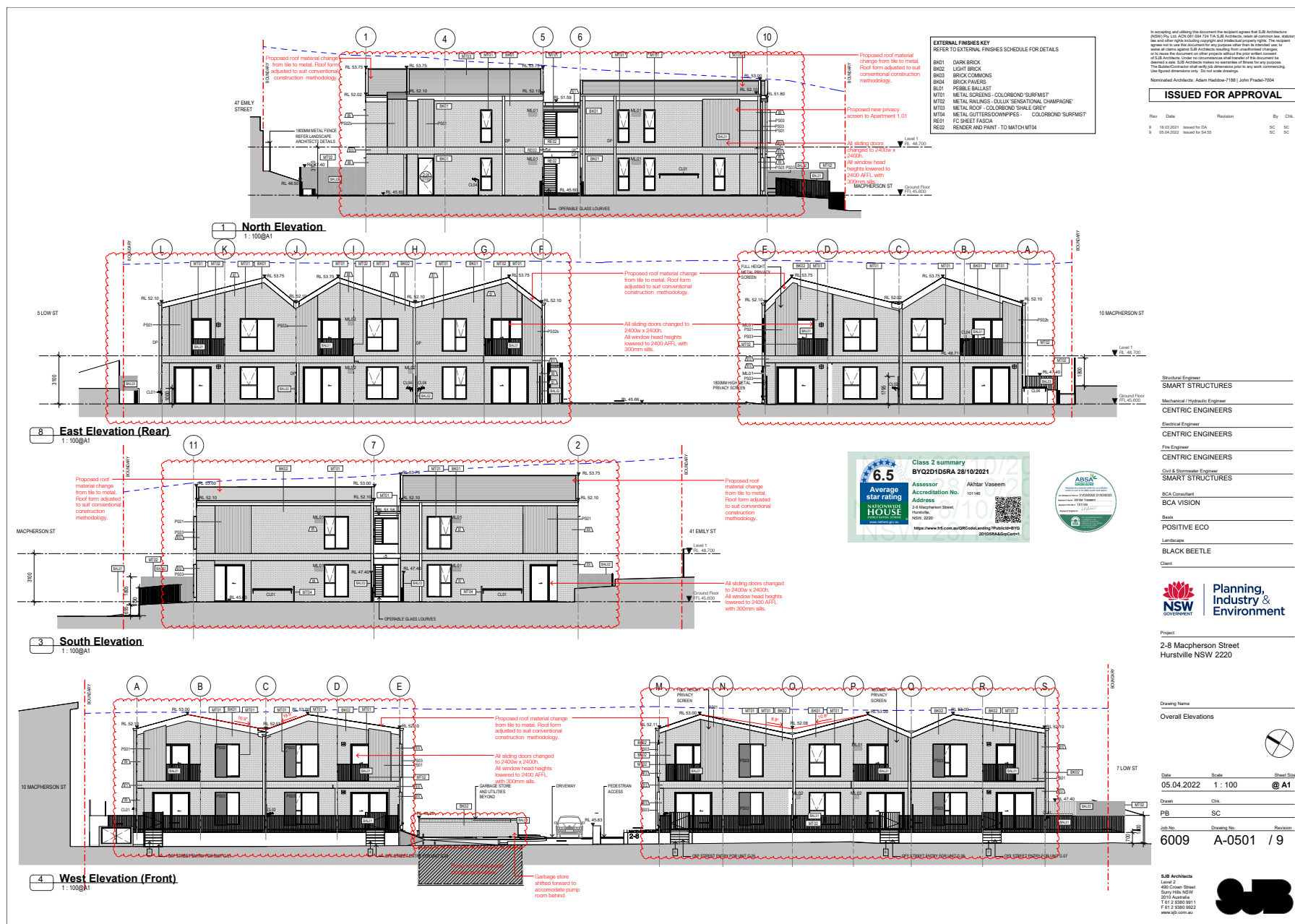
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**REPORT TO GEORGES RIVER COUNCIL
LPP MEETING OF THURSDAY, 15 DECEMBER 2022**

LPP059-22

LPP Report No	LPP059-22	Development Application No	N/A
Site Address & Ward Locality	12 month delegation of functions from Georges River Local Planning Panel to Manager Development and Building for certain development varying Clause 6.12(5) of the Georges River Local Environmental Plan 2021 SELECT A WARD		
Proposed Development	Change to delegations		
Owners	N/A		
Applicant	N/A		
Planner/Architect	N/A		
Date Of Lodgement	N/A		
Submissions	N/A		
Cost of Works	N/A		
Local Planning Panel Criteria	Request of Delegation by Panel		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	N/A		
List all documents submitted with this report for the Panel's consideration	Letter granting temporary assumed concurrence from Department of Planning and Environment		
Report prepared by	Manager Development and Building		

Recommendation	<p>THAT the Georges River Local Planning Panel delegate its consent authority functions under Section 2.20 (8) of the Environmental Planning and Assessment Act 1979 in relation to the determination of all development applications and modification applications under the Environmental Planning and Assessment Act 1979, being made to Council to the Manger Development and Building of Georges River Council where:</p> <ul style="list-style-type: none"> • A breach of more than 10% is proposed to the landscaped area provisions contained in Clause 6.12 (5) of the Georges River Local Environmental Plan 2021; and • The is pre-existing non-compliance with the landscaped area provisions specified in Clause 6.12 (5) of the Georges River LEP 2021; and • Development applications do not result in further reductions in landscaped area(s) or consequent increases in the non-compliance. <p>For a period of 12 months from 25 November 2022.</p>
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Report in Full Proposal

1. Local Planning Panels in the Greater Sydney Region and Wollongong commenced operations from 1 March 2018
2. Prior to the commencement of the Panels, the Minister for Planning issued a direction under section 9.1 of the Environmental Planning and Assessment Act 1979 which identifies the development applications that are to be determined by Local Planning Panels on behalf of councils in the Greater Sydney Region and Wollongong. The referral criteria for the Georges River Council are identified in Schedule 3 of the Direction. The Ministerial Direction can be found in Attachment 1. This was updated by Ministerial Direction on 30 June 2020.
3. Primarily the referral criteria for development applications to the Georges River Local Planning Panel are triggered when:
 - Conflict of interest arise
 - The proposal is contentious
 - There is departure from development standards by more than 10%
 - The proposal is a sensitive land use / development
4. It is noted under Clause 3 of the direction a note states:
If the Secretary allows concurrence to be assumed by council staff for contravening development standards, the panel can delegate these applications to council staff to determine.
5. On 8 October 2021, the Georges River Local Environmental Plan commenced operation. The plan contained Clause 6.12 titled “Landscaped areas in certain residential and environment protection zones”.
6. Part (5) of this Clause states:
 - (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—*
 - (a) *for a dwelling house located on land outside the Foreshore Scenic Protection Area—20% of the site area, or*
 - (b) *for a dwelling house located on land within the Foreshore Scenic Protection Area—25% of the site area, or*
 - (c) *for a dual occupancy located on land outside the Foreshore Scenic Protection Area—25% of the site area, or*
 - (d) *for a dual occupancy located on land within the Foreshore Scenic Protection Area—30% of the site area, or*
 - (e) *for development in Zone R3 Medium Density Residential—20% of the site area, or*
 - (f) *for development in Zone R4 High Density Residential—10% of the site area, or*
 - (g) *for development in Zone E2 Environmental Conservation—70% of the site area.*
7. This clause, as currently formulated, provides no concession for circumstances where minor alterations or works are proposed that do not worsen an existing non-compliance with respect to the landscaping standard on the site. Accordingly, a Clause 4.6 variation is required, and where the existing non-compliance is more than 10%, referral to the Local Planning Panel is required.

8. Given the landscaped area required under this clause is more than historic requirements across the Local Government Area, it is common that the existing built form for development in the area do not satisfy this requirement. Accordingly, a Clause 4.6 variation request is required.
9. Where the variation request is in excess of 10%, even where the application relates to minor works that do not impact on the landscaped area provided, currently such applications are legally only able to be determined by the Local Planning Panel.
10. In this context, until a revision to the clause can be brought about via a housekeeping amendment, it is requested the Local Planning Panel delegate its consent authority functions under Section 2.20 (8) of the Environmental Planning and Assessment Act 1979 in relation to the determination of applications involving a breach to this Development Standard by more than 10% for applications where:
 - The is pre-existing non-compliance with the landscaped area provisions specified in Clause 6.12 (5) of the Georges River LEP 2021; and
 - Development applications do not result in further reductions in landscaped area(s) or consequent increases in the non-compliance.

This will:

- (a) Enable to the efficient resolution of these minor Development Applications involving minimal environmental impact; and
- (b) Ensure the efficient use and operation of the Panel by enabling such applications be delegated to Council staff for determination.

On 25 November 2022 Council received concurrence in this regard from the Secretary of the Department of Planning with regards to variations of this nature (see attached) as required under the note to Clause 3.

Recommendation

THAT the Georges River Local Planning Panel delegate its consent authority functions under Section 2.20 (8) of the Environmental Planning and Assessment Act 1979 in relation to the determination of all development applications and modification applications under the Environmental Planning and Assessment Act 1979, being made to Council to the Manger Development and Building of Georges River Council where:

- A breach of more than 10% is proposed to the landscaped area provisions contained in Clause 6.12 (5) of the Georges River Local Environmental Plan 2021; and
- The is pre-existing non-compliance with the landscaped area provisions specified in Clause 6.12 (5) of the Georges River LEP 2021; and
- Development applications do not result in further reductions in landscaped area(s) or consequent increases in the non-compliance.

For a period of 12 months from 25 November 2022.

ATTACHMENTS

Attachment Letter to Department - Concurrence to delegate landscape variations to staff

[↓1](#) 

Attachment Local Planning Panel Direction – Development Applications - temporary
assumed concurrence

[↓2](#) 

LPP059-22



Our Ref:22/123

7 October 2022

Ms Laura Locke
Director Eastern and South Districts
NSW Department of Planning and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Dear Ms Locke

I am writing to you with respect to a request for concurrence to be provided to Council staff delegates at Georges River Council relating to variations in excess of 10% for minor applications that currently require referral to the Georges River Local Planning Panel for legal determination. Concurrence is sought in relation to the landscaped area requirement under Clause 6.12 (5) of the Georges River Local Environmental Plan 2021 (GRLEP 2021).

Background

The GRLEP commenced operation on 8 October 2021.

The relevant clause reads as follows:

- (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—*
- (a) *for a dwelling house located on land outside the Foreshore Scenic Protection Area—20% of the site area, or*
 - (b) *for a dwelling house located on land within the Foreshore Scenic Protection Area—25% of the site area, or*
 - (c) *for a dual occupancy located on land outside the Foreshore Scenic Protection Area—25% of the site area, or*
 - (d) *for a dual occupancy located on land within the Foreshore Scenic Protection Area—30% of the site area, or*
 - (e) *for development in Zone R3 Medium Density Residential—20% of the site area, or*



- (f) for development in Zone R4 High Density Residential—10% of the site area, or
- (g) for development in Zone E2 Environmental Conservation—70% of the site area.

It is noted that this clause relates to *development on land* and makes no allowance for the scope of works proposed, or the extent of any existing, and legal non-compliance with respect to the percentage of landscaped area on the site.

It is further noted that this was a new inclusion under the GRLEP 2021 and was not contained in either of the local planning instruments that previously applied to the affected area.

As currently formulated, as this is a development standard, in all circumstances where the site does not meet the numerical standard a variation request under Clause 4.6 is required and must be appropriately considered in the assessment and this has been applied in Council's practice.

However, as you will be aware, as Georges River Council is identified in Schedule 1 of the Ministerial Direction relating to Local Planning Panel operations, and as such, where development contravenes a development standard imposed by an environmental planning instrument by more than 10% this is required to be determined by a Local Planning Panel.

It has become apparent from the practical application of Clause 6.12(5) that a further revision to the Clause is needed to accommodate circumstances where minor works are proposed that do not reduce the landscaped area on the site, but on a site where the site in its pre-development state does not comply with the provisions of Clause 6.12(5). The review of this Clause will be included in an amendment to GRLEP 2021. This amendment (Housekeeping LEP) will be commenced later this year and I anticipate that it will be gazette towards the end of 2023.

In the meantime, given the historic applicable landscaping requirement was lower than that under the GRLEP 2021, a substantial number of sites in the area covered by that plan do not comply, to a substantial degree with this standard.

As such, due to the existing site landscaped area being non-compliant with the new development standard, several types of minor applications are currently only able to be determined by the Local Planning Panel including, for example applications relating to:



- Minor internal works wholly within an existing building
- A first-floor addition to an existing house
- Subdivision of an already approved dual occupancy
- Ancillary works, such as a new fence, new patio over an existing hard stand area etc.

In none of the specific circumstances is the non-compliance a result of the proposed works, and in all such cases compliance with the Development Standard would require such a significant expansion to the works proposed as to be unfair and unreasonable (for example, an application for a change of use to an existing garage that is wholly internal would require demolition of parts of an existing and legal dwelling house to comply with the standard).

Request for Secretary's concurrence with regards to Clause 6.12(5)

It is noted in the most recent direction, under the relevant clause relating to variations to development standards that:

If the Secretary allows concurrence to be assumed by council staff for contravening development standards, the panel can delegate these applications to council staff to determine.

I write to you to request this concurrence (for applications to be determined under staff, not Council delegation) with respect the determination of variations to the landscaped area control under Clause 6.12 (5) in the following specific circumstances:

- The site in its present state does not comply with the landscaped area specified in Clause 6.12 (5) of the Georges River LEP 2021; and
- Development will not result in any further reduction to the percentage of the site area consisting of landscaped area from its present state; and
- The application relates to alterations and additions, subdivision, or minor or ancillary works.

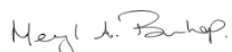
On receipt of such concurrence, Council will seek delegation from the Georges River Local Planning Panel as identified above, through a report to the Planning Panel.

Please advise if you require any further information with respect to this request by contacting Ms Nicole Askew, Coordinator Development Assessment on 9330 6284 or naskew@georgesriver.nsw.gov.au.



I look forward to your receiving your response in due course.

Yours faithfully



Meryl Bishop
Director Environment and Planning





Department of Planning and Environment

Our ref: IRF22/3555

Your ref: 22/123

Ms Meryl Bishop
Director Environment and Planning
Georges River Council
PO Box 205
HURSTVILLE NSW 1481

Via email: mbishop@georgesriver.nsw.gov.au

25 November 2022

**Subject: Local Planning Panel Direction – Development Applications
Temporary Assumed Concurrence**

Dear Ms Bishop,

I refer to Georges River Council's (Council) letter of 7 October 2022 to the Director Eastern and South Districts of the Department of Planning and Environment (the Department), regarding the Minister's *Local Planning Panel Direction – Development Applications* and request for the Department to grant concurrence to Council staff delegates for applications with variations in excess of 10% of the landscaped area control of Clause 6.12(5) of the Georges River Local Environmental Plan 2021 (GRLEP 2021).

I acknowledge the rationale provided by Council in seeking that the Secretary allows concurrence to be assumed by Council staff. I also note Council's intention to review clause 6.12(5) of the Georges River Local Environmental Plan 2021 in a future LEP amendment.

As the delegate of the Secretary, I have considered Council's request and have determined to grant temporary assumed concurrence for a period of **12 months from the date of this letter**. During this period, Council will be exempt from the requirement to refer development applications (or modifications) to the Georges River Local Planning Panel (LPP) where:

- a) there is pre-existing non-compliance with the landscaped area provisions specified in Clause 6.12(5) of the Georges River LEP 2021; and
- b) development applications do not result in further reductions in landscaped area(s) or consequent increases in the non-compliance.


Applicable development applications may be determined by Council staff under delegation from the Georges River LPP in accordance with any relevant governance mechanisms.

The Department advises that a review of Clause 6.12(5) should be undertaken to provide permanent solution to this issue and further extension to this temporary concurrence may not be provided.

Council is encouraged to investigate alternative approaches with a view to preparing a planning proposal to make an amendment to the LEP as soon as practicable. The Department would be happy to assist Council during this process.

Should you have any enquiries about this matter, I have arranged for Ms Laura Locke, Director Eastern and South Districts, to assist you. Ms Locke can be contacted on 8275 1307 or via email at laura.locke@planning.nsw.gov.au.

Yours sincerely



Tim Raimond

Deputy Secretary,
Planning and Land Use Strategy