

## COUNCIL ASSESSMENT REPORT

Panel Reference	2018SSH011
DA Number	DA2017/0657
LGA	Georges River Council
Proposed Development	Alterations and additions to the existing school by constructing a new Part 3, Part 4 storey homebase building along the northern and western section of the site including basement car parking. Redevelopment of the existing senior school building and refurbishment of the existing buildings within the school to upgrade and improve facilities and learning spaces. Conversion of the old church building (Local Heritage Item) from administrative offices to a Chapel and reconfiguration of existing spaces and areas, associated landscaping, signage and site works (St George Christian School).
Street Address	47 – 69 Woids Avenue, Allawah
Applicant/Owner	St George Christian School
Date of DA lodgement	22 December 2017
Number of Submissions	Original notification – seventeen (17) individual submissions including a petition with 127 signatures and forty-three (43) submissions in support of the application. Notification of amendments – six (6) submissions Notification confirming site addresses – four (4) submissions
Recommendation	Approval – Deferred Commencement consent
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Development with a capital investment value (CIV) over \$5 million for “community facilities” is classified as “Regional” development. Educational establishments fall within the category of “community facilities” and are therefore captured as Regional development depending on the CIV for the project.  The proposed CIV for the project is \$14,012,577.
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> <li>• Environmental Planning and Assessment Act 1979.</li> <li>• Environmental Planning and Assessment Regulation 2000.</li> <li>• State Environmental Planning Policy No 55 – Remediation of Land.</li> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• State Environmental Planning Policy No.64 (Advertising and Signage)</li> <li>• State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017</li> <li>• State Regional Environmental Plan No 2 – Georges River Catchment.</li> <li>• State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.</li> <li>• Draft Environment State Environmental Planning Policy</li> <li>• Kogarah Local Environmental Plan 2012.</li> <li>• Kogarah Development Control Plan 2013.</li> <li>• Georges River Section 94A Contribution Plan.</li> </ul>
List all documents submitted with this report for the Panel’s consideration	<ul style="list-style-type: none"> <li>• Survey Plan/s</li> <li>• Amended Architectural Plans</li> <li>• Shadow Diagrams</li> <li>• Amended Landscape Plans</li> <li>• Amended Stormwater details</li> <li>• Request for Further Information</li> <li>• Amended Clause 4.6 Statement – Height</li> <li>• Amended Clause 4.6 Statement – Floor Space Area</li> <li>• Amended Traffic and Parking Impact Assessment</li> </ul>

	<ul style="list-style-type: none"> <li>• Amended Heritage Impact Statement</li> <li>• Amended Design Statement</li> <li>• Section 4.55 Exemption</li> </ul>
Report prepared by	Larissa Ozog
Report date	20 May 2019

#### Summary of s4.15 matters

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 summarized, in the Executive Summary of the assessment report? **Yes**  
*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

#### Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

#### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **No**  
*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

#### Conditions

Have draft conditions been provided to the applicant for comment? **No**  
*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*

<b>Panel Reference</b>	<b>2018SSH011</b>
<b>DA Number</b>	DA2017/0657
<b>LGA</b>	Georges River Council
<b>Proposed Development</b>	Construction of a new part three/part four storey homebase building with basement car parking and a roof top terrace area located in part over No.47 and 49 Woids Avenue, Allawah and upper level addition to the senior school building. Redevelopment of the senior school buildings and the refurbishment of the existing buildings within the school to upgrade and improve facilities and learning spaces. Conversion of the old church building (Heritage Item) from administrative offices to a Chapel and a series of changes to uses of spaces within the school, associated landscaping, signage and site works within the St George Christian School.
<b>Street Address</b>	47 – 69 Woids Avenue, Allawah
<b>Applicant/Owner</b>	St George Christian School
<b>Date of lodgement</b>	22 December 2017
<b>Number of Submissions</b>	<p>Original notification/advertising – seventeen (17) individual letters including a submission containing one-hundred and twenty seven (127) signatures and forty-three (43) letters of support.</p> <p>Notification of amended plans – six (6) submissions.</p> <p>Notification of amendments (ensuring address details are correct) – four (4) submissions.</p>
<b>Recommendation</b>	“Deferred Commencement” - Approval subject to the conditions.
<b>Regional Development Criteria (Schedule 7)</b>	<p>Regional development is defined in Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011.</p> <p>Development with a capital investment value (CIV) over \$5 million for “<i>community facilities</i>” is classified as “Regional” development. Educational establishments fall within the category of “community facilities” and are therefore captured as Regional development depending on the CIV for the project.</p> <p>The CIV of this development as outlined in the application is</p>

	\$14,012,577.
<b>List of all relevant s79C(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• Environmental Planning and Assessment Act 1979.</li> <li>• Environmental Planning and Assessment Regulation 2000.</li> <li>• State Environmental Planning Policy No 55 – Remediation of Land.</li> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• State Environmental Planning Policy No.64 (Advertising and Signage)</li> <li>• State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017</li> <li>• State Regional Environmental Plan No 2 – Georges River Catchment.</li> <li>• State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.</li> <li>• Draft Environment State Environmental Planning Policy</li> <li>• Kogarah Local Environmental Plan 2012.</li> <li>• Kogarah Development Control Plan 2013.</li> <li>• Georges River Section 94A Contribution Plan.</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Statement of Environmental Effects.</li> <li>• Heritage Impact Statement.</li> <li>• Registered survey.</li> <li>• Architectural plans.</li> <li>• Landscape Plan.</li> <li>• Traffic Impact Assessment report.</li> <li>• Stormwater Details and Plans.</li> <li>• Clause 4.6 Exception to Development Standard – Height.</li> <li>• Clause 4.6 Exemption to Development Standard – FSR.</li> </ul>
<b>Report prepared by</b>	Larissa Ozog Senior Development Assessment Officer
<b>Report date</b>	28 May 2019

<b>Summary of matters for consideration under Section 4.15</b>  Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	<b>Yes</b>
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<b>Legislative clauses requiring consent authority satisfaction</b>  Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed and relevant recommendations summarised, in the Executive Summary of the assessment report?	<b>Yes</b>
<b>Clause 4.6 Exceptions to development standards</b>  If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	<b>Yes</b>  <b>Clause 4.6 Statement – Height</b>  <b>Clause 4.6 Statement - FSR</b>
<b>Special Infrastructure Contributions</b>  Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	<b>Not Applicable</b>
<b>Conditions</b>  Have draft conditions been provided to the applicant for comment?	<b>No, standard conditions have been attached. The Applicant will be able to review the conditions once the report is published.</b>

## Executive Summary

### Proposal

Council is in receipt of a development application (DA2017/0657) seeking planning permission for the redevelopment at the St George Christian School at Allawah. The proposed alterations and additions will allow for the following;

- Removal of eight (8) car parking spaces accessed from Bogie Lane;
- Removal of the demountable building and student toilets from the Junior/Middle School playground to increase play space;
- Relocate the current Junior School classrooms from the demountable fronting Bellevue Parade to permanent classroom spaces within the existing building at the corner of Bellevue Parade and Church Lane;

- Use of the existing 2 storey demountable fronting Bellevue Parade as the main school reception. Before and after school care will be relocated on the ground floor in the general learning areas with the Senior School on Level 1;
- Relocation of the Middle school classrooms to the proposed Level 2 of the existing Senior School Building.
- Demolition of the rear addition to the Chapel, and existing demountable administration buildings in the centre of the Site.
- Construction of a new part 3 and part 4 storey homebase building with basement car parking for 39 vehicles.
- Refurbishment of the existing two (2) storey Junior School Junior building.
- Conservation works to the heritage listed Chapel building.

The proposal originally involved the demolition of the two dwelling houses located at No.47 and 49 Woids Avenue, Allawah; however these structures have been removed in accordance with the complying development provisions, development consent is no longer sought or required for these works.

Council and the Panel after its briefing raised concerns regarding the bulk, scale and form of the proposed development in particular the proposal's relationship to the scale of neighbouring residential buildings in particular the impact to No.45 Woids Avenue, Allawah. As a result the proposal was modified in December 2018.

The scale and form of the new building adjoining No.45 Woids Avenue, Allawah was amended and the height of the building reduced and setback further from this adjoining property. The development is now considered to be a more sympathetic design response to the Site and its surrounds.

This assessment is based on the amended plans submitted in December 2018.

### **Site and locality**

St George Christian School (SGCS) is located at 47-69 Woids Avenue, Allawah (also known as 70 Bellevue Parade, Hurstville). SGCS also owns 48, 50, 54 and 56 Bellevue Parade, Allawah. The school also leases 58 Bellevue Parade, Allawah. Council is in the receipt of a Development Application (DA2019/0002) for the change of use of No.45 Bellevue Parade from residential purposes to school/administrative purposes. This application is currently under assessment.

The recently acquired land at No.47 and 49 Woids Avenue, Allawah will partially accommodate the proposed alterations and additions to the school as proposed by this application. The school has three street frontages to Woids Avenue, Bellevue Parade and Church Lane. It also has secondary access off Bogie lane.

The site has a total area of 9,452m<sup>2</sup>.

SGCS is located within a generally low to medium scale residential precinct and is within close proximity to Allawah Train Station and the small strip shopping precinct

along Railway Parade adjacent to the station. The Site is also located some 1.2km from the Hurstville Town Centre.



**Figure 1: Aerial map highlighting the properties which comprise of the school site outlined in blue**

### **Zoning and KLEP (2012) Compliance**

The majority of the Site is zoned SP2 Infrastructure with some of the newly acquired sites still zoned R2 Low Density Residential. In accordance with the KLEP, Educational Establishments are defined as *“a building or place used for education (including teaching), being:*

- (a) a school, or*
- (b) a tertiary institution, including a university or a TAFE establishment, that provides formal education and is constituted by or under an Act”.*

The school falls within this definition and is a permissible use in the SP2 zone however Educational Establishments are a listed prohibited use in the R2 zone table of the KLEP.

Clause 35(1) of the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 states that

*“development for the purposes of a school may be carried out by any person with development consent on land in a prescribed zone”.*



Clause 33 of the policy defines the “*prescribed zone*” and includes the Residential R2 land use zone. As such the extension of the school facilities into the R2 zone is permissible by way of the provisions of the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017.

### **State Environmental Planning Policy’s**

The proposal has been considered to be satisfactory in regards to the following policies which have been considered in respect to the application:

- Environmental Planning and Assessment Act 1979.
- Environmental Planning and Assessment Regulation 2000.
- State Environmental Planning Policy No 55 – Remediation of Land.
- State Environmental Planning Policy No 64 – Advertising and signage.
- State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017
- State Environmental Planning Policy (State and Regional Development) 2011
- State Regional Environmental Plan No 2 – Georges River Catchment.
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.
- Deemed State Environmental Planning Policy – Georges River Catchment.
- Draft Environment State Environmental Planning Policy.

### **Draft Environment SEPP**

The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018.

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

Changes proposed include consolidating the following seven existing SEPPs:

- State Environmental Planning Policy No. 19 – Bushland in Urban Areas
- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
- State Environmental Planning Policy No. 50 – Canal Estate Development
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property.

### **Tree Removal**

The proposal involves the removal of several trees being a five (5) Weeping Bottlebrush (*Callistemon viminalis*), three (3) Lilly Pillies (*Acmena smithii*) and one (1) Mango (*Mangifera indica*) tree.



The Arboricultural Impact Assessment report which was prepared by Ian Hills and accompanies the application recognises that the trees proposed to be removed have been rated as having “*low retention value*” and will be in direct conflict with parts of the proposed works. The report states that:

*“With most of the trees exhibiting structural faults and generally lower landscape value than the larger trees on site it is proposed that these trees are removed in favour of the development. Compensatory planting to offset the removal of these trees can be included within the landscaping for the site and should provide new plantings of indigenous native trees of a habit and size suitable to the available space so that future maintenance does not become a burden.”*

A condition will require that the landscape plan be updated to reflect the need for additional planting to compensate for the loss and that the recommendations by the arborist are implemented. The trees are located along the front of the site adjoining No.47 and 49 Woids Avenue and their removal is required to facilitate the construction of the basement car park and associated driveway entry.

Trees identified as No.10 to 12 in the arborists report relate to large, established trees which are to be retained and protected as part of the project as these are located to the south of the carpark driveway entry. Trees No. 10 (*Corymbia citiodora*), 10A (*Callistemon viminalis*) and trees 11 and 12 (*Lophostemon confertus*) will be subject to a major encroachment of the TPZ that will require more detailed investigation and the implementation of tree protection measures in accordance with section 4 of the Australian Standard AS4970-2009 ‘Protection of Trees on Development Sites’. An experienced arborist will be required to oversee works to ensure the adequate protection of these trees and this is included as a condition if consent is issued.

The development proposes the addition of new street trees along the extended frontage to Woids Avenue, Allawah where the new building works are proposed. This will improve the appearance of the school when viewed from the street.

In general the proposal is consistent with the provisions of this Draft Instrument.

### **Kogarah Development Control Plan 2013 (KDCP)**

The KDCP does not include any specific development controls or standards relating to educational establishments however Part B (General Provisions) of the KDCP are relevant to all developments within the LGA and need to be considered. General provisions relate to matters such as car parking, waste disposal, tree management and heritage conservation.

A detailed assessment against the provisions of the KDCP is included later in this report.

## **Submissions**

The application was notified on several occasions. The initial notification/advertising period generated the greatest amount of response comprising of 17 objections including a submission containing 127 signatures and 43 submissions in support of the application.

The amended scheme was re-notified and Council received a total of six (6) submissions.

The issues raised in the submissions include, overshadowing, privacy impacts, traffic impacts, governance and procedural fairness. The application was re-notified a third time to ensure all addresses were included as the school covers a number of adjoining sites, a further four (4) submission were received in response to this notification. These issues are discussed in greater detail later in this report.

## **Level of Determination**

The development proposes a cost of work or total CIV (Cumulative Investment Value) of \$14,012,577. The determining authority is the Sydney South Planning Panel (SSPP) due to the Capital Investment Value (CIV) exceeding \$5 million for community facilities in accordance with the definition of Regional development contained within Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011.

The CIV has been confirmed and is outlined in the Registered Quantity Surveyors Detailed Cost Report.

## **Conclusion**

Given the level of concern regarding the traffic and parking arrangement at the school and issues regarding potential traffic congestion it is recommended that the school prepare a detailed traffic management plan (TMP) which aims to address potential concerns, seeks to reduce risks and conflicts and improve traffic movements and parking during peak operating times. A well-managed traffic and transport arrangement and plan for the school will reduce concerns by residents and should improve safety and ease traffic and parking issues to some degree given the school is located within a predominantly residential area.

Having regard to the matters for consideration Section 4.15 and Section 4.16 of the Environmental Planning and Assessment Act and following a detailed assessment of the proposed application, DA2017/0657 is recommended for “deferred commencement” approval subject to the provision of a detailed TMP. Additional conditions regarding capping the number of students and staff and obtaining a Plan of Management for before and after school services and the implementation of some design and heritage conditions and restraints should reduce potential amenity impacts.

# Full Report

## Site and Locality

The subject site is known as the St George Christian School (SGCS) at Allawah and comprises of lots which are legally identified as follows;

47 Woids Avenue Allawah:	Lot B, DP 331079 (total site area of 488.5sqm)
49 Woids Avenue Allawah:	Lot A, DP 331079 (total site area of 399.7sqm)
51 - 69 Woids Avenue Allawah:	Lot 1, DP 1172012 (total site area of 8564sqm)
48 Bellevue Parade Allawah:	Lot 8, DP 2793 (total site area of 444sqm)
50 Bellevue Parade Allawah:	Lot 10, DP2793 (total site area of 444sqm)
54 Bellevue Parade Allawah:	Lot 14, DP 2793 (total site area 444sqm)
56 Bellevue Parade Allawah:	Lot 16, DP 2793 (total site area 444sqm)
58 Bellevue Parade Allawah:	(this property is leased by the school) Lot 18, DP2793 (total site area 444sqm).



**Photo 1: North-eastern section of the Senior school when viewed from Woids Avenue adjoining the currently vacant sites (No.47 and 49 Woids Avenue)**

The site has three (3) road frontages with a frontage width of 152.4m to Woids Avenue Allawah, 79.1m to Church Lane Allawah and 91.5m to Bellevue Parade Allawah. The total site area is some 9,452m<sup>2</sup>.

The site is irregular in shape and has an easterly aspect. The site slopes approximately 8% from Bellevue Parade to the lowest point at the corner of Church Lane and Woids Avenue. Built form at the main, established part of the school (51-69 Woids Avenue

Allawah) comprises a mixture of single and multi-storey buildings of varying ages, including a heritage-listed building, being the former Congregational Church. The school facilities include general and specialist classrooms, administration offices, multi-purpose spaces and both indoor and outdoor play areas. The former Congregational Church forms a key feature of the built improvements at the site and is currently used as an after-school care facility.

The dwelling houses and outbuildings that existed at 47 and 49 Woids Avenue Allawah have been demolished under complying development provisions.

Pedestrian access to the site is from Woids Avenue and from Bellevue Parade Allawah. Vehicular access is also provided from Bogie Lane and Church Lane Allawah. Ground level staff car parking is located within the central portion of the site, and basement parking is provided from Church Lane Allawah. Existing vegetation at the site is concentrated primarily along the Woids Avenue and Bellevue Parade Allawah frontages.

Vehicular access to the site is currently provided from Bogie Lane, Church Lane and Woids Avenue Allawah. A total of 23 staff car parking spaces are currently provided in the following form:

- Twelve (12) spaces within the existing lower basement carpark accessed from Church Lane;
- Eight (8) spaces at ground level, staff located within the central portion of the site accessed from Bogie Lane Allawah;
- Three (3) spaces located at the rear of 50 Bellevue Parade Allawah.

#### To the east and north-east

- Immediately to the east of the Site on the other side of Woids Avenue Allawah, are a series of medium density developments including a series of 3-4 storey walk up blocks of flats and older style residential flat buildings.
- Further to the east of the site is the Allawah Train Station which is located some 350m from the Site and is also within close proximity to the small local shopping precinct adjacent to the Station along Railway Parade.



**Photo 2: Residential Flat buildings along the eastern and north-eastern side of the site, along Woids Avenue directly across the road from the school.**

To the west

- Immediately to the west of the subject site on the other side of Bellevue Parade Allawah are a series of low scale residential dwelling houses. Most of these properties are single to two storeys in scale and most are detached.

To the north and south

- Properties immediately to the north and south of the Site comprise of a mix of lower scale dwelling houses and medium density developments. No.46 Bellevue Parade Allawah is a single storey detached dwelling house and No.45 Woids Avenue Allawah is also a detached two storey dwelling house.

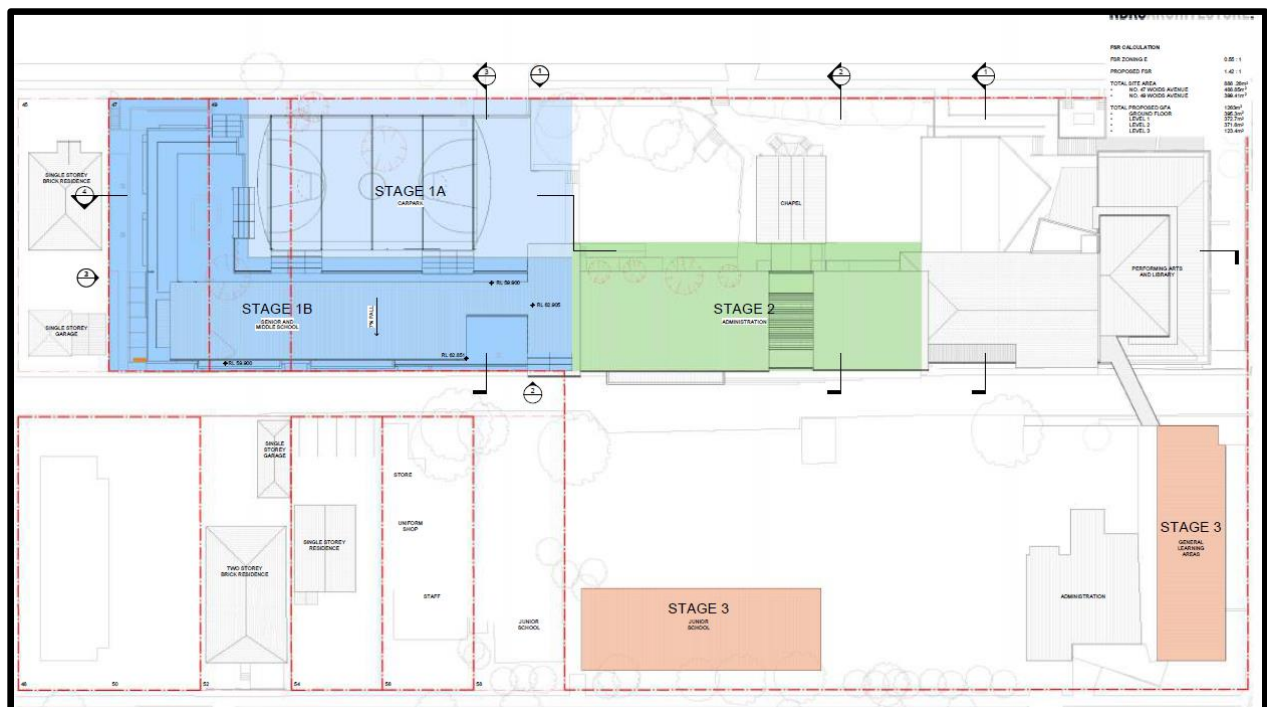


**Photo 3: No.45 Woids Avenue immediately to the north of the site**

The site is also located within 1.2km from the Hurstville Town Centre and is generally well located and accessible.

## Proposal

Although not a staged application, the proposed development has been phased in three (3) stages, 1A and 1B, 2 and Stage 3. It is easier to define the works in accordance with the staging of the development. **Figure 2** below reflects the proposed staging.





**Figure 2: Staging Plan showing the proposed phasing of the development (courtesy NBRSArchitecture)**

The original development sought the following works;

### **Stage 1A**

- This stage relates to the construction of the upper basement level car park which will have access from Woids Avenue catering for 39 off street car parking spaces, plant rooms, amenities, a lift and associated storage space.
- Above the car park will be a new covered basketball court at ground floor level.

### **Stage 1B**

- Demolition of the existing structures at No.47 and 49 Woids Avenue Allawah, the existing science labs and senior GLA's (general learning area) and the construction of a four (4) storey school building along this part of the site comprising of the following features;
  - Ground floor – New art studio, dark room, storeroom, science labs and toilets, new COLA and a covered basketball court;
  - First floor - six (6) new GLA (general learning areas), performing arts room and associated amenities;
  - Second floor – eight (8) new GLA's, smaller central break out spaces and associated amenities;
  - Third floor – staff rooms, offices, amenities and new roof top terrace spaces; and
  - New identification signage along Woids Avenue and Bogie Lane Allawah.

Stage 1A works are located within the senior and middle school (High School).

### **Stage 2**

- Alterations and additions to the existing central administration building with the following changes and features;
  - Ground floor - Extend the building to cater for a new wood tech workshop, more formal administration spaces and offices and convert the food tech spaces to include a textile GLA and the provision of improved amenities. The Chapel is to be converted back to its original use as it is currently used for administration purposes.
  - First floor – The art rooms are to be removed and converted into a larger purpose designed administrative areas with meeting rooms. The library is to be retained in its current form.
  - Second floor – new level which will cater for a new student learning centre, support unit and office space.

Stage 2 works relate specifically to the administrative area that is centrally located.



### **Stage 3**

- The building facing Bellevue Parade proposes to remove the five (5) Junior GLA spaces to become a reception room and learning space on the ground floor.
- The four (4) classrooms situated along the south-eastern side of the Site facing Church Street will become general learning spaces.
- The administrative office located at No.56 Bellevue Parade Allawah will become a uniform shop.
- Four (4) new car parking spaces are proposed at the rear of No.54 Bellevue Parade Allawah.
- The first floor level of both buildings (located along the western and south-eastern side of the Site) will remain as existing although the internal learning spaces will be altered to become general learning spaces as opposed to be purely dedicated to the Junior school or Middle school.

Stage 3 works relate to the Junior school (Primary school).

The majority of the proposed works are centralised within the Site, however Council has raised issues regarding the scale and bulk of the new building and the potential interface of the new building with the lower scale residential properties to the north, No.45 Woids Avenue Allawah.

As a result of this issue raised by the Sydney South Regional Planning Panel and Council Officers, the plans were amended on 10 December 2018 and included the following changes;

- Increase the side setback of the building along the northern side from 3.03m to 5.03m.
- Relocate the lift from the northern side to a central location which will remove the lift overrun.
- Amend and update the Landscape Plan.
- Remove the staff/student break out space at the third level and along the northern side and replace with a larger roof terrace.
- Amend the fenestration and architectural treatment along the northern elevation of this building.
- Provide a covered walkway from staircase 3 to the staff area on Level 3.
- This reduces the gross floor area by some 85sqm.
- The height of the new building along the northern side is reduced from part 3, part 4 storey to a 3 storey building along the northern side.



Figure 2: 3D Montage of the amended scheme when viewed from Woids Avenue Allawah.

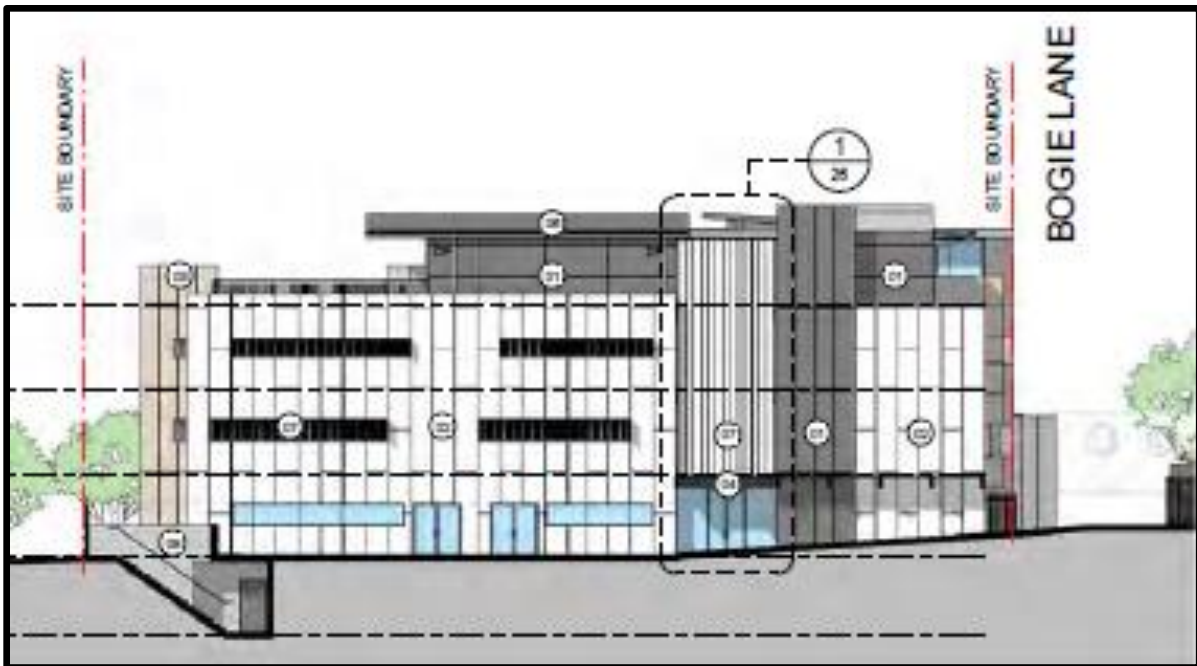


Figure 3: Northern elevation of the proposed new building located along Woids Avenue Allawah as originally proposed



**Figure 4: Northern elevation of the proposed new building located along Woids Avenue Allawah as amended and reduced in height.**

## **Student numbers**

There is no proposed increase in student or staff numbers and the works aim at consolidating spaces, providing new, modern and functional learning spaces and facilities for students and staff.

To provide some background on existing student numbers this campus accommodates a total of 650 students offering 2 class streams for Years 3-6 and for Years 7-10 the school accommodates 3 class streams per year and enrolments in Years 11 and 12 vary from year to year but in 2017 student numbers from Year 7-12 were 448 and 208 students in Years 3-6. The Infants school (Kindy to Year 3) campus is located at Sans Souci.

All schools are given a small amount of flexibility in their student numbers however if they are proposed to increase substantially or to a larger degree then they will need to lodge a Development Application to intensify the use. A condition will cap the numbers of students to a maximum of 650 and cap the number of staff at 95.

## **Background**

The subject development application was lodged with Council on 22 December 2017. Given the CIV of the proposal, the application was subsequently registered with Sydney South Planning Panel (SSPP).

A SSPP Briefing Meeting was held on 8 May 2018, during which following key issues had been discussed:

- *Need to meet the standards of the Education SEPP 2017*

- *Need for an overall site strategy and masterplan to demonstrate accommodation of future needs. Alternative options for site development could have been considered*
- *Concerns with regards to the interface and impact on neighbouring properties in terms of privacy, overshadowing, noise and height. These impacts have not been adequately addressed*
- *Carparking allocation non-compliance – need to meet the minimum requirements*
- *Impact of increased traffic, drop-off and carparking overflow on surrounding streets*

Council response: The Applicant considered the issues raised by the Panel and Council Officers and has amended the plans to address some of the bulk, scale, built form and design issues. The proposal generally complies with the Education SEPP and although a formal masterplan has not been submitted, the scheme has been staged and covers the phasing of the proposed works.

Some residents have noted that the School has prepared a Masterplan and this information has not been submitted as part of the application. The Applicant acknowledges that a Masterplan was prepared some time ago and this document has not been made available. The school site is under one ownership and the proposal is considered in its own right to be an integrated development that satisfies the purposes and objectives of a Masterplan by phasing the development. This proposal is substantial in its nature and is holistic and detailed enough to fulfil the objectives and purpose of a Masterplan. Council does not have any statutory provisions to require the school to prepare a Masterplan. There is also no legal requirement for the provision of a Masterplan.

In the most part redevelopment at schools is largely and commonly a piecemeal process as modifications are dependent on funding and the changing and altering needs of students and the general learning environment. It is not a static process and often legislative changes require operational responses which cannot always be catered for in Masterplans.

The reduction in the scale and bulk of the new building and increase in the northern side setback will improve its relationship and interface with the adjoining residences along Woids Avenue. The issue of impacts generated by the new building and associated alterations is detailed later in this report.

### **Previous applications**

The most recent and relevant development applications pertaining to the Site include the following;

- **DA2017/0281**

On 24 August 2017, Georges River Council granted development consent the construction of a new covered outdoor learning area (COLA) over an existing hardstand outdoor play area.

- **DA2017/0323**

On 5 October 2018, Georges River Local Planning Panel granted approval to the application for the demolition of the existing dwelling at No.48-50 Bellevue Parade and the relocation of the two (2) storey modular classroom building from 51-69 Woids Avenue to No.48-50 Bellevue Parade.

- **Pre2017/16**

A pre-lodgement application was lodged in August 2017 for the proposed development. No objection was raised in principle to the proposal subject to the consideration of a number of issues including traffic and parking impacts, heritage considerations, floor space calculation, bulk, scale and form of the new building and its relationship to neighbouring properties and associated amenity impacts including noise and the visual appearance of the development.

- **DA93/2010**

On 7 March 2011 former Kogarah City Council granted development consent for the use of part of the approved multi-purpose school building as a Place of Public Worship.

## **Statutory framework**

### **Environmental Planning and Assessment Act 1979 (EP&A) Act 1979**

The proposal has been assessed and considered against the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act), the objects of the EP&A Act, and the principles of ecologically sustainable development as follows:

#### **Objects of the EP&A Act**

Consent authority is required to consider the objects in Section 1.3 of the EP&A Act when making decisions under the Act. Council has considered the object of the EP&A Act in the Table below and is satisfied that the proposal complies with all objects.

<b>Objects of the EP&amp;A Act</b>	<b>Proposal</b>	<b>Compliance</b>
<i>(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources</i>	The proposed alterations and additions to the school are considered to improve the facilities, services and learning spaces and aim to improve and provide better facilities for this school, its students and staff.	Yes
<i>(b) to facilitate ecologically sustainable development by integrating relevant</i>	The design considers the principles of ESD. The development aims to be	Yes

<i>economic, environmental, and social considerations in decision-making about environmental planning and assessment</i>	environmentally sustainable for the longer term.	
<i>(c) to promote the orderly and economic use and development of land</i>	The development aims to update and improve of the existing facilities at the school and provide for modern and more functional spaces and areas.	Yes
<i>(d) to promote the delivery and maintenance of affordable housing</i>	Not applicable to this land use and proposal.	Not applicable
<i>(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats</i>	The proposal is not considered to result in adverse impacts to any threatened and other species of native animals and plants, ecological communities and their habitats. There are none of these species mapped within the Site or its immediate vicinity.	Yes
<i>(f) to promote the sustainable management of built and cultural heritage</i>	<p>The Site includes a Heritage Item of local significance in accordance with Schedule 5 of the KLEP. The small chapel at the school is the designated item and is classified as “<i>Former Woids Avenue Congregational Church – St George Christian School</i>”. The application is accompanied by a Heritage Assessment and was referred to Council’s Heritage Advisor for comment.</p> <p>No objection was raised in respect to the proposed works and a detailed discussion is provided as part of this assessment later in the report.</p>	Yes

<i>(g) to promote good design and amenity of the built environment</i>	The amended design is considered to satisfactorily address the key development and design controls.	Yes
<i>(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants</i>	The proposal will achieve this object by complying with Council's recommended consent conditions relating to construction phase of the development.	Yes
<i>(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State</i>	The proposal is a regionally significant development and therefore the Sydney South Planning Panel is the consent authority.	Yes
<i>(j) to provide increased opportunity for community participation in environmental planning and assessment</i>	<p>The submissions section of this report outlines Council's public exhibition of the proposal, including public submissions.</p> <p>The submission section also sets out details of Council's consideration of the key issues raised in public submissions.</p>	Yes

## Section 4.15 Assessment

***(1) Matters for consideration—general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:***

***(a) the provisions of:***

***(i) any environmental planning instrument***

The proposal has been considered under the relevant statutory provisions as per below:

- Environmental Planning and Assessment Act 1979.
- Environmental Planning and Assessment Regulation 2000.
- State Environmental Planning Policy No 55 – Remediation of Land.
- State Environmental Planning Policy No 64 – Advertising and signage.



- State Environmental Planning Policy (Educational Establishments and Child Care Centres) 2017
- State Environmental Planning Policy (Infrastructure) 2007.
- State Regional Environmental Plan No 2 – Georges River Catchment.
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.
- State Environmental Planning Policy (State and Regional Development) 2011
- Draft Environment State Environmental Planning Policy.

**(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent**

The main planning instrument that is to be considered is the Kogarah Local Environmental Plan 2012. The provisions and standards within this plan that are relevant to the proposal are outlined in more detail later in this report.

**(iii) any development control plan, and**

The applicable Development Control Plans to the proposed development are:

- Kogarah Development Control Plan 2013.
- Georges River Council Section 94A Contributions Plan 2017.

**(iii) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and,**

Comment: there are no planning agreements proposed

**(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,**

Comment: There are no further prescribed matters under the Regulations apart from compliance with the National Building Code of Australia (BCA) and meeting the Australian Standards for parts of the design.

**(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,**

Comment: The proposal is not considered to have any adverse impacts upon the natural and built environment. The alterations and additions have been considered in context with the surrounding development and the amended design has improved the relationship of the proposed built form to its surrounds and reduced potential amenity impacts.

Additionally, the proposal is considered to contribute positively to the social and economic outcomes that are sought to be achieved for this community facility.

**(c) the suitability of the site for the development,**

Comment: The site has been used as an educational establishment since 1981 and has been an ongoing use since that time. The Education SEPP allows for the expansion and extension of school uses and facilities into what the policy states as “prescribed zones” which includes residential zones.

**(d) any submissions made in accordance with this Act or the regulations,**

Comment: The proposal has been notified and all submissions received have been considered in detail under the submissions and referral section of this report.

**(e) the public interest.**

Comment: The proposal satisfies the applicable Environmental Planning Instruments (EPI's) and object of the Act and accordingly is considered to be within the Public interest. The development will not adversely affect the amenity of immediately adjoining properties and will not negatively affect the character and nature of the neighbourhood. Conditions are included to further protect residents and minimise potential impacts. The provision of a detailed Transport Management Plan aims to ensure that traffic and parking in and around the school, whilst in operation is well planned and managed for the future.

**Environmental Planning and Assessment Regulations 2000 (EP&A) Regs 2000**

The proposed development satisfies the relevant matters for consideration for development under the Regulations.

**Compliance and Assessment**

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

The site is within the area affected by the Greater Metropolitan Regional Environmental Plan No.2 – Georges River Catchment. The proposal, including the disposal of stormwater, is considered to be consistent with the Council's requirements for the disposal of stormwater in the catchment.

All stormwater from the proposed development will be managed by the proposed stormwater system and will be treated in accordance with Council's Water Management Policy and would therefore satisfy the relevant provisions of the Deemed State Environmental Planning Policy – Georges River Catchment. Council's Development Engineers have not raised any issues with the proposed method of stormwater disposal.

**State Environmental Planning Policy no. 55 – Contamination of Land (SEPP 55)**

SEPP 55 applies to the land and Clause 7 stipulates that a consent authority must not consent to the carrying out of any development on land unless it has considered matters for consideration contained in Clause 7. Clause 7 specifically states;

*(1) A consent authority must not consent to the carrying out of any development on land unless:*

- (a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

*(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*

*(3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*

Table 1 of the Contamination Management Guidelines lists a number of land uses that are likely to create contamination. The proposed school use does not fall into this category.

According to Council's records and a desktop review the site has been used for residential purposes for many years prior to the establishment of the school in 1981. The Heritage Assessment which accompanies the application confirms that information and states;

*"The land on which the St George Christian School now stands had been purchased, following the opening of the Illawarra Railway and Hurstville Station in 1884, by the Universal Land & Deposit Bank Limited who created a residential subdivision known as The Bellevue Estate Hurstville in the early 1890s*

*The layout of the Bellevue Estate with linear parallel streets running along an east west axis illustrates how the railway was the focal point and a defining feature of the estate. The Bellevue Estate was first offered for auction sale in 1891. It consisted of seven subdivisions, six of which were within Kogarah Municipality. These were offered for sale at various times in the 1890s. Bellevue Estate was promoted for its progressive sanitary features which made it a healthy, and desirable, location on account of its elevation, wide streets, and perfect drainage. Illustrations of the Bellevue Estate which were part*

*of the marketing campaign emphasised these features. Auctioneer E.C.V. Broughton of Sydney, advertised his office was open until 9pm during the week for the convenience of the Working Classes evidence that the estate was targeted at the middle and lower classes.”*

The historic assessment of the site confirms that the existing Congregational Church/Chapel that is the heritage item and exists on the Site (previously known as 65 Woids Avenue Allawah) was built 1900 and was at the time surrounded by residential properties.

Based on the historical uses of the Site it is unlikely the site is contaminated in any way and it is considered that the site is suitable for the proposed development without the need for any further investigations.

The proposed development no longer involves the demolition of the existing dwellings at No.47 and 49 Woids Avenue as these have been demolished in accordance with Complying Development provisions. Parts of other school buildings are to be partially or wholly demolished to cater for the new works.

As a precaution a Hazardous Building Materials Survey was prepared by Hibbs and Associates, dated August 2017. The report recognised the presence of asbestos within the old residential buildings and recommends a series of practices and procedures that need to be adopted during the demolition process. These residential dwellings have been demolished in accordance with complying development provisions and the removal of asbestos would have been considered at this stage. An unexpected finds condition is included to capture any unexpected finds during the excavation/demolition process on site.

### **State Environmental Planning Policy – State and Regional Development 2011 (SRD SEPP)**

The proposal is a regionally significant development pursuant to Clause 2 of Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP) as it is development is defined as “community development” that has a Capital Investment Value (CIV) of more than \$5 million in accordance with the SEPP.

In this case the Sydney South Planning Panel is the consent authority for the subject development application.

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

The State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 replaces Clause 5.9 of KLEP 2012 (Preservation of Trees and Vegetation).

The intent of this SEPP is “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”.

In this instance, the development is consistent with the provisions of the SEPP and the site is free of any vegetation of any botanical significance.

### State Environmental Planning Policy no. 64 – Advertising and signage (SEPP 64)

The proposed development includes the installation of some signage along the front of the school to assist in identifying the use (refer to **Figure 6** below). SEPP 64 is applicable to any proposed signage as the policy is state-wide.



**Figure 5: Front and rear elevation of the proposed new signage along the central staircase structure.**

The aims and objectives of the policy are;

(a) to ensure that signage (including advertising):

(i) is compatible with the desired amenity and visual character of an area, and

- (ii) provides effective communication in suitable locations, and*
- (iii) is of high quality design and finish, and*
- (b) to regulate signage (but not content) under Part 4 of the Act, and*
- (c) to provide time-limited consents for the display of certain advertisements, and*
- (d) to regulate the display of advertisements in transport corridors, and*
- (e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.*

The proposed signage can be defined as “*Business Identification Signage*” which derives its meaning from the Standard Instrument. KLEP defines Business identification sign as “*a sign that indicates the name of the person or business, and the nature of the business carried on by the person at the premises or place at which the sign is displayed, and that may include the address of the premises or place and a logo or other symbol that identifies the business*”.

It is questionable that the school is technically “a business” and as such the signage could also be defined as a “building identification sign” as it identifies the name of the building and includes a logo however the objective of the proposed signage is more to do with identifying the use rather than the building so the definition of business identification signage is considered more appropriate in this case.

Part 2, clause 8 refers to the granting of consent to signage in general. Clause 8 requires the consent authority to be satisfied that the signage is consistent with the objectives of this Policy and that the signage satisfies the assessment criteria in Schedule 1 of the Policy. Schedule 1 refers to a series of criteria that need to be considered during the assessment of the application namely, compatibility with the character of the area, ensuring the sign does not compromise any views or vistas, that the scale and design is in keeping with the existing environment and general landscape setting, the signage in keeping with the scale and form of the building, if the sign is illuminated the impacts associated with its illumination and the design of the sign does not adversely affect safety.

The proposal satisfies the provisions of Schedule 1 as the signage is recessed from Woids Avenue, and the lane at the rear. The sign is in scale with the proposed building. The signage is proposed to be located along the front of the building in a central location to a height of over 11m. It includes a window film to the outer surface of the staircase structure which is constructed of glass and includes acrylic letters which define the school and includes the school logo. The signage frames the central staircase structure and defines this element as well as breaking up the length and extent of the main building on site. As much as the sign is a form of identification it also acts as an architectural element and articulates the building defining wings and sections.

The sign is not obstructing any views or vistas for existing properties. It maintains pedestrian and vehicular safety and is not a distractive feature or element (no

illumination or flashing). Although the scale and form of the signage is not generally consistent with the character of the residential streetscape and immediate locality the site contains a school and this use like any needs to be clearly identifiable and legible. The signs fulfil this purpose.

Part 3 of the Policy refers to “advertisements” which is irrelevant to this application as the proposal is not classified as an advertisement.

In conclusion the proposed signage is consistent with the aims, objectives and intentions of SEPP 64.

### **State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017**

The purpose of the policy is to facilitate the effective delivery of educational establishments and early education and care facilities across the State. The main aims of the Policy include;

- (a) improving regulatory certainty and efficiency through a consistent planning regime for educational establishments and early education and care facilities, and*
- (b) simplifying and standardising planning approval pathways for educational establishments and early education and care facilities (including identifying certain development of minimal environmental impact as exempt development), and*
- (c) establishing consistent State-wide assessment requirements and design considerations for educational establishments and early education and care facilities to improve the quality of infrastructure delivered and to minimise impacts on surrounding areas,*

The Education and Child Care SEPP has a major focus on delivering new services and upgrading existing facilities at schools in an efficient manner by simplifying the planning requirements for educational facilities across the state. The provisions aim to make it much easier for schools to implement a wide range of improvements and expansions to schools such as upgrading sports fields, replacing portable classrooms with permanent buildings, building a new library, and offering new or additional before and after school care in existing school buildings. A key objective of the Policy is:

*“encouraging proponents of new developments or modified premises and consent authorities to facilitate the joint and shared use of the facilities of educational establishments with the community through appropriate design”.*

Clause 35(6)(b) of the Education SEPP states that “*Before determining a development application for development of a kind referred to in subclause (1), (3) or (5) the consent authority must take into consideration:*

- (b) whether the development enables the use of school facilities (including recreational facilities) to be shared with the community.”*



The Applicant was requested to address this issue and a response was provided on 9 May 2019 which stated that

*“In relation to clause 35(6)(b), we note that the clause does not require the consent authority to be ‘satisfied’ as to whether the school facilities will be shared with the community; only that this is a matter to be taken into consideration. Nevertheless, this letter explains how the proposed development addresses the provisions of clause 35(6)(b) and is therefore consistent with Objective (h) of the Education SEPP*

*The school is acutely aware of its role as a member of the Allawah/Hurstville community.*

*The school premises and facilities are currently used on a regular basis by Allawah Community Church for the following activities:*

- *Sunday worship; and*
- *Youth group (up to two nights per week).*

*These activities are conducted in accordance with DA93/2010.*

*From time to time the school is approached by community groups seeking to use the hall on an ad hoc basis. These requests are generally able to be agreed to where the activities do not conflict with the school’s use of the hall or the regular ‘tenant’ (Allawah Community Church).*

*In the past the school has received enquiries from other community groups seeking to use the facilities on a more regular basis. Currently, due to lack of room, the school has not been able to provide a separated space in which these groups can be readily accommodated on a regular basis (without impacting on the way in which the school functions).*

*However, it is envisaged that the proposed refurbishment of the original Chapel and the construction of the (under cover) full size basketball court, the school could be in a position to make these available for other community groups, subject to the users making appropriate application.”*

From this correspondence it seems to indicate that the school will be open to making some of its new and upgraded facilities available for other community, social or sporting groups. It is fair to say that the current facilities are adhoc and outdated and the new works will consolidate spaces and uses to create a more coherent and integrated development with larger and better configured learning spaces and improve opportunities for the future. A condition has been imposed which seeks to encourage the school to allow for their facilities to be utilised and shared by other community groups. Although this will not provide total certainty it will largely be up to the school to show good faith in relation to this issue.

The provisions of Part 4 (Schools – specific development controls) of the Policy are applicable to this proposal. Clause 33 defines what “*prescribed zones*” are under this policy and includes the R2 zone, as such the Policy permits the extension of Educational Establishments into the R2 zone.

The physical works proposed have generally been designed to satisfy the complying development provisions of this SEPP, however are not complying development in accordance with the Education SEPP as not all of the proposed works are located within the “existing school” boundaries and the works affect a local heritage item within the site.

Permissibility for the works located within the R2 zone is enacted by Clause 35 of the Education SEPP. Clause 39 of the policy relates to complying development and refers to Schedule 2 of the Policy which establishes more specific numerical controls (refer to Table 1 below) and provisions and Schedule 4 (refer to Table 2 below) which requires assessment against seven (7) design quality principles.

As a guide, the development has been assessed against these provisions to indicate that the proposal would generally comply with the complying development standards within the Education SEPP.



Figure 6: 3D perspective showing the new building works (as originally proposed), staircase structure and associated external signage.

Table 1: Complying development standards in Schedule 2 of the Educational and Child Care SEPP

Control	Standard	Proposal	Complies
Height	Maximum 4 storey's and 22m	The new building will have a height of three (3) storeys along	Complies with

		<p>the Woids Avenue frontage with a fourth (4) storey setback and centrally located within the building/site.</p> <p>Height is between 9.9m (3 storey component) and 13.6m (top of the fourth level)</p>	<p>numerical height limit but not with number of stories</p> <p>See <b>Note 1</b> below for further discussion</p>
<b>Side and rear setbacks</b>	<p>At least 5m from any side or rear boundary of the land where it adjoins residential zoned land, 1m where it adjoins all other land use zones for buildings with a height up to 12m</p> <p>At least 8m from any side and rear boundary of the land where it adjoins residential zoned land and 2.5m where it adjoins all other land use zones for buildings with a height up to 15m</p>	<p>5.03m – northern boundary at 3 levels</p> <p>6.3m - from the northern side where the building is 4 storeys and below 12m in height.</p> <p>Where the building is 4 storeys it is setback 6.3m from the northern side (No.45 Woids Avenue boundary). The building has an overall height of approximately 13.6m at this point.</p> <p>Along the western side the new building is setback 1m from the boundary for levels 1-3 but combined with Bogie Lane the separation distance between the building and the properties along Bellevue Parade Allawah (48-58) is approximately 7m at the fourth level. The building adjoins school buildings at the rear apart from No.52 Bellevue Parade Allawah which is a residential property and No.58 Bellevue Parade Allawah which is currently leased by the school and used for administrative</p>	<p>Yes</p> <p>No – see <b>Note 2</b> below</p> <p>Yes</p>

	<p>At least 10m from any side or rear boundary of the land where it adjoins residential zoned land and 4m where it adjoins all other land use zones for buildings with a height up to 22m</p>	<p>purposes.</p> <p>The new three storey administrative building is centrally located and does not adjoin any residential uses.</p> <p>N/A</p>	<p>N/A</p>
<b>Front setback</b>	<p>A new building must have a front setback:</p> <p>(a) that is not less than the average distance of the front setbacks of all existing development that is located within 70m of the building, or</p> <p>(b) if there is no development located within 70m of the building—of at least 5m.</p> <p>(2) Alterations or additions to an existing building must not result in the building having a front setback:</p> <p>(a) that is less than the average distance of the front setbacks of</p>	<p>The new building proposed along the northern side of the site will be setback 4m from Woids Avenue Allawah. The stair and storage area is only about 2m however this is a small ancillary structure is setback about 10m from the northern boundary.</p> <p>The main part of the building is setback 4m which is generally considered to be satisfactory. The front setback of the property at No.45 Woids Avenue Allawah is a minimum of 5m and the chapel building is setback 4m. These are the two immediately adjoining properties within 70m of the building. The Policy would require the front setback to be 4.5m if the average of adjoining setbacks is to be taken into account. This would require the front of the building to be</p>	<p>No but considered acceptable</p>

	<p>all existing development that is located within 70m of the building, or</p> <p>(b) if there is no development located within 70m of the building—of less than 5m.</p>	<p>setback a further 500mm from Woids Avenue, In order to achieve this minimum the internal amenity of the spaces will be compromised.</p> <p>Given that the Chapel is setback 4m the new building will be in line with this building and the 500mm protrusion is not considered to create an adverse visual impact when viewed from the street. The building has been well articulated along the front, upper level and northern elevation and the use of a variety of finishes and materials will break up the visual mass and bulk of the development.</p>	
<b>Materials</b>	External walls must be constructed of non-reflective materials	Complies and will also be conditioned appropriately.	Yes
<b>Overshadowing</b>	Proposed school buildings must not reduce the solar access to habitable rooms and private open space of adjoining residential properties to less than 3 hours between 9am and 3pm in the winter solstice.	<p>The new building will not overshadowing the residential property No.45 Woids Avenue Allawah as this property is orientated to the north of the subject site.</p> <p>Towards the west of the site the building will overshadow the rear of properties facing Bellevue Parade Allawah (48-58) between 9am and 12noon. From 12noon to 3pm there is no overshadowing created by the development. The other alterations within the school site (i.e. administration building) will only overshadow existing school buildings and grounds not affecting any adjoining residential properties.</p>	Yes

<b>Privacy</b>	Windows must be designed or treated to preserve the privacy of adjoining residential dwellings	The windows and openings to new buildings have been sensitively positioned so that they are small elongated windows that are fixed and obscure so that there is no potential for overlooking. There are also some fixed louvres to provide diversity to the façade. This is the case along the northern elevation of the new building. The Bogie Lane Allawah elevation includes a series of horizontal windows which are also long and thin and fixed so it is unlikely any overlooking will occur as the classrooms are focused to look out internally onto the central areas of the school.	Yes
<b>Landscaping</b>	An area 3m wide along the property is to be landscaped with planting that will achieve a mature height of at least 3m and consist of species that are not likely to pose a health or safety risk	<p>The 5m boundary along the northern side of the new building will be well landscaped with a 3m wide landscape buffer on the boundary. The basement is setback 3m from the northern boundary to allow for this consistent deep soil zone.</p> <p>The Landscape Plan proposes a series of plants and vegetation along this side with the largest trees/shrubs being eight (8) x Weeping Lilly Pilly's (<i>Waterhousia Floridunda</i>) which are proposed to be planted along this boundary as these trees will reach a height of some 8m and will provide substantial higher level screening. In addition some lower level plants are also proposed.</p> <p>A condition will ensure compliance with the landscape plan is achieved at the</p>	Yes

		Construction Certificate stage.	
<b>Waste</b>	<p>A garbage and waste storage area for recyclable and non-recyclable waste materials and receptacles for those materials must:</p> <p>be provided as part of the development, and be located entirely within the lot on which the development is being carried out and not on a road or road reserve, and comply with the following appendices in the document titled <i>Better Practice Guidelines for Waste Management and Recycling in Commercial and Industrial Facilities</i> (ISBN 978 1 74293 944 5), published by the NSW Environment Protection Authority in December 2012:</p> <p>The waste storage area must:</p> <p>be screened, and</p> <p>be located behind the primary road</p>	<p>No change to the existing arrangement is proposed.</p> <p>The application was referred to Council's Waste Officer and considering that there is no increase to student or staff numbers the existing waste arrangements are considered to be satisfactory.</p> <p>Due to the redevelopment and reconfiguration of spaces and areas an updated Waste Management Plan is recommended to ensure that the storage and disposal of waste is well located, detailed and planned and located away from adjoining residential properties and appropriately screened.</p>	Yes

	<p>frontage building line, and</p> <p>not be located in any car parking, loading or landscaped area, and (d) not be located on any side of the building that faces an adjoining lot on which there is residential accommodation.</p> <p>Despite subclause (1) (a), the waste storage area may be part of an existing facility on the site that has capacity.</p>		
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<p><b>Earthworks</b></p>	<p>Earthworks for the purposes of the development must: be structurally supported in accordance with subclause (2), and</p> <p>if the land is not identified as Class 3 or Class 4 on an Acid Sulfate Soils Map—not be more than 3m below ground level (existing), and</p> <p>if the land is identified as Class 3 or Class 4 on an Acid Sulfate Soils Map—not be more than 1m below ground level (existing), and</p> <p>be carried out at least 40m from any waterbody (natural), and</p> <p>if the works are on a lot adjacent to a rail corridor—have a setback at least 3m from the corridor.</p>	<p>The subject site is not located within an area designated as Acid Sulphate Soils as such the proposed earthworks which relate to the new basement car parking level is considered to be satisfactory.</p> <p>The basement is setback 3m from the northern boundary with No.45 Woids Avenue Allawah with the exception of the access stairs which extends to the boundary. The Geotechnical Report that supports the application prepared by Birzulis Associates and dated 29 November 2017 has proposed the method of excavation and construction. The Geotechnical report suggests shoring the structure along the northern boundary and conditions in relation to preparing a dilapidation report for No.45 Woids Avenue Allawah will ensure that the subject property is adequately protected structurally and its integrity remains intact.</p>	<p>Yes</p>
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<b>Drainage</b>	<p>All stormwater drainage collecting as a result of the development must be conveyed by a gravity fed or charged system to: a public drainage system, or an inter-allotment drainage system, or an on-site disposal system.</p> <p>All stormwater drainage systems within a lot and the connection to a public or an inter-allotment drainage system must: if an approval is required under section 68 of the <i>Local Government Act 1993</i>, be approved under that Act, or if an approval is not required under section 68 of the <i>Local Government Act 1993</i>, comply with any requirements for the disposal of stormwater drainage contained in a development control plan that is applicable to the land.</p>	<p>Stormwater drainage has been designed to be drained by gravity to the street frontages.</p> <p>The proposed stormwater plan has been referred to Council's Engineering Services who have not raised any objection to the proposed arrangement subject to the imposition of conditions.</p>	Yes
<b>Flood Control Lots</b>	This clause applies: to all development that is to be carried	The subject site is not flood prone.	Yes

	<p>out on a flood control lot, and</p> <p>in addition to all other development standards specified for complying development under this Policy.</p>		
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### Note 1 - Height

Given that the proposal is not complying development, in accordance with the Education SEPP the provisions of Clause 39 of the SEPP are only used as a guide. These provisions assist in the assessment of the application. Schedule 2 of the SEPP outlines the key controls that need to be satisfied for complying development. In respect to height, a proposal needs to meet the maximum number of storey's (being four (4)) and numeric height control of 22m. The SEPP does not include a definition of a "storey" but the planning instrument (KLEP) defines a storey to *mean*:

*"a space within a building that is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above, but does not include a spaces that contains only a lift shaft, stairway or meter room or a mezzanine or an attic".*

From the interpretation of this definition a basement level is considered a storey as it is not excluded. The KLEP defines a "basement" as:

*"the space of a building where the floor level of that space is predominantly below ground level (existing) and where the floor level of the storey immediately above is less than 1m above the ground level (existing)".*

The new basement car parking level is predominantly located below the existing ground level.

The site falls from the north to the south with the basement level protruding above the ground towards the centre of the site where the grade is steeper. The survey provides the existing Relative Levels. The proposed ground floor will sit at RL50. The RL's at the higher side of the site at 47 and 49 Woids Avenue Allawah reflects RL's of RL50.73 and RL50.79 with a contour line of RL50.5 transitioning across this northern part of the site. Closer to the centre of the site, the southern side of the car park, the existing levels are lower and at the southern edge of the carpark on the ground floor an RL48.78 exists. So along this side of the site the basement protrudes above the existing ground level more than 1m and is therefore considered a storey not a basement.

So to be accurate the most part of the basement is contained below ground which is along that part of the site at No.47 and 49 Woids Avenue Allawah and this is the critical

part of the building so it could be read as four storeys when viewed internally. It can be seen by the section below (Figure 8) that the basement is contained below the existing ground level and the finished ground floor level will be RL50 which is lower than the existing RL's along this side of the site. So the building along the northern side is clearly a part 3/part 4 storey building as the car parking is classified as a "basement" along this side, the basement becomes a "storey" to the building where it protrudes more than 1m above the ground level which essentially applies to the south-western section of the building that faces Bogie Lane Allawah. This part of the building is 4 storey's above ground given the basement (as referenced on the plan) protrudes over 1m above the ground level therefore the basement becomes a storey and the building is five (5) storeys along this elevation.

This part of the building technically doesn't comply with the maximum 4 storey's but is well below the 22m height limit as its maximum height is some 13-14m (depending on the fall). Visually the basement level will not be visible when viewed from the main street frontages (Woids Avenue, Bogie Lane and Bellevue Parade Allawah). The building will achieve a maximum height of between 13.5m and about 14.7m (where the basement protrudes 1.2m at its highest point). The 22m height limit is taken from the ground level. Although part of the building would be considered to be 5 storey's the visual appearance of the building presents as a 4 storey built form and fulfils the purpose of the SEPP. It is clear that the overriding intention of the SEPP is to permit higher, vertically proportioned school buildings to allow for sufficient areas of outdoor space to be retained. The higher parts of the new buildings on site are located within the central area of the school with a substantial setback from the two primary street frontages Woids Avenue and Bellevue Parade Allawah and residential land. The proposed siting of the higher structures is appropriate as it reduces their visual dominance and creates a more proportionate and balanced built form.

Despite some sections of the building exceeding the four storey maximum number of storey's the overall height is well within the 22m height limit stipulated by the Education SEPP.



**Figure 7: Short section of the building showing the point where the basement protrudes above the existing ground level towards the Woids Avenue Allawah frontage**

## **Note 2 – Setbacks**

The minimum setback controls for complying development have been established and are included in Schedule 2 of the Education SEPP. For the part 4/part 5 storey element of the building (or where the building exceeds 12m in height) the following provision applies;

*“At least 8m from any side and rear boundary of the land where it adjoins residential zoned land and 2.5m where it adjoins all other land use zones for buildings with a height up to 15m”*

Where the new building and alterations and additions adjoin the school site, the southern side of Bogie Lane Allawah, the site is zoned SP2 and the 7m setback which is proposed is compliant as a minimum 2.5m setback is required. However the area of non-compliance occurs where the building adjoins the residential zoned property along Bellevue Parade being No.52 and 58 Bellevue Parade Allawah. No.50 and 56 Bellevue Parade Allawah are zoned SP2 and owned by the school. The school leases No.58 Bellevue Parade Allawah for school purposes and has for some 25 years on an ongoing, rolling lease. The Applicant confirmed the school has tried to purchase this Site but have not been able to negotiate a mutually acceptable agreement.

Given the history and current situation of the adjoining sites, the potential impact onto No.58 Bellevue Parade Allawah is not considered to be adverse or as severe given this site is not being utilised for residential purposes. At the upper level of the new building the roof terrace at the highest point (south of the staff rooms) adjoins No.58 Bellevue Parade Allawah which provides greater physical separation and the building will generally be read as a three storey structure at this point. A condition will require the

roof top terrace to include a 1.5m wide planter box along the western side of the terrace to restrict overlooking to the west.

On the ground floor up to Level 2 the building is setback 6.1m (inclusive of the laneway) at the rear adjacent to Bogie Lane Allawah.

At Level 3 (fourth level) the upper level has been recessed and is setback in excess of 7m which generally complies with the minimum 2.5m setback apart from where it adjoins No.52 and 58 Bellevue Parade Allawah which are zoned residential (R2). In respect to the relationship to No.52 Bellevue Parade Allawah, the building is setback 6.1m which includes the laneway. For ground, levels 1 and 2 the setback complies with the Education SEPP provisions, it is level 3 that should technically be setback 8m and is actually setback 7m. The degree of non-compliance is considered to be acceptable given the upper level is used for staff facilities which are low scale and less intensive than learning spaces. The windows to the upper levels will be highlight windows and the level is recessed so its visual bulk is reduced and there will be no overlooking. Figure 8 below shows the elevation of the building as will be viewed from the rear of 50-58 Bellevue Parade Allawah.

Along the northern side Level 3 (4<sup>th</sup> storey) has been cut back as this level should be setback 8m at the upper point. Figure 8 below shows that the staircase and the toilet amenities encroach upon this setback. It was considered to remove these elements but to relocate the stair is not functional or feasible given the integrated and specialised design intent. There will be no overshadowing or overlooking created by these structures and they have been recessed and setback further than the ground, first and second levels. Therefore the siting of the building is considered to be satisfactory and will not have any adverse impacts to the adjoining residential properties.

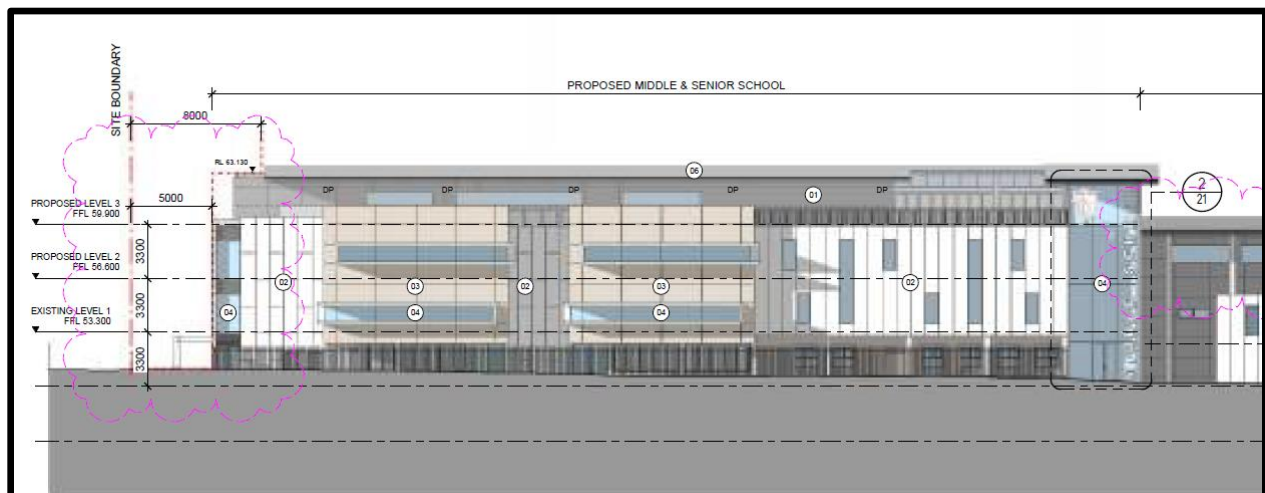


Figure 8: Rear elevation of the new building as viewed from Bogie Lane Allawah.

In addition to the provisions in Schedule 2 there are seven design quality principles that need to be considered. Refer to table No.2 below. The Applicant has submitted an assessment in respect of the Design Principles and this is outlined below;

**Table 2: Design Quality Principles in Schedule 4 of the Educational and Child Care SEPP**

<b>Principle</b>	<b>Applicant Response</b>	<b>Officer Response</b>
<p><b>Principle 1—context, built form and landscape</b></p> <p><i>Schools should be designed to respond to and enhance the positive qualities of their setting, landscape and heritage, including Aboriginal cultural heritage. The design and spatial organisation of buildings and the spaces between them should be informed by site conditions such as topography, orientation and climate. Landscape should be integrated into the design of school developments to enhance on-site amenity, contribute to the streetscape and mitigate negative impacts on neighbouring sites.</i></p> <p><i>School buildings and their grounds on land that is identified in or under a local environmental plan as a scenic protection area should be designed to recognise and protect the special visual qualities and natural environment of the area, and located and designed to minimise the</i></p>	<ul style="list-style-type: none"> <li>• The scale of the new buildings will be sympathetic with the existing Woids Avenue streetscape which is primarily comprised of two storey detached houses and three to four storey apartment blocks. The development maintains appropriate setbacks and proposes privacy screening through articulated architectural screens and landscaping that will ensure that the school usage is compatible with the neighbouring residential dwellings. The significance of the Heritage listed Chapel will be reinforced with the removal of the unsympathetic rear addition and the creation of an atrium behind the Chapel and returning it to a Chapel use.</li> <li>• Modifications to this revised development application have been made to improve the relationship of the new building at 47 Woids Avenue to the adjoining 45 Woids Avenue property and</li> </ul>	<p>The proposed works aim to step down the site from the northern down to the southern side of the Site.</p> <p>The proposal will enhance and promote landscaping elements by the provision of a detailed landscape plan which aims to provide some larger trees and plantings along the northern side of the site adjoining No.45 Woids Avenue. The 5m side setback will allow for some larger trees to be planted and assist with screening and creating a green buffer zone along this boundary.</p> <p>Landscaping will enhance, soften and screen the main elements of the development.</p> <p>The interface between the new building and residential properties to the north has been sensitively considered and the scale of the building reduced to create a more coherent and balanced transition.</p>

<p><i>development's visual impact on those qualities and that natural environment.</i></p>	<p>the broader streetscape in accordance with the feedback received from Council and the Sydney South Planning Panel. Specifically this has involved an increased setback to the property at 45 Woids Avenue (now 5m instead of the initial 3m), along with a reduction in height to this interface (predominantly 3 storeys). Increased landscaping has also been provided and existing privacy elements such as external screens retained. Significantly the proposal has also demonstrated that the height and side setback condition to 45 Woids would now be compliant with a CDC development via the Education SEPP.</p> <ul style="list-style-type: none"> <li>• Hard and soft landscaping has been used to soften and screen new building works from the street and to develop new opportunities for outdoor learning and play. New landscaping throughout the school will create a hierarchy between spaces that will suit a variety of uses. These spaces include a more formal setting around the heritage listed Chapel to suit whole school gatherings and community gatherings, as well as defined play areas for the junior, middle and high school age groups.</li> </ul>	<p>The other alterations and additions are centrally located and will not affect adjoining residences.</p>
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	<p>Activated verandas with breakout spaces and the landscaped roof terraces have also been capitalised on to provide learning areas for small group breakout and staff.</p> <ul style="list-style-type: none"> <li>• The existing circulation through the site has been improved from both an accessibility and legibility perspective with clear formalized paths and circulation spines including accessible covered pathways throughout the campus.</li> </ul>	
<p><b>Principle 2— sustainable, efficient and durable</b></p> <p><i>Good design combines positive environmental, social and economic outcomes. Schools and school buildings should be designed to minimise the consumption of energy, water and natural resources and reduce waste and encourage recycling. Schools should be designed to be durable, resilient and adaptable, enabling them to evolve over time to meet future requirements.</i></p>	<ul style="list-style-type: none"> <li>• In keeping with principles of ecologically sustainable design, existing buildings have been retained, repurposed or reused wherever possible. Demolition of existing structures has been minimized to conserve energy intensive building materials.</li> <li>• The new classrooms have been orientated to provide excellent natural daylight to reduce reliance on artificial lighting and in keeping with best modern learning practices.</li> <li>• Shading devices, placement of verandas and window openings will enhance cross ventilation and improve</li> </ul>	<p>Most spaces have been designed so that they can be adaptively reused or reconsidered in the future which improves the buildings life and longevity. Spaces are generally large which then can be partitioned to be smaller spaces where required and can be reconfigured to be more functional depending on the future needs of the school.</p> <p>The design has incorporated a series of interesting materials and finishes that have been included to assist with shading of spaces and prevent overlooking i.e. through the use of louvres and privacy screens.</p>

	<p>thermal comfort and reduce reliance on air conditioning and mechanical ventilation.</p> <ul style="list-style-type: none"> <li>• Orientation of new buildings for northern solar access, winter sun and summer shade, capturing breezes, connection to natural light and views from the shared breakout spaces along the verandas.</li> <li>• Flexibility incorporated into design to allow for future adaptation for evolving teaching and learning practices. Structural concrete columns enable lightweight internal partitions that can be adjusted into the future. Operable walls enable GLA's to be combined between year groups or shut down to individual classes with shared access to common activity areas.</li> <li>• Durable materials have been selected to ensure longevity of buildings.</li> </ul>	<p>Materials are aimed to be solid and have been selected so that they do not require constant maintenance.</p>
<p><b>Principle 3—accessible and inclusive</b></p> <p><i>School buildings and their grounds should provide good wayfinding and be welcoming, accessible and inclusive to people with differing needs and capabilities.</i></p> <p><i>Schools should actively seek opportunities for their facilities to be</i></p>	<ul style="list-style-type: none"> <li>• Improvements to accessibility to existing building to raise existing buildings to current standards including addition of lifts, ramps, complying handrails, signage and accessible and ambulatory amenities throughout and accessible pathways through the site. New</li> </ul>	<p>The proposed changes are beneficial to the functioning of the school and to ensure it is an inclusive place for all people. The alterations and additions will make the school accessible and compliant with the BCA and Australian Standards.</p>

<p><i>shared with the community and cater for activities outside of school hours.</i></p>	<p>accessible parking bays in the basement.</p> <ul style="list-style-type: none"> <li>• Inclusive of local community with improved public / private spaces to welcome parents and for public events and shared use of facilities.</li> </ul>	<p>Circulation spaces and the definition of buildings and their purpose are clearly defined and will be easy to find and navigate. The development creates covered walkways which improves the amenity of the school for both students and staff.</p>
<p><b>Principle 4—health and safety</b></p> <p><i>Good school development optimises health, safety and security within its boundaries and the surrounding public domain, and balances this with the need to create a welcoming and accessible environment.</i></p>	<ul style="list-style-type: none"> <li>• Upgrades are proposed to existing staff and student amenities, as well as to site safety and security systems. Passive surveillance of site and surrounding areas, improved legibility of pathways through the site and clear and legible public private zones.</li> <li>• Improved supervision over arrivals and public / private spaces by administration and reception.</li> <li>• Clear circulation / movement through the site.</li> <li>• Views and natural light prioritized in new buildings for better health and learning outcomes.</li> <li>• Outdoor learning and play opportunities maximized for exercise and health benefits &amp; development of healthy lifestyle habits. New shade cloth structures to provide solar protection and all-weather outdoor play</li> </ul>	<p>Complies – the design of spaces allows for greater safety and security for students, staff and visitors.</p>

	spaces.	
<p><b>Principle 5—amenity</b></p> <p><i>Schools should provide pleasant and engaging spaces that are accessible for a wide range of educational, informal and community activities, while also considering the amenity of adjacent development and the local neighbourhood.</i></p> <p><i>Schools located near busy roads or near rail corridors should incorporate appropriate noise mitigation measures to ensure a high level of amenity for occupants.</i></p> <p><i>Schools should include appropriate, efficient, stage and age appropriate indoor and outdoor learning and play spaces, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage and service areas.</i></p>	<ul style="list-style-type: none"> <li>• Amenity is improved through re-design of “in between” spaces to create useful and desirable spaces for use by students, staff and visitors to the site. Circulation has been improved with the establishment of new covered verandas and wide stairwells to enable quick movement of large cohorts between classes quickly and conveniently in all weather conditions.</li> <li>• New teaching and learning spaces have been designed around modern learning practices for improved functionality and collaborative learning opportunities. Refurbished classroom spaces will provide improved amenity and primary school will benefit from improved classroom sizing.</li> <li>• Teaching spaces will incorporate a range of technologically advanced teaching aids including wi-fi environment, smart boards and writable surfaces to engage all learning modes.</li> <li>• Improved indoor/outdoor connections and use of external areas to maximise opportunities for outdoor learning and play, allowing for flexible use with teacher supervision.</li> </ul>	<p>Complies – the school currently comprises of a series of buildings that are scattered across the larger “main” school site. The removal of the demountables in the centre of the site (comprising of an admin building storeroom, two classrooms and associated parking opens up the space to become an external play area and these spaces are consolidated back into the main building which faces Woids Avenue. The internal amenity of the buildings and facilities will be substantially improved.</p>

<p><b>Principle 6—whole of life, flexible and adaptive</b></p> <p><i>School design should consider future needs and take a whole-of-life-cycle approach underpinned by site wide strategic and spatial planning. Good design for schools should deliver high environmental performance, ease of adaptation and maximise multi-use facilities.</i></p>	<ul style="list-style-type: none"> <li>• Flexible design incorporating elements of lightweight internal partitions, operable walls and shared central spaces for future adaptation to changing pedagogy and teaching styles.</li> <li>• Preserving and consolidating valuable outdoor play opportunities in an urban context</li> <li>• Adapting and repurposing existing buildings for continued relevance and use as teaching spaces.</li> <li>• Durable and low maintenance materials</li> </ul>	<p>Complies – spaces have been well thought through and the integrated redevelopment of the Site will allow and encourage the use of spaces to be functional and purpose built with the flexibility to be adaptively used for a variety of uses.</p> <p>The outdoor play areas have been improved.</p>
<p><b>Principle 7—aesthetics</b></p> <p><i>School buildings and their landscape setting should be aesthetically pleasing by achieving a built form that has good proportions and a balanced composition of elements. Schools should respond to positive elements from the site and surrounding neighbourhood and have a positive impact on the quality and character of a neighbourhood. The built form should respond to the existing or desired future context, particularly, positive</i></p>	<ul style="list-style-type: none"> <li>• New building additions and landscape areas have been designed to be sympathetic to the existing campus. The new covered colonnade that extends along the Woids Avenue frontage will tie existing and new buildings together.</li> <li>• Modified roof forms and more uniform heights (3 storeys predominantly with a setback upper level in locations) will ensure a cohesive campus design that reads together and is compatible with the surrounding low to medium</li> </ul>	<p>The holistic design approach of the development aims to create a coherent and well articulated redevelopment. This is not piecemeal in its design and approach.</p> <p>The proposal has been sensitively designed to cater for the changing needs of school facilities and the visual appearance of the development aims to be a contemporary and attractive building when viewed from Woids Avenue and Bellevue Parade being the visually</p>

<p><i>elements from the site and surrounding neighbourhood, and have a positive impact on the quality and sense of identity of the neighbourhood.</i></p>	<p>density residential development.</p> <ul style="list-style-type: none"> <li>• Removal of unsympathetic additions to the Chapel along with its refurbishment and the creation of a new atrium behind will reinforce the significance of this building within the streetscape and it's hierarchy within the school campus with it original purpose reinstated.</li> <li>• Modulated façade elements including prodema clad breakout spaces and articulated FC and metal cladding along with new signage will provide a visually interesting form that will reflect the building's purpose as a modern learning facility.</li> <li>• Decluttering and formalizing circulation zones has created a more cohesive campus.</li> </ul>	<p>dominant facades.</p>
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### **Kogarah Local Environmental Plan 2012 (KLEP 2012)**

The provisions of the Kogarah Local Environmental Plan (KLEP) apply to the proposed development which complies with the relevant provisions as follows.

<b>Clause</b>	<b>Standard</b>	<b>Proposal</b>	<b>Complies</b>
<b>2.3 Zone objectives and land use table</b>	<p>SP2 – Infrastructure R2 – Low Density Residential</p> <p>Clause 1.9 of the KLEP stipulates that <i>“This Plan is subject to the provisions of any State environmental planning policy that prevails over this Plan as provided by section 36 of the Act.”</i></p>	<p>Consistent with the zone objectives and land use table.</p> <p>Where the proposal is located within the SP2 zone</p>	Yes

	<p>As such the provisions of the Educational SEPP override the local planning provisions within the KLEP 2012.</p>	<p>the land use is permissible and satisfies the objectives of the zone.</p> <p>Those parts of the proposal within the R2 zone are prohibited however draw their permissibility from the provisions of Clause 35 of the Education SEPP.</p>	
<b>4.3 Height of Buildings</b>	<p>Where the school and associated works are located within the SP2 zone there are no maximum height control specified.</p> <p>The development located within the R2- Low Density Residential zone the maximum height control applicable is 9m</p>	<p>Yes – maximum height is some 13.6m (RL63.6)</p> <p>The building across No.47 and 49 Woids has a max height of between 9.9m (RL 59.9 for the 3 storey component) and 13.6m for the 4 storey component.</p>	<p>Yes – satisfactory in the SP2 zone</p> <p>Partial height non-compliance within the R2 zone. (it is acknowledged that the SEPP facilitate permissibility and has a permitted height of 22m.</p> <p>No - a Clause 4.6 Statement has been submitted to justify the non-compliance.</p>
<b>4.4 Floor Space Ratio</b>	No FSR specified for development within the SP2 zone.		Yes satisfactory in the SP2 zone

	Maximum FSR of 0.55:1 for the part of the development within the R2 zone.	Non-compliance with the FSR for the building works within the R2 zone.	The development fails to comply with the FSR in the R2 zone and a Clause 4.6 Statement has been submitted to address the non-compliance.
<b>4.5 Calculations of Floor space and Site area</b>	<p>The objectives of the Clause intend <i>“to set out rules for the calculation of the site area of development for the purpose of applying permitted floor space ratios, including rules to:</i></p> <p><i>i) prevent the inclusion in the site area of an area that has no significant development being carried out on it, and</i></p> <p><i>ii) prevent the inclusion in the site area of an area that has already been included as part of a site area to maximise floor space area in another building, and</i></p> <p><i>iii) require community land and public places to be dealt with separately.”</i></p>	The proposal has been correctly calculated in accordance with the provisions of this clause.	Yes
<b>4.6 Exceptions to Development Standards</b>	Applicable as the proposal fails to comply with the maximum FSR and Height controls within the R2 zone where part of the new school building is proposed (on that part of the Site taken up by 47 and 49 Woids Avenue).	A CI 4.6 request has been submitted to justify the non-compliance with the height limit and FSR for that part of the development within the R2 zone.	Yes (refer to CI 4.6 -assessment of this report)



<p><b>5.10 Heritage Conservation</b></p>	<div data-bbox="435 191 870 483" data-label="Image"> </div> <p>Extract of Council's LEP Heritage Mapping identifying the subject site</p>	<p>Pursuant to Schedule 5 of the KLEP 2012 the Site is designated as a Heritage Item.</p> <p>It is identified as I2 and described as the "<i>Former Woids Avenue Congregational Church—St George Christian School</i>" The item is of local significance and relates specifically to the chapel within the school grounds although the whole site is included.</p>	<p>Yes</p> <p>The proposed works have been sympathetically designed to respect the scale and form of the Chapel building and seek to upgrade and maintain the historical significance of this building. A Heritage Assessment accompanies the application together with a Management Plan.</p> <p>Council's Heritage Advisor assessed the proposal and supports the proposal given its context and design. More discussion on this is provided below.</p>
<p><b>6.1 Acid Sulphate Soils</b></p>	<p>Not applicable to the Site</p>	<p>The subject site does not contain any acid sulphate soils.</p>	<p>N/A</p>
<p><b>6.2 Earthworks</b></p>	<p>Before granting development consent for earthworks the consent authority must consider:</p>	<p>The proposed earthworks comprise of the basement car</p>	<p>Yes</p>

	<ul style="list-style-type: none"> <li>• Impact on drainage patterns and soil stability</li> <li>• The effect on likely future use or redevelopment of the land</li> <li>• The quality of the fill or the excavated soil</li> <li>• The effect on existing and likely amenity of adjoining properties</li> <li>• The source of fill material and the destination of excavated material</li> <li>• The likelihood of disturbing relics</li> <li>• The potential impacts on any watercourse, drinking water catchment or environmentally sensitive area</li> </ul>	<p>parking area located along the northern side of the Site.</p> <p>The design is considered acceptable having regard to the provisions of this clause as the works are not likely to have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.</p> <p>The basement is setback 3m from the immediately adjoining residential property (with the exception of the egress stairs) and the proposal is accompanied by a supporting preliminary Geotechnical Investigation of the site prepared by Birzulis and</p>	
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		Assoc. and dated November 2017. It outlines the method of excavation and it is intended to shore the site when constructing this area.	
<b>6.3 – Flood Planning</b>	Mapping does not indicate that the Site is flood prone	The site is not identified as a Flood affected land.	Yes

### Clause 5.10 – Environmental Heritage

The subject site is classified as a Local Heritage Item pursuant to Schedule 5 of the KLEP 2012 and is identified as I2 – Woids Avenue Congregational Church – St George Christian School (Former), in Kogarah Local Environmental Plan 2012. Although the whole of the school site is characterised as a Heritage Item the existing school buildings on site have minimal heritage or historic significance. Existing on site is an old church building which forms part of the school and has been readapted over time.

The proposed development in summary seeks to demolish the rear brick extension of the church building and to convert the building from its administrative uses back to a chapel. The proposal involves conservation works to reinstate the original elements and includes the following works;

- Reinstall the proposed interpretive work to the new southwest façade through glazing detailing and removal of aluminium framed windows along the side elevations;
- Removal of the unsympathetic white paint from face brickwork to the upper gable of the northeast elevation fronting Woids Avenue
- Alterations to the former Church interior will result in removal of later additions to facilitate the ongoing use of the building as a school Chapel/meeting space.

The proposed works aim to remove the unsympathetic recent additions and reinstate some original architectural elements to bring the building back to its original use.

The Statement of Significance in the State Heritage Inventory (SHI) report for the property states;

*“65 Woids Avenue, Hurstville, formally known as the Woids Avenue Congregational Church is significant at a Local level for its historic, aesthetic and social values. Located*



Proposed alterations to the heritage item as part of this application are limited to the demolition of a later face brick addition to the rear of the existing Church to be replaced by a contemporary glazed infill. Alterations are proposed to the interior for ongoing use as a Chapel and or meeting room. Conservation works are proposed along the exterior to remove unsympathetic fabric and paint finishes. The application is supported by Heritage Impact Statement which also includes Conservation Management Plan.

The conservation works proposed include the following;

- *Proposed interpretive work to the new southwest façade through glazing detailing and removal of aluminium framed windows along the side elevations;*
- *Removal of unsympathetic white paint from face brickwork to the upper gable of the northeast elevation fronting Woids Avenue.*
- *Alterations to the former Church interior will result in removal of later additions to facilitate the ongoing use of the building as a school Chapel/meeting space.*

The Heritage assessment has considered the proposed works and there are many benefits from the proposal, namely retaining the overall original character of the Chapel and reinstating the original scale and form of the building and maintaining its historic integrity and historic significance and scale. The other benefits of the proposal cited in the Heritage Assessment include;

- *The general visual setting of the former Church from the public domain will be retained, with the new development proposed along the northern portion of the site extending along the site boundary away from the heritage item;*
- *Primary views to and from the heritage item will be retained due to the setbacks and location of the new building, with the landscaping design and external play areas allowing for an appropriate visual setting around the heritage item.*
- *The selected materials and finishes of the new building and covered walkway will be clearly contemporary, ensuring the existing character of the heritage item is maintained and read as a separate free-standing element from the public domain;*
- *The removal of unsympathetic paint work along the northeast facing gable of the heritage item and the removal of aluminium framed windows will have a positive heritage impact on the character of the building. Conservation works to the exterior allow for original elements to be restored, improving the character of the heritage item within its setting;*
- *Demolition of the later unsympathetic addition to the rear of the heritage item, will enhance the character and visual setting of the original Church, as it will be read as a free-standing element on the site, separate from the large four storey building to the rear;*
- *The conservation works and internal alterations of the heritage item will ensure ongoing use of the building as a school Chapel, reinforcing its identified social significance.*
- *Demolition of the later unsympathetic addition to the rear of the heritage item, will enhance the character and visual setting of the original Church, as it will be read as a*

*free-standing element on the site, separate from the large four storey building to the rear;*

- The conservation works and internal alterations of the heritage item will ensure ongoing use of the building as a school Chapel, reinforcing its identified social significance.*
- The new development proposes a similar layout of the site coverage, and will result in the demolition of the unsympathetic rear addition of the former Church, which connects the heritage item to the existing Administration building.*
- The new development is setback from the heritage item, and will be separated from the former Church by the new glazed infill and awning of the southwest facade.*
- The visual setting around the heritage item will generally be maintained, with the exception of a new COLA above the basketball court (The new COLA has been approved as part of a separate DA).*
- The treatment of the southwest façade and its simple connection to the new building enhances the visual setting of the heritage item, allowing for it to be read as a free-standing element.*

The proposed works were referred to Council's Heritage Advisor for comment. No objection was raised in respect to the proposed works subject to the imposition of specific heritage conditions and some additional conservation works which are included if consent is issued. Council's Heritage Advisor made the following comments;

- i) "There are no adverse heritage impacts with the proposed demolition of dwellings at 47 and 49 Woids Avenue which are considered to be of no heritage value.*
- ii) Subject to implementation of conditions, there is support for the proposed demolition of the late 20<sup>th</sup> century rear addition to the former church building which is considered to be of little heritage value.*
- iii) Subject to implementation of conditions, there is support for the proposed demolition of existing non-original office fitout within the original footprint of the former church.*
- iv) There are no adverse impacts with the proposed new works including the construction of a 4-storey classroom block and new covered walkway southwest of the heritage item,*
- v) There is support for the proposed conservation works to the heritage item, there is also scope to undertake further conservation work to the former church in order to preserve heritage values."*





**Figure 10: The proposed new (amended) building works and their visual association with the central Church/Chapel building.**

As the scope of the proposed works has changed an amended Heritage Impact Statement was prepared by NBRS Architecture (Heritage) and dated 31 October 2018. Whilst there are no further alterations proposed to the Chapel the existing building behind the heritage item will be enlarged and an additional floor included (refer to Figure 11).

The updated heritage statement evaluated the benefits of the scheme and its direct relationship with the item and includes the following features;

- *The new development proposal will result in the demolition of the unsympathetic rear addition of the former Church, which connects the heritage item to the existing Admin building.*
- *The new development is setback from the heritage item, and will be separated from the former Church by the new glazed infill and awning of the southwest facade.*
- *The visual setting around the heritage item will generally be maintained, with the exception of a new COLA above the basketball court (The new COLA has been approved as part of a separate DA).*
- *The treatment of the southwest façade and its simple connection to the new building enhances the visual setting of the heritage item, allowing for it to be read as a free-standing element.*

- *The general visual setting of the former Church from the public domain will be retained, with the new development proposed along the northern portion of the site extending along the site boundary away from the heritage item.*
- *Primary views to and from the heritage item will be retained due to the setbacks and location of the new building, with the landscaping design and external play areas allowing for an appropriate visual setting around the heritage item.*
- *The selected materials and finishes of the new building and covered walkway will be clearly contemporary; ensuring the existing character of the heritage item is maintained and read as a separate free-standing element from the public domain.*
- *The removal of unsympathetic paint work along the northeast facing gable of the heritage item and the removal of aluminium framed windows will have a positive heritage impact on the character of the building. Conservation works to the exterior allow for original elements to be restored, improving the character of the heritage item within its setting.*
- *Demolition of the later unsympathetic addition to the rear of the heritage item will enhance the character and visual setting of the original Church, as it will be read as a free-standing element on the site, separate from the large four storey building to the rear.*
- *The conservation works and internal alterations of the heritage item will ensure ongoing use of the building as a school Chapel, reinforcing its identified social significance.*

No objection was raised by Council's Heritage Officer to the amended scheme and the originally proposed conditions shall be retained and implemented. The proposed heritage works are considered to be satisfactory and satisfy the objectives and intentions of Clause 5.10 of the KLEP.

#### **Clause 4.6 – Exceptions to development standards**

The objectives of this clause are as follows:

- to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

The Applicant has submitted two (2) Clause 4.6 Statements which aim to justify the proposed non-compliances with the development controls relating to height and floor space ratio. Originally the Applicant submitted one Clause 4.6 Statement for the two non-compliances. It was requested that two independent Clause 4.6 Statements be provided to assess each non-compliance independently. Updated Clause 4.6



Statements were submitted to Council in May 2019. The variations are assessed in detail below.

**i) Clause 4.6 - Height**

The school occupies a number of Sites. Most of the school is zoned SP2 – Educational Establishment pursuant to KLEP 2012. The school has recently also purchased adjoining residential properties (No.47 and 49 Woids Avenue). These two sites are zoned R2 – Low Density Residential pursuant to Clause 2.2 of the KLEP 2012. It is acknowledged Educational establishments are not permitted in this zone, however under the provisions of the SEPP the R2 zone is a prescribed zone making the use permissible.

That part of the site which is zoned SP2 does not have any height restrictions whilst the R2 zoned land has a maximum height limit of 9m in accordance with Clause 4.3 of the KLEP 2012. An extract of the height map showing the respective heights of the land is included below in Figure 12. Clause 4.3 pertaining to Height is a development standard that is permitted to be altered or amended by Clause 4.6.



**Figure 11: Extract from the height map which shows part of the site noted as “J” with a height limit of 9m and the remainder of the site having no height control**

The school also owns and/or leases the residential properties along Bellevue Parade. No.s 50 and 56 Bellevue Parade Allawah are zoned SP2 – Educational Establishment however No.s 54 and 58 Bellevue Parade Allawah are zoned R2 – low scale residential and the school leases No.58 Bellevue Parade Allawah. No changes are proposed in relation to the height or floor space of the buildings to be located along Bellevue Parade

Allawah apart from a change of use and the provision of some additional car parking at No.50 and 54 Bellevue Parade. As there is no change proposed to the floor space or height so the Clause 4.6 statement does not relate to this part of the site.

In terms of the height of the new building and associated alterations and additions on site, the proposed scale of the works within the SP2 zone is considered satisfactory and consistent with the provisions of the KLEP given that there is no max height control for this part of the school site. The proposed scale and height is also in keeping with the complying provisions of the Education SEPP.

The new senior school building is predominantly located within the SP2 zoned part of the site, however part of the building is located on and straddles the R2 zone (47 and 49 Woids Avenue Allawah). This part of the building contains a 9m maximum height limit and the building exceeds this height limit with the 3 storey component achieving a height of 9.9m (RL59.90) and 11.5m (RL61.5) to the toilet/amenities and staircase element at the front and the small rear four storey component achieves an overall height of 13.56m (RL63.568). Refer to Figure 13 below showing those parts of the building exceeding the 9m height limit.

The scheme has been amended to address issues of scale, height and form and has been reduced in height along the Woids Avenue frontage and the four storey element has been reduced and substantially cut back in order to improve the relationship of the new building to the scale and form of the residential dwelling house at No.45 Woids Avenue Allawah.

An amended Clause 4.6 Statement has been submitted by the Applicant and this has been assessed in detail below;

#### Applicant's Response

*"As noted above the proposed development does not comply with the Height of Buildings development standard pursuant to Clause 4.3 of the KLEP and notwithstanding, strict compliance is considered to be unreasonable and unnecessary in the circumstances of this case as discussed below.*

*Further, with respect to Clause 4.6(3) this request has also had regard to the principles established in Four2Five Pty Ltd v Ashfield Council, in that it is considered that there are sufficient environmental planning grounds to justify contravening the development standard. The environmental planning grounds particular to the site and the proposed development are outlined below:*

- The proposed additions have been sited and designed to support the educational needs of the school, whilst seeking to minimise the environmental impacts of the proposal on adjoining properties and existing buildings at the site.*
- The proposed height has regard to a predominant 3-4 storey built form in the vicinity of the site and the 15m building height limit opposite the proposed buildings.*

- *The L-Shaped built form is the logical development pattern to integrate in the existing buildings and reflects the existing pattern of the demountable which is to be relocated.*
- *The L-Shaped form opens the site to provide greater separation to the heritage listed chapel and provides outdoor play space, integrated with existing play space.*
- *The building design has sought to avoid variations in floor level (i.e. off-set floor levels), extensive retaining walls, off-set basement levels or sloping basement levels as this would require deeper excavation to accommodate the basement level.*
- *Providing a compliant building height on this part of the site would result in an inferior built form outcome. If the development were to be re-designed to be consistent with the height control, this would necessitate construction of additional floor area to another area of the site, thereby increasing the site coverage and intensity of the use of the site, and reducing the extent of play areas, outdoor learning areas and landscaping.*
- *Concentrating building bulk towards the northern portion of the site allows the bulk of the additional overshadowing to be contained within the school site rather than onto adjoining residential properties. Further, the proposed development will result in a greater building separation to the heritage chapel which will enjoy a greater prominence under this scheme.*
- *The proposal is consistent with the zone objectives applying to the site as it provides for an educational establishment land use that will meet the day to day needs of residents.”*

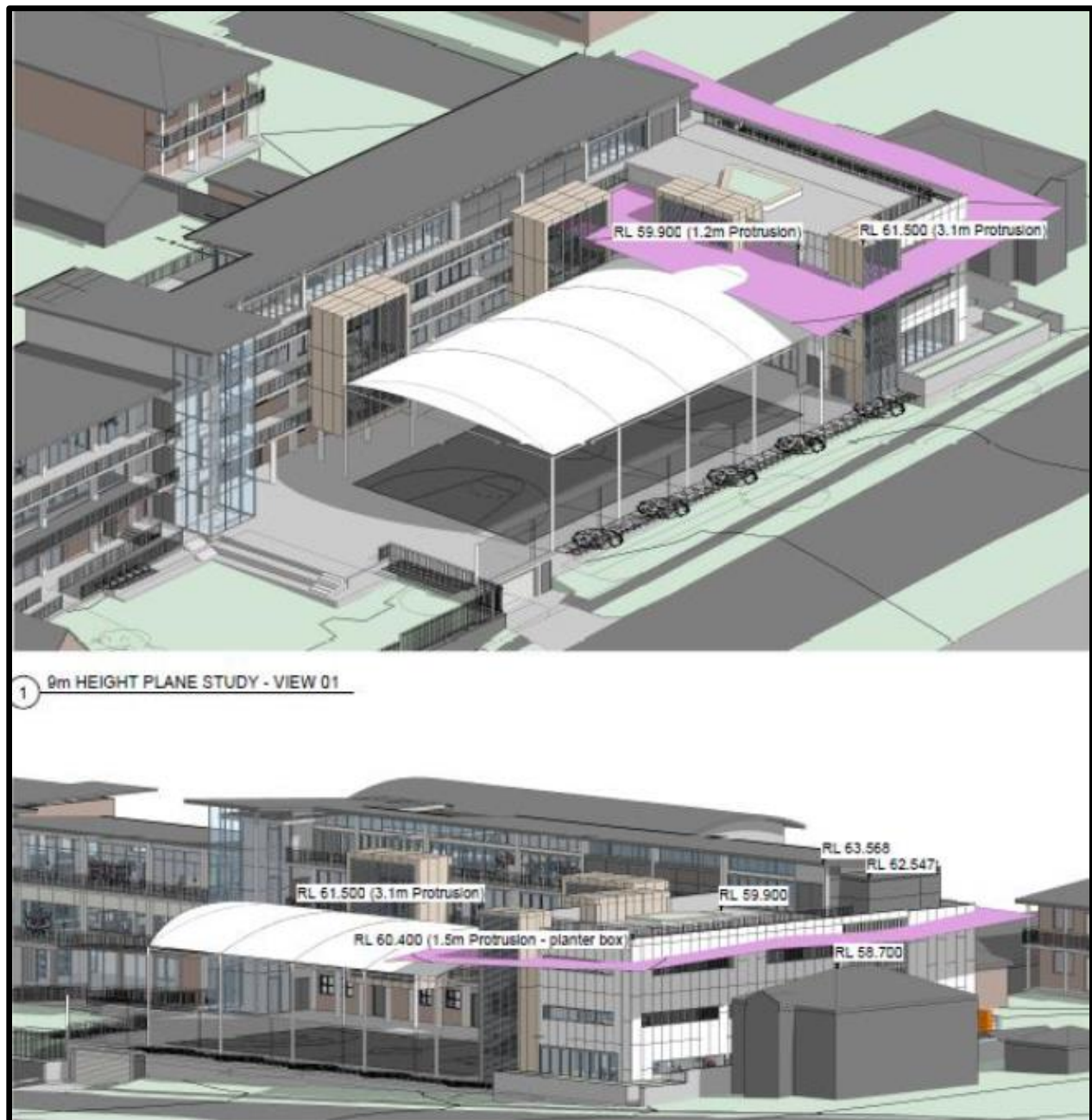


Figure 12: Height Plane diagram showing those parts of the building exceeding the 9m height limit along the R2 zone.

- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

The height control is a standard pursuant to the provisions of KLEP is a standard that is able to be varied by Clause 4.6.

**(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:**

**(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and**

Applicant Response

*Compliance with the Height of Buildings development standard is unreasonable or unnecessary in the circumstances of this case because, as explained in Table 1 (below), the objectives of the development standard are achieved, notwithstanding non-compliance with the standard*

The stated objectives of clause 4.3(1) of Kogarah LEP 2012 are as follows:

- a) to establish the maximum height for buildings,*
- b) to minimise the impact of overshadowing, visual impact and loss of privacy on adjoining properties and open space areas,*
- c) to provide appropriate scale and intensity of development through height controls.*

The proposal is consistent with the relevant objectives of the development standard under clause 4.3 for the following reasons;

<b>Objective</b>	<b>Discussion</b>
<i>(a) to establish the maximum height for buildings</i>	<i>With regard to objective (a), the proposed works have been sited to integrate with the existing buildings located in the SP2 zone. The works extend into the northern portion of the site which is subject of the 9m maximum building height control. The SP2 Zoned part of the site is subject of no maximum building height control. The location and siting of the proposed school building additions has been informed by a detailed site analysis which has resulted in a design which seeks to benefit the school's site planning and minimise the impact of school development on adjoining and surrounding residential properties.</i>
	<i>As detailed later in this variation request, and the SEE, the proposed height is compatible within its context, and will not result in any adverse impacts to surrounding properties. The breach of the standard does not affect consistency with this objective. In fact, the breach of the standard allows for a building that achieves an improved built form providing better amenity and presentation to the street and public domain.</i>

<p><i>(b) to minimise the impact of overshadowing, visual impact and loss of privacy on adjoining properties and open space areas</i></p>	<p><i>In respect of objective (b) the additional overshadowing and visual privacy impacts of the proposed development have been considered in relation to adjoining properties. The main concentration of additional overshadowing is within the school and to the private open space of 52 Bellevue Parade which is located to the west of the proposed building works. Shadows cast by the proposed building effect the private open space of 52 Bellevue Parade between the hours of 9 and 11am at June 21 (midwinter), however more than 50% of the private open space will receive solar access between 9am–3pm on 21 June. 45 Woids Avenue is located to the north of the proposed school building works and not will have its private open spaces or habitable rooms adversely impacted by additional overshadowing. The proposed new building will contain a significant amount of additional overshadowing within the subject site and will not give rise to any adverse impacts upon the privacy of surrounding residential properties</i></p> <p><i>The key interface in terms of visual privacy is with the existing two-storey residence at 45 Woids Avenue. Section 4.1 of this written request outlines the various measures that have been incorporated to ensure that the school usage is compatible with the neighbouring residential dwellings and the character of the area more generally.</i></p>
<p><i>(c) to provide appropriate scale and intensity of development through height controls</i></p>	<p><i>As discussed previously, 47 and 49 Woids Avenue were acquired by the school after the current KLEP was drafted by Council and the site's current maximum height and FSR controls reflects an anomaly due to the timing of the acquisition of the land. In this sense and in relation to objective (c) the current maximum height and FSR controls are appropriate for a low-density residential land use. However, the predominant built form along Woids Avenue is 3 storeys opposite the site and 4 storeys towards the northern end of Woids Avenue.</i></p> <p><i>The proposed development is for alterations and additions to an existing educational establishment that is similar in scale and intensity to development currently on the school site. The proposed development provides an appropriate scale and intensity for the proposed educational use which is not inconsistent with the height of buildings in the immediate vicinity.</i></p>





**Figure 13: Shadow Diagrams showing that the proposed shadowing created by the development is compliant with the standards and every immediately adjoining property receives a minimum of 3 hours of solar access during the day in midwinter (courtesy NPBS 2017)**

**(b) that there are sufficient environmental planning grounds to justify contravening the development standard.**

**Applicant's response**

*Sub clause 4.6(3) relates to the making of a written request to justify an exception to a development standard and states:*

*(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

*(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

*(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

*As noted above the proposed development does not comply with the Height of Buildings development standard pursuant to clause 4.3 of the KLEP as it relates to 47 and 49 Woids Avenue. Notwithstanding, strict compliance is considered to be unreasonable and unnecessary in the circumstances of this case as discussed in this written variation.*

*Further, with respect to clause 4.6(3) this request has also had regard to the principles established in Four2Five Pty Ltd v Ashfield Council, in that it is considered that there are sufficient environmental planning grounds to justify contravening the development standard.*

*The environmental planning grounds particular to the site and the proposed development are detailed below:*

- The proposed additions have been sited and designed to support the educational needs of the school, whilst seeking to minimise the environmental impacts of the proposal on adjoining properties and existing buildings at the site.*
- The proposed height has regard to a predominant 3 and 4 storey built form in the vicinity of the site and the 15m building height limit opposite the proposed buildings. The existing dwelling on 45 Woids Avenue (and 43 Woids Avenue) are imposing 2 storey dwellings.*
- The L-Shaped built form is the logical development pattern to integrate in the existing buildings and reflects the existing arrangement of the demountable building which has been relocated.*
- The L-Shaped form opens the site to provide greater separation to the heritage listed chapel and provides outdoor play space, integrated with existing play space.*
- The building design has sought to avoid variations in floor level (i.e. off-set floor levels), extensive retaining walls, off-set basement levels or sloping basement levels as this would require deeper excavation to accommodate the basement level.*
- Concentrating building bulk towards the northern portion of the site allows the bulk of the additional overshadowing to be contained within the school site rather than onto adjoining residential properties. Further, the proposed development will result in a greater building separation to the heritage chapel which will enjoy a greater prominence under this scheme.*
- The proposal is consistent with the zone objectives applying to the site as it provides for an educational establishment land use that will meet the day to day needs of residents.*
- The relationship between the northern part of the proposed building and No. 45 Woids Avenue is acceptable as the setback also provides opportunities to undertake extensive landscaping between the building and No. 45 Woids Avenue as demonstrated in the amended landscape plan submitted to Council as part of the response to Council's request for further information.*
- It is also noted that the side setback has increased from the original proposal and the building height has been reduced in this location thus minimising impacts.*
- The building adjacent to the boundary with No. 45 Woids Avenue has been designed in accordance with the complying development standards for side*



setbacks as detailed in Schedule 2 of the Education SEPP. In this regard, a building with a height of less than 12m is required to be setback a minimum of 5m from an adjoining residential property boundary. In this instance, the maximum height of that part of the building setback 5m from the boundary is 11m.

- For those parts of a building greater than 12m but less than 15m in height, the complying development standards require a side setback of 8m. Those parts of the building greater than 11m in height have been setback more than 8m from the side boundary.
- The provision of a planter along the northern edge of the terrace area, as demonstrated in the sight line elevation plan at **Figure 2** provides privacy for both residents of No. 45 Woids Avenue and the school population. The northern corner of the planter exceeds the 9m height limit by 1.5m, however this element does not constitute a significant feature of the building or dominate the streetscape in order to improve privacy between the buildings.
- The prevailing built form of the school comprises two (2) to four (4) storey buildings and built form on the opposite side of Woids Avenue is characterised by three (3) storey residential flat buildings. These elements make a significant contribution to the character of the area and the height of the proposed buildings fits with this character.

**(4) Development consent must not be granted for development that contravenes a development standard unless:**

**(a) the consent authority is satisfied that:**

**(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and**

**(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and**

**(b) the concurrence of the Director-General has been obtained.**

#### Applicant's response

*The proposal will be in the public interest because it is consistent with the objectives of the standard and the objectives of the zone. [cl. 4.6(4)(a)(ii)]*

*The proposal is also consistent with the objectives of the zone as explained in Table 2 (below).*

**Table 2: Public Interest**

<b>Objectives of the R2 Zone</b>	<b>Discussion</b>
<i>(a) provide for the housing needs of the community within a low-density</i>	<i>This objective is not applicable to the proposed use as Clause 35 of the</i>

<i>residential environment.</i>	<i>Education SEPP permits a school use within a “prescribed zone” which includes the R2 zone.</i>
<i>(b) To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i>	<p><i>The proposed development is for alterations and additions to an existing educational establishment. Given the nature of the proposed land use (which is permissible by virtue of Clause 35 of the Education SEPP), and that the standard only applies to 9% of the site area, there is a greater public benefit to flexible application of the development standards. As has been discussed, maintaining strict compliance with the maximum height and FSR standard would result in a poorer built form and site planning outcome. The proposed additions have been deliberately sited and designed to support the educational needs of the school, whilst seeking to minimise the environmental impacts of the proposal on adjoining properties and existing buildings at the site.</i></p> <p><i>The proposed development is considered to be in the public interest as it will facilitate the ongoing use of the site for the purpose of an educational establishment serving the day-to-day needs of residents in the area.</i></p>

### Council Response

That part of the Site zoned R2 has a maximum building height standard of 9m. The proposal has a maximum building height, as measured from ground level 'existing' level of 9.9m (at RL 59.90) for the majority of the three-storey component, 11.5m (RL61.5) for the staircase structure at the front of the building. The four-storey component which has been reduced along the R2 part of the site achieves a height of 12.547m (RL62.547) for the rear staircase and small amenities wing and 13.568m (RL63.568) for the staff rooms on the fourth floor.

Therefore, the proposal breaches the standard by between 900mm-2.5m (10% to 27% variation) along the 3<sup>rd</sup> level along the northern side and between 3.5m - 4.5m (38% to

50%) at the highest point (along the western side). This seems a large numeric non-compliance however it only affects a small section of the building which will not be visible from Woids Avenue, No.45 Woids Avenue and is substantially setback from the Bellevue Parade frontage. The building could be amended to comply simply by reducing the floor to ceiling levels within each floor which are currently 3m. If they were reduced to 2.7m then approximately 900mm would be removed from the building and it would largely comply in the 3 storey section. However this is not feasible as the spaces for schools need to be taller and multi-functional and floor to ceiling heights of 3m are required.

The staircase and toilet/amenities which is located on the roof top are ancillary services and are not habitable areas which are recessed further from the side boundary (approximately 6.3m from the northern side) and will not create any adverse overlooking or overshadowing. Removing these structures is possible to reduce the degree of non-compliance however the building would no longer be balanced in form and functional. It naturally steps from the higher point down to the lower parts towards Church Lane.

This proposal is a unique situation and the non-compliance could be catered for by relocating the additional height and mass that is present on the R2 zoned land and transfer this to the SP2 zoned land where there is no maximum height control. This would result in a poor design and planning outcome for the following reasons;

1. Relocating the floor space to the SP2 zoned part of the site would create additional height onto the existing buildings and they could potentially become 4-5 storey buildings rather than the proposed 3-4 storey scale proposed across the Site.
2. A four to five storey form in the SP2 zoned part of the site would be compliant but would have adverse impacts in terms of creating more overshadowing impacts onto the school and its surrounds and would create a scale that is inconsistent with the nature and character of adjoining development.
3. The eastern side of the road, being the other side of Woids Avenue the KLEP permits a maximum height of 12m for buildings which translates to a scale of approximately 3-4 storeys so the proposed development would be in character and in keeping with the existing and desired future character of development in the street and surrounds.
4. In addition removing the additional floor space from the R2 zoned land without increasing the height of buildings in the SP2 zoned land would mean the loss of valuable areas of open space which would have an adverse impact on the functionality and amenity of the school for the students and staff.
5. The complying provisions of the Education SEPP permit buildings to achieve a height of 22m and four storey's which is where the development within the R2 zoned land draws its permissibility.
6. The proposal satisfies the objectives of the standard which seeks to minimise amenity impacts as there are no overshadowing to the residential property to the north, and the building has been designed to reduce the potential for overlooking

and the visual bulk and scale when viewed from Woids Avenue maintains a three storey scale which is within the desired future character for the street as properties to the north and north-east are zoned R3 and have a height limit of 12m.



**Photo 4: 3D montage (visual appearance) of the proposed new building located along the northern side of the site and when viewed from the northern side of Woids Avenue (courtesy NBRSArchitecture).**

**(5) In deciding whether to grant concurrence, the Director-General must consider:**

**(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and**

Contravention of the development standard does not raise any matter of significance for State or regional environmental planning. [cl. 4.6(5)(a)]

There is no identified outcome which would be prejudicial to planning matters of state or regional significance that would arise because of varying the development standard as proposed by this application.

**(b) the public benefit of maintaining the development standard, and**

#### Officer Comment

There is no public benefit of maintaining the standard [cl. 4.6(5)(b)] in this instance as the planning and design intent for the future is to provide the efficient and functional delivery of educational services for the community. The Education SEPP through its complying development provisions (Clause 39) encourages taller buildings on school sites so that open space and playground areas are not compromised.

The new building has been designed to create a holistic, balanced and coherent built form across the whole site. Maintaining the development standard across this section of

the site would adversely affect the redevelopment of the school in general. The new building has been designed (after modifying the design) to remove any potential amenity impacts to immediately adjoining properties in terms of overshadowing, overlooking or creating a structure with excessive visual bulk.

Accordingly, there is no public benefit in maintaining strict compliance with the development standard given that there are no unreasonable impacts that will result from the variation to the Height of Buildings standard and hence there are minor public disadvantages.

In conclusion the benefits of the amended proposal outweigh any disadvantage and as such the proposal will have an overall public benefit.

**(c) any other matters required to be taken into consideration by the Director-General before granting concurrence.**

There are no relevant or additional matters required to be taken into consideration by the Director General before granting concurrence in relation to this Site/proposal.

**(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:**

**(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or**

This clause is irrelevant to the proposal as the subject site is located within an R2 Low Density Residential zone and a SP2 Educational Establishment zone.

**(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.**

The proposal does not involve subdivision and the proposal intends on consolidating a series of sites for the use as an educational establishment. This provision is not applicable. Are we conditioning consolidation? Otherwise BCA issues.

**(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).**

The Consent authority will keep record of the assessment against the provisions of Clause 4.6 in accordance with the requirement stipulated in Clause 4.6(7).

**(8) This clause does not allow development consent to be granted for development that would contravene any of the following:**

- (a) a development standard for complying development,**
- (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,**
- (c) Clause 5.4.**

The proposed development does not contravene or affect the provisions stated in Clause 8 above.

Assessment against the provisions of Clause 4.6 should also be considered using the “Five Part Test” established by the NSW Land and Environment Court (LEC).

Several Court cases dealing with applications to vary development standards has resulted in the Land and Environment Court setting out a five part test for consent authorities to consider when assessing an application to vary a standard to determine whether the objection to the development standards is well founded:

**Test 1. The objectives of the standard are achieved notwithstanding non-compliance with the standard:**

Officer comment:

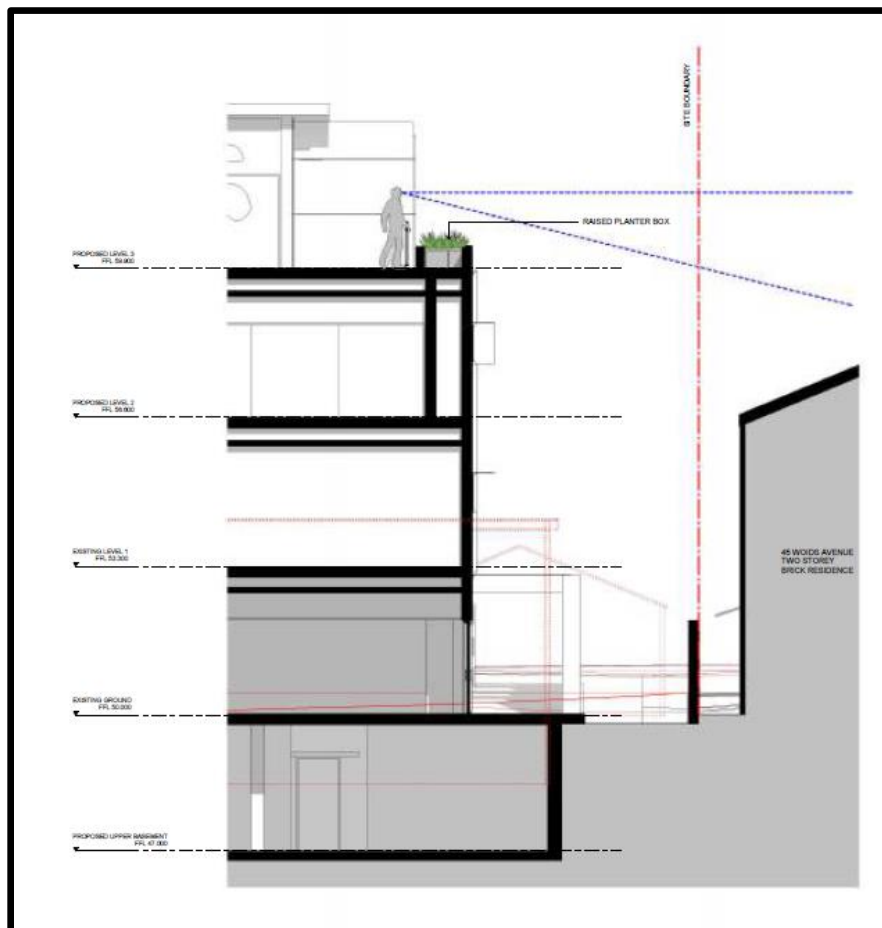
The Applicant has justified that the objectives of the height control standard have been met through the amended design of the building. In particular the objective which seeks to minimise overshadowing, visual impact and privacy.

In respect to visual impact the proposal has been reduced in scale from a four storey structure to a predominantly three storey structure. The original four storey element along the northern side of the building has been substantially cut back and only a small proportion of the building is 4 storeys within the R2 zone. The three storey scale of the development is consistent with the character of development along the eastern side of Woids Avenue which comprises of 3 storey RFB's and those adjoining sites are zoned R3 permitting a higher scale, medium density environment with a height limit of 12m. The proposal especially at the front is consistent with this scale.

The reduction in the scale of the building creates a more sympathetic scale of development adjacent to the two storey dwelling house at No.45 Woids Avenue. The maximum height of this building is RL58.7 which in relation to the proposed RL59.9 is only 1.2m higher at the street level and combined with a side setback of 5m will create adequate separation between the two structures and create a green buffer between the two developments. The four storey element is limited to the rear addressing Bogie Lane and will not be visible from Woids Avenue due to the large setback from the street and although visible from the laneway is setback over 30m from Bellevue Parade and although visible will not be excessive in its visual appearance due to the physical

separation. The scale, height and proportions of the building will not be excessive or out of character with development in the locality.

In terms of privacy, the openings located along the northern (adjoining 45 Woids Avenue) and western side (adjoining Bogie Lane) have been designed to be narrow, obscure and largely fixed openings that will not look down or into the adjoining residential properties. The use and integration of louvred screens aims to break up the bulk and create well defined bays but further eliminates the potential for overlooking. The main openings to learning spaces, staff rooms and associated uses aim to be orientated inwards and to the east so that they look into the school itself and onto its playgrounds and centrally located open spaces. In respect to the terrace above the third level Figure 15 below shows sight lines and that there is no potential for overlooking into any habitable spaces and areas of private open space from the roof as the perimeter planting reduces the potential for overlooking.



**Figure 14: Sight lines from the roof terrace down to the north (45 Woids Avenue)**

In relation to overshadowing, the new building has been located along the northern side of the site so there is no overshadowing at all to the residential property to the north, No.45 Woids Avenue. There is minimal overshadowing to the west and the shadows created are reduced by the scale of the development and its setback and separation

which includes the laneway as well. The amount and degree of overshadowing satisfies Council's minimum requirements with the backyards and habitable areas of the residential properties located along Bellevue Parade receive over 3 hours of solar access during mid-winter and there is no affection to any internal habitable spaces.

For these reasons the exceedance and breach of the height control is considered to be satisfactory in this case as there are no adverse amenity impacts generated by the development located within the R2 zone and the objectives of the height standard are satisfied through the careful design approach.

**Test 2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary:**

Officer comment:

The purpose of the standard though remains relevant and compliance is necessary in most cases.

The intent or underlying objective is to minimise overshadowing, overlooking and the visual quality of the development through establishing height control to achieve an acceptable level within this residential setting.

Given that the breach in the height satisfies the overriding objectives and intent of the control the standard is upheld and maintained.

**Test 3. The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable:**

Officer comment:

To some degree the underlying object and purpose of the control would be defeated if compliance was required as the development would no longer be consistent in scale and form with the remaining buildings within the school site. Compliance can be achieved but this would not create a cohesive development across the site, the scale and form of the new building and the alterations and additions to other existing buildings achieves a consistent, well planned and harmonious development that is integrated and balanced. A smaller scaled building along the northern side would form other buildings to be taller and the scale across the site would be uneven and inconsistent which is an adverse site planning and urban design outcome. This would also worsen amenity impacts across the site and increase overshadowing to the south and central areas adversely affecting playgrounds and areas of open space.

**Test 4. The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable:**

Officer comment:



The control has not been abandoned however this is a unique site and the development is intended to cater for an established educational facility which is recognised as a community facility. A variation to the control is not common in this specific and unusual circumstance.

As much as it is important to consider and minimise amenity impacts and ensure that the redevelopment of these sites is consistent with the general nature of development in the street and immediate surrounds non-compliances are not replicated or sought often and this needs to be considered in this case. Given that the majority of the school site is zoned SP2 and there are no minimum FSR or height controls this indicates that greater flexibility needs to be considered in assessing these proposal's whether they adjoin residential properties or not. By not limiting the height or FSR it is recognised that development within these sites should be given more freedom as needs are more specific. Also schools in general are not accommodating habitable uses so impacts are reduced on weekends, school holidays and when schools are not operating. Even before and after school times accommodate some students but the student population is greatly reduced and managed (formal before and after school activities).

It is not considered that the breach in the height control across part of the site will not abandon this control. It is not considered that the variations have destroyed the applicability and intentions of the control.

**Test 5. The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.**

Officer comment:

In this regard, it is true that the existing use of the land for school purposes should not have been included in the zone and like the residential parcels along Bellevue Parade should have been zoned SP2 like the remainder of the school site. It is very common for schools to expand within an area by buying up adjoining residential uses and adapting them to school based uses (administrative or the like if they are not permitted in the zone). Clause 35 of the Educational SEPP recognises this anomaly that many schools buy up residential properties in an attempt to expand only to have their uses prohibited in the zone. The SEPP aims to rectify this issue.

As such, strict compliance with the height standard in this circumstance is considered unreasonable and unnecessary. Whilst the standard is important to uphold a merit based assessment is required given the unique circumstances of the case.

The variation to the height is not such that it will radically alter the intended urban design outcome for developments in the area and the desired future character of the area will when redeveloped still achieve consistency with the EPI's, KDCP and state policies that are applicable to this zone.

## ii) Clause 4.6 - Floor Space Ratio

As previously mentioned the recent purchase of the two adjoining residential properties (No.47 and 49 Woids Avenue) has enabled the school to acquire more area and create a larger, integrated redevelopment scheme for the Site. The difficulty for future development is that the two sites are zoned R2 – Low Density Residential pursuant to Clause 2.2 of the KLEP 2012.

That part of the site which is zoned SP2 does not have any maximum floor space provisions whilst the R2 zoned land has a maximum floor space ratio (FSR) for that part of the site of 0.55:1 in accordance with Clause 4.4 of the KLEP 2012. An extract of the FSR map showing the FSR of the land (denoted as “E” on the zoning map) is included below in Figure 16. Clause 4.4 pertaining to floor space is a development standard that is permitted to be altered or amended by Clause 4.6.

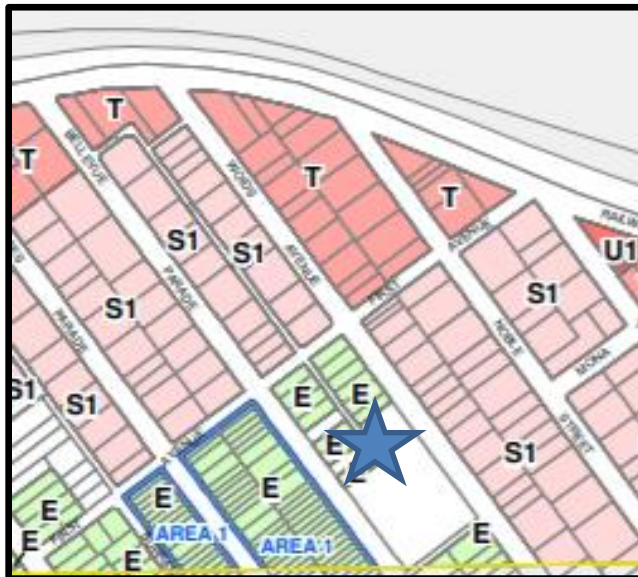


Figure 15: Extract of the FSR map (006) within the KLEP 2012 showing the subject sites

The school also owns and/or leases the residential properties along Bellevue Parade. No.s 50 and 56 Bellevue Parade Allawah are zoned SP2 – Educational Establishment however No.s 54 and 58 Bellevue Parade Allawah are zoned R2 – low scale residential and the school leases No.58. No changes are proposed in relation to the floor space across these sites the Clause 4.6 statement does not relate to this part of the site.

In terms of the floor space of the new building and the associated alterations and additions, the proposed bulk, form and mass of the works are largely within the SP2 zone and are considered satisfactory and consistent with the provisions of the KLEP given that there is no max FSR control for this part of the school site. The new senior school building is predominantly located within the SP2 zoned part of the site however the northern-eastern section of the building is located on and straddles the R2 zone (at

47 and 49 Woids Avenue). This part of the building contains maximum FSR limit of 0.55:1 and given that cumulatively both sites have an area of 890sqm a maximum gross floor area of some 490sqm is permitted.

The FSR of the part of the proposed development located on 47 & 49 Woids Avenue is 1.40:1 (based on a total gross floor area of 1,244m<sup>2</sup> and a total site area (of 47 and 49 Woids Avenue) of 888m<sup>2</sup>). The proposed FSR is 0.85:1 greater than the FSR development standard of 0.55:1. Walkways and breakout rooms have been included as well as the end of trip facilities which are located in the basement.

The scheme has been amended to address issues of scale, height and form and the originally proposed gross floor area and scale has been reduced. The four storey element has been substantially cut back in order to improve the relationship of the new building to the scale and height of the residential dwelling house at No.45 Woids Avenue. The reduction in the gross floor area from the original scheme amounts to some 122sqm (an FSR reduction of 0.14:1).

The proposed non-compliance seems to be large in its nature and degree however the circumstances of the case are unique, exceptional and need to be considered in the context of development in the street and immediate locality and given that the proposal is a “community facility” and the majority of the Site is zoned SP2 and no maximum FSR is allocated to this part of the Site.

Compliance could be achieved by removing floor space from this part of the site and relocating it to other area of the SP2 zoned part of the Site but this would be to the detriment of the proposal and future development of the school as a whole. This would result in a poor design and planning outcome for the following reasons;

- i) Relocating the floor space to the SP2 zoned part of the site would create additional height and scale onto the existing buildings and they could potentially become 4-5 storey buildings rather than the consistent proposed 3-4 storey scale proposed across the Site.
- ii) The intended built form which is an L-shaped building would lose its balance and coherent mass and form and would be an unbalanced building with the northern part of the building being substantially lower in scale than the western part of the building.
- iii) A four to five storey form in the SP2 zoned part of the site would be compliant but would have adverse impacts in terms of creating more overshadowing impacts onto the school and its surrounds and would create a scale that is inconsistent with the nature and character of adjoining development.
- iv) The eastern side of the road, other side of Woids Avenue the KLEP zones these sites as R3 - Medium Density with a maximum FSR of 1.5:1 (noted as S1 on FSR Map\_006). The proposal is below this control and will resemble a standard three storey residential flat building which is generally consistent with the existing and future character of development across the road.

- v) In addition, by removing the additional floor space from the R2 zoned land without increasing the height of buildings in the SP2 zoned land would result the loss of valuable areas of open space which would have an adverse impact on the functionality and amenity of the school.
- vi) The design focuses around higher buildings around the periphery of the site which are orientated to face the centre of the site this will screen activity, increase privacy, assist in creating natural surveillance within the school while in use. Further reducing the scale of the northern building would create adverse impacts to adjoining properties as the noise would not be buffered by the buildings as proposed and adjoining residential properties would be more exposed visually and would experience more noise as acoustic impacts.
- vii) The proposed R2 zone adjacent to an SP2 zone is not considered to be an appropriate transition between zones as the R2 floor space and height controls which are considered too restrictive given the adjoining school use and its zone not including a maximum FSR control. The proposed development has been designed to mitigate amenity impacts to neighbours by creating a more acceptable residential scale and transition between properties and reflects a character of development that is consistent with the scale and form of development permitted across the road.



**Figure 16: 3D montage of the approved Residential Flat Building located across the road at No.54 Woids Avenue (DA No.2017/0278)**

An amended Clause 4.6 Statement has been submitted by the Applicant and this has been assessed in detail below;

- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard**

**imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.**

#### Comment

Clause 4.4 relating to Floor Space is a development standard that satisfies the provisions of Clause 4.6(3) and therefore requires a Clause 4.6 Statement to be lodged in order to justify the degree of non-compliance in relation to the standard.

**(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:**

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and**
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.**

#### Applicant Response

*“Sub clause 4.6(3) relates to the making of a written request to justify an exception to a development standard and states:*

*(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

*As noted above the proposed development does not comply with the FSR development standard pursuant to clause 4.4 of the KLEP as it relates to 47 and 49 Woids Avenue. Notwithstanding, strict compliance is considered to be unreasonable and unnecessary in the circumstances of this case as discussed in this written variation.*

*Further, with respect to clause 4.6(3) this request has also had regard to the principles established in Four2Five Pty Ltd v Ashfield Council, in that it is considered that there are sufficient environmental planning grounds to justify contravening the development standard.*

*The environmental planning grounds particular to the site and the proposed development are detailed below:*

- *The proposed additions have been sited and designed to support the educational needs of the school, whilst seeking to minimise the environmental impacts of the proposal on adjoining properties and existing buildings at the site.*
- *The L-Shaped built form is the logical development pattern to integrate in the existing buildings and reflects the existing arrangement of the demountable building which has been relocated.*
- *The L-Shaped form opens the site to provide greater separation to the heritage listed chapel and provides outdoor play space, integrated with existing play space.*
- *The building design has sought to avoid variations in floor level (i.e. off-set floor levels), extensive retaining walls, off-set basement levels or sloping basement levels as this would require deeper excavation to accommodate the basement level.*
- *Concentrating building bulk towards the northern portion of the site allows the bulk of the additional overshadowing to be contained within the school site rather than onto adjoining residential properties. Further, the proposed development will result in a greater building separation to the heritage chapel which will enjoy a greater prominence under this scheme.*
- *The proposal is consistent with the zone objectives applying to the site as it provides for an educational establishment land use that will meet the day to day needs of residents.*
- *The relationship between the northern part of the proposed building and No. 45 Woids Avenue is acceptable as the setback also provides opportunities to undertake extensive landscaping between the building and No. 45 Woids Avenue as demonstrated in the amended landscape plan submitted to Council as part of the response to Council's request for further information.*
- *It is also noted that the side setback has increased from the original proposal and the building height has been reduced in this location thus minimising impacts.*
- *The redistribution of floor space to other parts of the school results in better integration of buildings on the site and relative to surrounding development. The scale of the proposed development (as amended) is considered to be appropriate based on existing development on the school site and within the area generally. In this regard, the prevailing built form of the school comprises two (2) to four (4) storey buildings and built form on the opposite side of Woids Avenue is characterised by three (3) storey residential flat buildings. These elements make a significant contribution to the character of the area and the proposed development fits with this character.*

The stated objectives of clause 4.4(1) of Kogarah LEP 2012 are as follows:

*(a) to ensure the intensity of development is compatible with the desired future character and zone objectives for the land,*

*(b) to limit the bulk and scale of development.*

The proposal is consistent with the relevant objectives of the development standard under clause 4.3 for the following reasons;

<b>Objective</b>	<b>Discussion</b>
<i>(a) to ensure the intensity of development is compatible with the desired future character and zone objectives for the land,</i>	<p><i>With regard to <b>objective (a)</b>, the desired future character for the site and the immediate vicinity of this part of the site is mainly one of medium density residential development. The existing school is a key element of the existing character of the area.</i></p> <p><i>In this regard land on the opposite side of Woids Avenue is zoned R3 Medium density residential. The FSR development standard applying to the R3 zoned land is 1.5:1. The FSR for that part of the proposed development which is located on the R2 zoned land is 1.40:1, which is less than the maximum FSR permitted in the nearby R3 zone – refer <b>Figures 1 and 2</b>.</i></p> <p><i>Therefore, a density greater than that envisaged by the R2 zone applying to this part of the site is the prevailing character of development in the immediate vicinity of the site.</i></p> <p><i>The proposed development will enable the ongoing operation of the school as an established land use in the area that will meet the day to day needs of residents. The proposed works are compatible with the existing and desired future character of the area as the proposal will not result in any unacceptable impacts on adjoining properties in terms of visual privacy, additional overshadowing, or acoustic impacts.</i></p>
<i>(b) to limit the bulk and scale of development.</i>	<p><i>In relation to <b>objective (b)</b>, the proposed development is for alterations and additions to an existing educational establishment that are similar in scale and intensity to existing development on the school site and in the surrounding area. The proposed additions have been sited and designed to support the educational needs of the school, whilst minimising the environmental impacts on adjoining properties and existing buildings on the site.</i></p>

**(4) Development consent must not be granted for development that contravenes a development standard unless:**

**(a) the consent authority is satisfied that:**

**(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and**

**(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and**

**(b) the concurrence of the Director-General has been obtained.**

*Applicant's response*

*The proposed variation to the maximum FSR development standard has been considered in light of the abovementioned objectives and potential environmental impacts and strict compliance is considered to be unreasonable and unnecessary for the reasons discussed below.*

- The proposal is consistent with the relevant objectives of the FSR development standard and it has been shown that there are sufficient environmental planning grounds to justify a contravention of the development standard in this instance.*
- The proposal is consistent with the objectives of the zones applying to the site as it provides for enhancement of an existing educational establishment land use that will meet the daily needs of residents in the area.*
- Only 9% of the site area is subject to a FSR control and therefore flexible application of the FSR control is considered appropriate to enable a cohesive built form to be achieved across the site. To design the alterations and additions to achieve strict compliance with the FSR control applying to only a small portion of the site would restrict a holistic approach to site planning at the school that responds to the environmental opportunities and constraints of the site and considers key residential interfaces to adjoining and nearby properties. Flexibility is appropriate given that there is not uniformity in the application of the planning controls that apply to the site.*
- As discussed in **Section 5.0**, the zoning and maximum floor space control (and height of building development standard) applying to the land 47 and 49 Woids Avenue are anomalous due to the timing of the acquisition of the land in relation to the drafting of the latest KLEP amendment. Current buildings on the school site have been assessed on a merit basis (due to the absence of built form controls) and the proposed density is consistent with that which has been considered appropriate by Council in the past.*
- The proposed development is of a similar scale to existing buildings at the school site and is compatible with the existing character of the area.*



- *The proposed additions have been sited and designed to support the educational needs of the school, whilst seeking to minimise the environmental impacts of the proposal on adjoining properties and existing buildings at the site. Consolidation of teaching spaces in a permanent building will minimise the footprint of buildings at the site whilst maximising outdoor play and learning spaces.*
- *The L-Shaped built form allows the proposed additions to integrate with the existing buildings and opens the site to provide greater separation to the heritage listed chapel and provide quality outdoor play space that integrates with existing play space.*
- *The new building element has been sited to be well set back from the heritage item and will be constructed using contemporary building material, allowing for the Chapel to 'read' as a free-standing element which presents prominently to Woids Avenue.*
- *Concentrating building bulk towards the northern portion of the site allows the bulk of the additional overshadowing to be contained within the school site rather than onto adjoining residential properties. The built form is consistent with the prevailing built form along Woids Avenue which is medium density.*
- *The building design has sought to integrate with the existing school building development to minimise variations in floor levels.*
- *The non-compliance with the floor space development standard allows for an orderly use of the land, that provides for a well-designed school classroom building, within the environmental capacity of the site. The siting and design of the proposed building minimises impacts on the residential amenity of adjoining properties in terms of visual privacy and overshadowing.*

*Accordingly, as demonstrated above, strict compliance with the FSR development standard is both unreasonable and unnecessary in this instance.*

**(5) In deciding whether to grant concurrence, the Director-General must consider:**

**(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning**

#### Officer Comment

Contravention of the development standard does not raise any matter of significance for State or regional environmental planning. [cl. 4.6(5)(a)].

There is no identified outcome which would be prejudicial to planning matters of state or regional significance that would arise because of varying the development standard as proposed by this application.

**(b) the public benefit of maintaining the development standard, and**

Applicants Comment

*The proposal will be in the public interest because it is consistent with the objectives of the standard and the objectives of the zone. [cl. 4.6(4)(a)(ii)]*

*The proposal is also consistent with the objectives of the zone as explained in Table 2 (below).*

**Table 2: Public Interest**

<b>Objectives of the R2 Zone</b>	<b>Discussion</b>
<i>(a) provide for the housing needs of the community within a low-density residential environment.</i>	<i>This objective is not applicable to the proposed use as Clause 35 of the Education SEPP permits a school use within a “prescribed zone” which includes the R2 zone.</i>
<i>(b) To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i>	<p><i>The proposed development is for alterations and additions to an existing educational establishment. Given the nature of the proposed land use (which is permissible by virtue of Clause 35 of the Education SEPP), and that the standard only applies to 9% of the site area, there is a greater public benefit by the flexible application of the development standards.</i></p> <p><i>Maintaining strict compliance with the maximum FSR standard would result in an inferior built form and site planning outcome.</i></p> <p><i>The proposed additions have been deliberately sited and designed to support the educational needs of the school and to accord with the prevailing character of development in the immediate vicinity, whilst at the same time, minimising the environmental impacts of the proposal on adjoining properties and existing buildings at the site. The proposed development is considered to be in the public interest as it will facilitate the ongoing use of the site for the purpose of an educational</i></p>

	<i>establishment serving the day-to-day needs of residents in the area.</i>
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*The new building has been designed to create a holistic, balanced and coherent built form across the whole site. Maintaining the development standard across this section of the site would adversely affect the redevelopment of the school in general. The new building has been designed (after modifying the design) to remove any potential amenity impacts to immediately adjoining properties in terms of overshadowing, overlooking or creating a structure with excessive visual bulk.*

*In conclusion the benefits of the amended proposal outweigh any disadvantage and as such the proposal will have an overall public benefit.*

**(c) any other matters required to be taken into consideration by the Director-General before granting concurrence.**

Officer Comment

There are no relevant or additional matters required to be taken into consideration by the Director General before granting concurrence in relation to this Site/proposal.

**(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:**

**(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or**

Officer Comment

This clause is irrelevant to the proposal as the subject site is located within an R2 Low Density Residential zone and a SP2 Educational Establishment zone. No subdivision is proposed and lot consolidation is proposed.

**(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.**

Officer Comment

The proposal does not involve subdivision and the proposal intends on consolidating a series of sites for the use as an educational establishment. This provision is not applicable.

**(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors**

**required to be addressed in the applicant's written request referred to in subclause (3).**

Officer Comment

The Consent authority will keep record of the assessment against the provisions of Clause 4.6 in accordance with the requirement stipulated in Clause 4.6(7).

**(8) This clause does not allow development consent to be granted for development that would contravene any of the following:**

**(a) a development standard for complying development,**

**(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,**

**(c) Clause 5.4.**

Officer Comment

The proposed development does not contravene or affect the provisions stated in Clause 8 above.

The Department of Planning and Environment guidelines on varying development standards recommend consideration of the provisions of Clause 4.6 and against the five-part test established in *Wehbe v Pittwater Council* [2007] NSW LEC 827.

Compliance with the provisions of the Five Part test are provided below;

**Test 1. The objectives of the standard are achieved notwithstanding non-compliance with the standard:**

Officer comment:

The Applicant has justified that the objectives of the floor space standard have been met through the amended design of the building. In particular the objective relating to ensuring that *"the intensity of development is compatible with the desired future character and zone objectives of the land"*. Given that adjoining development across the street immediately to the east has been zoned R3 Medium Density, with a maximum floor space ratio of 1.5:1 permitted on those sites and a height of 12m the intended built form along the streetscape permits a 3-4 storey form and the proposed built form will be consistent with this intended future scale. The proposed FSR is below the 1.5:1 maximum for the R3 zone and as such the three storey building will sit comfortably within the lower scaled buildings immediately to the north and the taller RFB's to the east and north-east. The proposed built form will be consistent with the intended desired future character for residential development along this streetscape.

The reduction in the scale of the building creates a more sympathetic scale of development adjacent to the two storey dwelling house at No.45 Woids Avenue. The bulk and scale of the new building when viewed from Woids Avenue will be in character with development in the street. There are also no adverse amenity impacts generated by the proposal. It is accepted that the school during operation contains a large amount of students however they are spread across the site and within different facilities within the Site. There is limited and substantially reduced activity at the premises after hours and during holiday periods so the intensity of the use is not constant but fluctuating and is a specific community use.

For these reasons the exceedance and breach of the floor space control is considered to be satisfactory in this case as there are no adverse amenity impacts generated by the development located within the R2 zone and the objectives of the height standard are satisfied through the careful design approach.

**Test 2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary:**

Officer comment:

It could be stated that the purpose of the standard is not relevant and the zoning of the Site is not appropriate for the proposed use, given that the Education SEPP through the provisions of Clause 35 which permits the use within the R2 zone. Given that educational establishments in general are located on land zoned SP2 and there are no minimum floor space ratio and height controls stipulated within these zones, it could be said that this proposal should be considered on its merits as its extending this “existing” use.

The intent or underlying objective is to limit the bulk and scale of the development and ensure its form is compatible with the desired future character of development in the streetscape. It has been discussed earlier that the three storey form is compatible with the existing and intended scale of residential buildings across the road and the bulk and scale of the new building has been “limited” by its architectural design and treatment. The use of interesting louvres, screening and contemporary finishes breaks up the bulk and articulates the buildings form and visual appearance.

The objectives of the control are relevant and have been adhered to through the design.

**Test 3. The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable:**

Officer comment:

The underlying object and purpose of the control would could potentially be defeated if compliance was required as the development would no longer be consistent in scale and form with the remaining buildings within the school site.

Compliance can be achieved but this would not create a cohesive development across the site, the scale and form of the new building and the alterations and additions to other existing buildings achieves a consistent, well planned and harmonious development that is integrated and balanced. The built form steps down the site from the north towards the lower southern side. The changes in scale are enacted by the design of the buildings. A smaller scaled building along the northern side would be disproportionate with the other buildings located across the site creating an uneven and inconsistent massing which is an adverse site planning and urban design outcome. This would also worsen amenity impacts across the site and increase overshadowing to the south and central areas adversely affecting playgrounds and areas of open space.

**Test 4. The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable:**

Officer comment:

The control has not been abandoned however this is a unique site and the development is intended to cater for an established educational facility which is recognised as a community facility. A variation to the control is not common in this specific and unusual circumstance.

As much as it is important to consider and minimise amenity impacts and ensure that the redevelopment of these sites is consistent with the general nature of development in the street and immediate surrounds non-compliances are not replicated or sought often and this needs to be considered in this case. Given that the majority of the school site is zoned SP2 and there are no minimum FSR or height controls indicates that greater flexibility has been applied in assessing these proposal's whether they adjoin residential properties or not.

Schools in general are not accommodating habitable uses so impacts are reduced on weekends, school holidays and when schools are not in operation (after hours). Even before and after school times accommodate some students but the student population is greatly reduced and managed (formal before and after school activities).

It is not considered that the breach in the FSR control across part of the site will not abandon this control due to the unusual circumstances of this case given its "special use". It is not considered that the variation in this case has destroyed the applicability and intention of the control.

**Test 5. The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.**

Officer comment:

In this regard, the zoning of the site/s are accurate as they have historically be utilised for low scale residential uses. It is common for schools to expand within an area by buying up adjoining residential uses and adapt them to school based uses (administrative or the like if they are not permitted in the zone). Clause 35 of the Educational SEPP recognises this anomaly and provides greater flexibility for these community facilities to expend despite their prohibition in a residential zone. Through the provisions of the Education SEPP School uses are permitted in a variety of zones.

As such, strict compliance with the floor space standard in this circumstance is considered unreasonable and unnecessary. Whilst the standard is important to uphold a merit based assessment is required given the unique circumstances of the case.

The variation to the floor space is not such that it will radically alter the intended urban design outcome for developments in the area and the desired future character of the area will when redeveloped still achieve consistency with the EPI's, KDCP and state policies that are applicable to this zone.

In conclusion, it is considered that compliance with the Floor Space control is in this case unreasonable and unnecessary and the proposal has been designed to satisfy the intention and objectives of the control and the Clause 4.6 Statement is considered to be well founded.

### **Kogarah Development Control Plan 2013 (KDCP)**

The KDCP does not include any specific planning controls regarding the expansion or redevelopment of school sites. Part B General Controls relate to all redevelopments and need to be considered in the assessment of this application. The relevant planning controls are considered below.

#### **Part B- General Controls**

##### **B1 – Heritage Items and Heritage Conservation Areas**

The subject site is a designated Heritage Item and the objectives of the general controls for heritage items are;

- (a) New development, including development on sites adjacent to heritage items must respect the architectural character of a heritage item and complement and enhance their significance and setting.*
- (b) Landscape features are to be retained where they contribute to the heritage significance of the item.*

Section 1.1 includes two key planning controls that need to be considered when assessing alterations and additions to Heritage Items. The DCP requires an assessment against the provisions of Clause 5.10 of the KLEP and where a heritage management plan is required to be submitted to Council, this is to be prepared by an appropriately qualified professional.

Earlier in this report the proposed heritage works were assessed in accordance with the provisions of Clause 5.10 of the KLEP and are considered to be acceptable and the proposed works will reinstate the original architectural features and character of the church building which will improve its visual quality and integrity. The application doesn't technically require the preparation of a Heritage Management Plan, the Heritage Statement includes restoration works which have been considered by Council's Heritage Officer and are satisfactory.

## B2 – Tree Management and Green Web

There is no significant vegetation on the site. Due to the long length of the combined frontages there are couple of existing street trees that will be retained and protected. Currently there are several driveway crossings that exist and this precludes more street planting to occur. The development will not have any crossings off Stanley Street with direct and only vehicular access off the rear laneway which is the preferred and a more desirable planning and design outcome.

A condition will require the existing street trees to be retained and for new additional trees to be planted and all existing driveway crossings to be extinguished and replaced with grass and trees to Council's Asset Managers satisfaction. This will improve the public domain and create a consistent green street frontage.

The application is accompanied by a landscape plan prepared by a qualified landscape architect that proposes appropriate landscaping to the site and common open space areas within the rooftop communal open space areas and the ground floor areas. The amended plans have setback the basement 3m from the northern side to allow for greater deep soil areas at the front of the ground floor courtyards to allow for medium sized, mature trees to be planted which will soften the lower podium levels.

## B4 – Parking and Traffic

Part B4 of the KDCP relates to car parking provisions and requirements. Educational Establishments generate the need for car parking on the following basis;

### Educational Establishment

Primary School

1 space per 100sqm of GFA

Senior School

2 spaces/classroom plus

1 space per 10 students over 17 years old

A detailed transport and parking assessment was originally submitted with the application prepared by McLaren Traffic Consultants and dated 18 December 2017. Since the design of the development was amended the traffic assessment was updated on 7 January 2019 to reflect the amendments.



The existing site provides on-site parking for 28 cars in an underground car park and ground level carpark with access from Bogie Lane (with 3 car parking spaces provided at the rear of 50 Bellevue Parade (which will remain) and 5 spaces in a parallel configuration on Bogie Lane which are accessed off Church Street.

The updated parking and traffic report summarised the proposed alterations and additions to consist of the following:

- Seven net additional Secondary School teaching and learning spaces for a total of 38 classrooms;
- Increase of 194m<sup>2</sup> of Primary School area to a total of 614m<sup>2</sup> ;
- New basement car park, providing 39 additional parking spaces including one disabled car parking space and two motorcycle parking spaces;
- Four additional parking spaces provided along Bogie Lane (rear of 54 Bellevue Parade)
- Removal of eight (8) car parking spaces on Bogie Lane;

The parking assessment calculated the parking that is generated by the development and Table 3 below shows the numerical parking requirement of the development in accordance with the KDCP requirements.

**TABLE 8:EXISTING AND PROPOSED DCP PARKING REQUIREMENTS**

Land Use	Stage	Type		Scale <sup>(1)</sup>	Rate	Spaces Required	Spaces Provided
School	Existing	Primary School		420m <sup>2</sup> GFA	1 per 100m <sup>2</sup>	4.2	28
		High School	Staff	31 classrooms	2 per classroom	62	
			Student	130 students over 17	1 per 10 students over 17	13	0
<b>Total</b>	<b>-</b>	<b>-</b>		<b>-</b>	<b>-</b>	<b>79.2 (80)</b>	<b>28</b>
School	Proposed	Primary School		614m <sup>2</sup> GFA	1 per 100m <sup>2</sup>	6.15	55
		High School	Staff	38 classrooms	2 per classroom	76	
			Student	130 students over 17	1 per 10 students over 17	13	0
<b>Total</b>	<b>-</b>	<b>-</b>		<b>-</b>	<b>-</b>	<b>95.15 (96)</b>	<b>55</b>

Note: (1) As a worst case all students in year 11 and year 12 have been assumed to be over 17 years old.

**Table 3: Car Parking required in accordance with the KDCP standards for the proposed development. (courtesy McLaren, 2019)**

In terms of onsite parking and the generation of parking spaces that the development requires is summarised in the table above and requires compliance with Council's DCP parking provisions. McLaren have been very conservative in their assessment as they have considered all children in Years 11 and 12 to be over 17 years of age and this is generally not the case but without having this very specific information the stricter approach has been applied.

In summary the existing school generates the need for 80 car parking spaces and only provides for 28 spaces. This is a shortfall of 52 spaces. The new development generates demand for 96 on site spaces and 55 spaces are provided. This is a shortfall of 41 spaces. It could be said that the school currently has a credit of 52 spaces due to its existing deficiency and the new work is minimising the loss that is currently on site and improving the onsite parking situation by reducing the loss by some 11 spaces which is considered to be a net gain in the number of spaces.

Despite the parking numerical non-compliance the traffic report considers the proposal to be acceptable for the following reasons;

*The proposed development provides for 55 car parking spaces, which will typically be restricted to staff use only. The increase of 27 car parking spaces, in comparison to the increase in staff (increase of nil staff), is expected to remove 27 on-street parking spaces from the existing parking demand. This is an overall improvement to the surrounding onstreet car parking availability. While the strict application of the DCP requires 96 car parking spaces for the proposed development, the actual likely increase in parking demand is nil parking spaces (no expected increase in students or staff, as there is no proposed increase in the number of students or staff). Hence, the overall addition of 27 spaces is a superior outcome in terms of the overall parking provided on-site. While the proposed school falls short from the strict application of Council's DCP parking requirement by 41 car parking spaces, the proposed additions and alterations only requires the provision of 16 spaces. By providing an additional 27 additional car parking spaces the school provides an excess of 11 spaces in excess of Council's DCP for the proposed additions".* This argument is considered to be reasonable in the circumstances of the case and given there is no intended increase in staff and student numbers the amount of car parking provided on site is considered to be acceptable.

Additional parking provisions comply with the KDCP as stipulated in the table below.

<b>B4</b>	<b>Relevant Requirements</b>	<b>Proposed</b>	<b>Complies</b>
<b>Bicycle parking</b>	All development (other than a dwelling house, dual occupancy or secondary dwelling) is to provide on-site bike parking designed in accordance with the relevant	There are no minimum requirements for bicycle parking development however designated bicycle parking is provided in the	Yes

	Australian Standards for the design criteria of bike parking facilities.	basement with a minimum of 4 bicycles catered for in this area and there are many spaces within the school that can accommodate any additional bikes.	
<b>Design and layout of car parking areas</b>	<p>Internal car park shall be designed in accordance with the requirements set out in AS 2890.1 (2004) and AS 2890.2 (2002) for off street parking and commercial vehicles.</p> <p>Non-residential and residential development parking areas should be physically separated</p> <p>Basement car parking is to be located within the building footprint.</p> <p>Car parking areas may be designed as ground level parking provided that the design results in building frontages level with the street</p> <p>Design parking to ensure pedestrian safety.</p> <p>Include natural ventilation to basement and semi basement car parking.</p> <p>Integrate ventilation design into the façade of the building, or parking structure, treating it with appropriate features such as louvres, well- designed grilles, planting or other landscaping elements.</p> <p>Ensure that all vehicles, including vehicles using</p>	<p>All the new car parking spaces have been designed to satisfy these provisions.</p> <p>Cars will be able to enter and leave the basement car park in a forward direction and sight distances when exiting the site should be clear as there is an unobstructed views to the north and south given the generally level nature of the street and the fact the street is generally an open style.</p>	Yes

	loading bays, can enter and leave the site in a forward direction.  Avoid locating access ways to driveways adjacent to the doors or windows of habitable rooms.		
<b>Loading requirements</b>	There are no minimum requirements for educational establishments	There are no designated loading/unloading facilities catered for on site. The adjoining streets can cater for this and the rear lane can also facilitate this. Given the use it is safer to have this occur outside the site boundaries.	Yes

**Table 4: Additional parking provisions as stipulated in the KDCP**

The parking and traffic study also assessed main intersection volumes and based on SIDRA calculations found that all immediate intersections were operating at a Level of Service “A” which is considered to be good and has spare capacity.

The report also conducted parking counts to evaluate the situation of on street parking whilst the school is operating and counts were conducted during the morning and afternoon peaks whilst school was in operation. Counts were taken within a walking radius of 200m from the school and it showed that roughly 45% of availability in parking during these peak times. This means that there is still some additional capacity for street parking during the key peak times. It should be noted that schools can be busy during morning and afternoon peaks but activity subsides once school starts and after most children are dropped off or arrive/depart.

In terms of on street parking the report concluded that *“Based upon the above results, if there was additional long-term parking demand proposed as part of the development, the use of that additional parking would not generally coincide with the peak on-street parking demand for residents in both the AM and PM peak parking periods.”*

In respect to the issue of drop off and pick up zones, the school has two dedicated areas along Woids Avenue and Bellevue Parade and given the length of those two frontages these zones offer space for several cars at one time without excessive banking of traffic. The existing drop off and pick up zone will be extended (and parking restricted in the AM and PM peak) to cater for the area in front of No.47 and 49 Woids Avenue. This additional area will cater for an additional four cars which will improve this situation and provide additional space for drop off and pick up.

In terms of the proposed car parking layout the report confirmed that this has been assessed to generally achieve the relevant objectives and requirements of AS2890.1, AS 2890.2 and AS2890.6.

The carpark achieves the following:

- Minimum parking spaces with dimensions of 5.4m length by 2.4m width sufficient for use by staff;
- Disabled car parking spaces with minimum dimensions of 5.4m length by 2.4m width and adjacent shared space with minimum dimensions of 5.4m length by 2.4m width;
- Minimum 2.2m head clearance along circulation paths;
- Minimum 2.5m headroom above disabled car parking space and associated shared space;
- Minimum 6.0m aisle widths, exceeding the minimum by 0.2m;
- 5.5m driveway width;
- 1m blind aisle extensions where required.

In conclusion, the parking and traffic assessment is considered to be reliable and is a reasonable planning and design outcome given the context of the site and the nature of the development and should not create any adverse additional traffic and parking issues for the residents. In fact the design should improve the situation and a detailed TMP should further provide an organised and safe method of dealing with traffic and parking impacts.

## **B5 – Waste Management and Minimisation**

A Waste Management Plan has been submitted with the application which is considered acceptable however the plan addresses the storage, removal and recycling of materials during the demolition/construction process. The proposal was referred to Council's Waste Management Unit for comment however given the school student and staff numbers are not increasing there is no need to alter the existing established waste arrangements.

The plans are changing spaces and uses across the site and it is unclear where waste is to be stored after construction and how it is managed in the longer term. The plans include a series of spaces designated for storage but given the scale of the development a detailed waste management plan should be prepared and provided to Council so that Council is satisfied with the arrangement.

## **B6 – Water Management**

The development has been designed to satisfy Council's specifications in respect to stormwater and drainage. Council's Engineer raised no objection to the proposed

stormwater and drainage plans and standard conditions are included to ensure that the proposed method of drainage to be adopted is compliant.

## **B7 – Environmental Management**

This section primarily relates to the building materials used in the development and their sustainability qualities. The proposed material and finishes to the development are considered appropriate and do not indicate any particular adverse environmental issues. Most finishes have been selected to ensure minimal maintenance for the longevity of the building's life and seek to ensure sustainability where possible through the use of recycled materials, timber and the like.

The implementation of a variety of contemporary materials and finishes including screening and louvres will ensure that the buildings will maintain privacy to adjoining properties but also break up the bulk and form of the buildings and articulate their mass.

## **Section 94 Contributions Plan**

The proposed development requires the payment of Section 7.12 (previously Section 94A) contributions under the provisions of Council's document titled "Section 94A Contributions Plan 2017". Contributions under Section 7.12 of the Environmental Planning and Assessment Act 1979 are applicable based on the estimated cost of development which in this instance is 1% for \$200,001 or more. Section 7.12 contributions for this development equate to \$140,125.77 based on the estimated cost of development of \$14,012,577 as indicated on the applicant's DA form.

In accordance with Section 4.7.2 of Council's Section 94A Contributions Plan, Educational Facilities may be exempt from providing contribution if they "*provide a comprehensive submission to Council which clearly demonstrates how the proposed development falls within the types of development listed above*". The proposal is clearly an educational facility.

In determining the exemption and the submission lodged by the Applicant the following issues need to be taken into consideration;

- (i) *The extent to which the proposed development comprises or includes the provision, extension or augmentation of public facilities that provide a public benefit, and/or*
- (ii) *Whether the applicant is affected by any adverse financial circumstances which will impact on its ability to fund the payment of any levy which is imposed in accordance with this Plan.*

On 9 May 2019 the Applicant provided a formal written response to Council seeking exemption from the S94A contribution on the following grounds;

- *As noted above, the school currently makes its facilities available to other community members. It is envisaged that, upon completion of the works the subject*

*of this DA, the way in which the school functions will be rationalized, which will provide more opportunities for other community groups to be accommodated.*

- *The school operates as a not-for-profit entity. Any excess monies not required for the day to day functions of the school or for contingencies such as maintenance, are used to improve the school facilities and the amenity of the school students, staff and the school community in general.*

The school has stated that it will try to make some of its facilities available for the community and general public however they have not provided Council with enough substantive evidence to justify that other community providers will be able to use any of these new spaces (there are no potential agreements in place). The Section 94A levy is provided to ensure that community facilities, areas of open space and public domain works are catered for given the additional burden placed on the community by the intensity of any new development. It is understood that at this point in time the school is not seeking to increase student or staff numbers but the amenities within the school will be substantially improved with no wider defined or absolutely clear public benefit in lieu of paying the contribution.

If there is a clear plan, agreement or lease which confirms the use of the facilities i.e. Church, Hall, Performing Arts area or use of the basketball court can be provided to local community associations preferably at a low or no cost, out of school hours this may justify a public benefit is provided and the waiving of some or all of the Section 94 fees may be reasonable..

There are many opportunities for the school to make many of the areas available for adult courses after hours, local dance studios, theatre groups, sporting associations and the like to use over the weekends etc. I feel that if there was a clearer and more defined commitment to make the facilities available to community groups I feel the wider community would be benefiting directly from the works. Otherwise the Section 94A contribution should be imposed as I do not believe the justification for the exemption is satisfactory and adequately addresses Section 7.4.2 of the Plan.

## **IMPACTS**

### **Natural Environment**

The proposed development is unlikely to result in adverse impacts to the natural environment. The site contains no significant vegetation. There are a few street trees located on the nature strip at the front of the site which will be retained and new street trees planted along the frontage of the new building along 47 and 49 Woids Avenue.

A landscape plan prepared by a qualified landscape architect has been prepared for the development which intends on improving the landscaping and greenery across the whole site especially at the front along Woids Avenue which is the schools primary frontage. The visual appearance of the development will be improved by the provision of

additional street planting and better managed and coordinated landscaping across the Site.

### **Built Environment**

The proposed development is unlikely to result in adverse impacts to the built environment. In fact the architectural design, use of high quality materials and finishes will create an interesting and vibrant built form. The development will create a positive contribution to the streetscape and will enhance the public domain as it is intended to provide a coherent and integrated planning and design response for this Site. Currently the location and type of buildings on site are haphazard and unplanned. This development allows for a comprehensive redevelopment and reorganisation of uses across the site to be more productive and functional for the school for the future.

### **Social Impact**

The proposed development is considered of benefit from a social and economic perspective, providing additional infrastructure to provide for educational needs of a growing population.

### **Economic Impact**

The proposed development will have no adverse economic impact it will benefit the construction industry as this is a large and integrated project that requires the co-ordination of many trades and resources and will take several years to construct as it is proposed to be constructed in stages.

### **Suitability of the site**

It is considered that the proposed development is of a scale and design that is suitable for the site. It is a permissible use in the zone and via the provisions of the SEPP.

Having regard to its size, shape, topography, vegetation and relationship to adjoining developments, the subject site does not contain any impediments that would preclude it or compromise its suitability for the intended land use as proposed.

### **SUBMISSIONS AND THE PUBLIC INTEREST**

The original application was notified and advertised to immediately adjoining properties in accordance with Council's requirements. Seventeen (17) letters were received with one submission containing 127 signatures raising concerns and objecting to the proposal. A further 43 submissions were received in support of the proposal. The second round of notifications resulted in six (6) submissions objecting to the proposal. The third round of notification which sought to clarify the address of the Site resulted in four (4) submissions being received.

The following issues were raised by all submitters.

- **Adverse noise generated from construction activity**



Officer comment: The proposed development is large and integrated in nature and substantial in the amount of works proposed. The development application is not staged but the works have been phased and staged so as to minimise any likely disruption to the schools day to day operation. This will also reduce the potential noise to adjoining properties as the construction activity will be staged. A Construction Management Plan will be required to be submitted prior to the issuing of the Construction Certificate to ensure that construction noise, activity and traffic is well managed and disruption and noise minimised during building works.

Standard noise conditions will be included if consent is issued.

- **Lack of disabled car parking spaces**

Officer comment: The proposed development aims to comply with the Australian Standards for accessible access. The development improves permeability and accessibility around the site by improving circulation spaces and introducing lifts to provide equitable access for all. A condition will ensure that the parking provided will satisfy the Australian Standards. The new basement level includes an accessible space.

Council's KDCP does not stipulate any minimum provisions for accessible car parking for the proposed however the BCA classifies schools as a class 9B building and therefore requires 1 space for every 100 car parking spaces or part thereof. The proposed carpark requires the provision of one (1) disabled parking space which has been provided to meet the BCA requirements. The proposal complies in this regard.

- **Adverse impact on street parking and traffic congestion**

Officer Comment: The school states that it is not seeking to increase student numbers at this point in time and the new works will increase the amount of parking on the site. Residents are concerned regarding drop off and pick up zones and the general traffic congestion that occurs at the school during peak times.

It is accepted that the school is not increasing student and staff numbers however it is considered that the redevelopment of the site is substantial in nature and the operation is altering the use of spaces etc. In order to address concerns raised by residents and in an attempt to improve the current arrangement, it is suggested that the application be "Deferred" so that a detailed Traffic Management Plan (TMP) be prepared and adopted which will address issues such as parking, accessibility, drop off and pick ups (designate specific area for this) and look at engaging traffic wardens to assist with drop off and pick ups at the critical points of access and entry.

The purpose of the TMP is to create an ordered, structured and organised management of traffic and parking at the site for the longer term.

- **The four storey building is inappropriate as the scale is incompatible with existing adjoining buildings.**

Officer comment: The original proposal was modified and the scale of the new building along the northern side has been reduced in scale. As previously discussed the three storey scale is considered to be more appropriate transition in scale from the residential nature of development along the southern side of the Site. The proposed development as amended is considered to be a better design solution and will be consistent with the general character of the street where sites across the road are zoned R3 and have a height limit of 12m.

- **Insufficient playground space for students**

Officer Comment – The proposal aims to consolidate spaces and internalise many facilities and class rooms. The increase in the height of existing buildings means that there is more space at the ground floor level. The proposal involves the removal of the carpark, 2x classrooms and administrative building centrally located. This will increase the size and area of the central external play spaces. This area will be increased by some 270sqm. The outdoor play spaces will be increased by the proposal.

- **New building exceeds height limits and is not in keeping with the character of the residential streetscape.**

Officer Comment: The originally proposed four storey building has been redesigned to have a three storey scale adjacent to No.45 Woids Avenue. This scale is considered to improve the transition between the residential properties to the south and north? and the subject site. A four storey scale will be maintained at the rear of the building which fronts Bogie Lane. The four storey scale will be seen from Woids Avenue however this part of the building is setback well over 10m from Woids Avenue which provides ample separation distances and the new street trees and planting will further screen the built form. Most of the development and the main four storey wing is located within the SP2 zone which does not include any maximum height limit. The Education SEPP establishes some minimum standards for complying development and the height of a building that is defined as “complying” shall have a maximum height of 22m. The proposal even in its four storey form is well below this height limit and will therefore satisfy the “complying provisions” even if they are only used as a guide.

- **Increase in overshadowing which is unacceptable**

Officer comment: Shadow diagrams have been replicated earlier in this report and assessed accordingly. In essence the new building will cast minimal but fully compliant shadows to the properties to the west along Bellevue Parade. No.s 52 and 58 will receive more than 3 hours of solar access to their key habitable areas and areas of open space during midwinter. There is no overshadowing to No.45 Woids Avenue as this property is located to the north of the subject site.

The new building works are generally centrally located and will cast shadows largely within the school grounds. The immediately adjoining residential properties (that are not

owned by the school) will receive a minimum of 3 hours of solar access during the day in midwinter which complies with the requirements of the KDCP and Education SEPP.

- **Residents raise concerns about the existing parking situation being adversely exacerbated and the situation will become more unsafe.**

Officer comment: The streets include a series of restrictions on parking during the schools operating hours. A designated drop off and pick up zone is provided at the front of the Site off Woids Avenue and there is a pedestrian crossing. The TMP which will need to be prepared prior to the activation of the consent, requires consideration to be given to the engagement of traffic warden/s at critical access points to ensure safety is maintained during peak times. The proposal is increasing parking on site by the provision of the basement carpark. Parking on site shall be dedicated to staff as they would be the most likely to provide the most pressure on street parking. Any details of parking for year 12 students? As carparking numbers are calculated having regard to over 17 year olds

As previously mentioned the additional parking on site has been provided to address the demand for on street parking.

- **Increase in air and heat pollutions**

Officer comment: The student and staff numbers are not proposed to increase as a result of this application so it is unlikely these impacts will be increased as the same amount of people are likely to access the site as existing. It should be noted that the Education SEPP encourages the multi-functional use of schools and their spaces so there is a wider and broader government objective to ensure school rooms and facilities are made available for the wider public to use after school hours. The construction management plan will control any unnecessary pollutants that may result from construction activity.

- **Increase in rubbish along the street**

Officer comment: A condition will ensure that the school grounds and public domain immediately adjoining the school is maintained in a clean manner at all times.

- **Many of the students attending the school are not locals**

Officer comment: This issue is not a planning consideration and there is no legal mechanism to ensure that private/independent schools only take local students.

- **Relocating the reception area to the Junior school off Bellevue Street will increase noise.**

Officer comment: Currently the administrative offices are spread across the site. They are not well located or defined which is a poor design and functional outcome. The intention is to consolidate these spaces and to have three main and legible administrative areas with two reception areas (one off Woids Avenue and one off

Bellevue Parade). This is considered to be a well-planned and fair distribution of the space. The reception areas are set back from residential properties so they are unlikely to adversely affect the residential lots.

- **Failure to comply with existing Development Consent DA93/2010**

Officer comment: The previous Kogarah Council issued development consent on 7 March 2011 for the school to use part of the multi-purpose school building as a place of public worship. Some additional information was requested from the Applicant in respect to this issue. The following information was provided *“DA2010/93 has been activated and the school hall is used by Allawah Community Church for regular Sunday worship and for week day youth groups in accordance with the conditions of consent.*

*There is an issue in relation to the line marking of the playground which is used as an ad hoc car park by the church. A S4.55 application has been lodged with Council seeking to delete the requirement to line mark the playground. This application has not yet been determined. Apart from the line marking issue we are not aware of the Community Church not complying with the conditions of consent.”*

The issue of non-compliance with a development consent is not a planning issue but a compliance matter.

- **External referrals not carried out**

Officer Comment: The application is not required to be referred to RMS as Clause 57 of the Education SEPP refers to “traffic generating development” the clause applies if the proposal:

*“will result in the educational establishment being able to accommodate 50 or more additional students and that involves an enlargement or extension of the existing premises or new premises on a site that has direct vehicular or pedestrian access to any road”.*

The application is not seeking the intensification of student numbers however for consistency and given the scale of the proposed works the application was referred to RMS for their comment in accordance with Clause 57 of the Education SEPP. On 12 April 2018 RMS responded and raised no objection to the proposed development.

- **Provision of a drop off and pick up zone within the school**

Officer comment: There is no policy requirement for a school to provide an on site drop off and pick up zone. A detailed parking and traffic assessment has been conducted and accompanies this application indicating there are drop off and pick up areas designated along the frontage of the site along Woids Avenue and Bellevue Parade. The proposed TMP will outline and formalise these to the satisfaction of RMS requirements and will investigate any other additional initiatives which could be implemented to make access to the site safer and reduce congestion at peak times.

- **Funding for the proposal, \$14million (a large investment) should be justified where this money is coming from**

Officer comment: The financial commitment and funding for the project is not a planning consideration. As part of the assessment the determining authority need to ensure that the proposed cost of works is appropriately scheduled and a detailed costing has been prepared and accompanies this application.

- **Justify the sharing of school facilities – the use of Allawah Community Church is not considered to comply with this provision**

Officer comment: Sharing the school grounds and existing facilities with a non for profit organisation or church group like the Allawah Community Church is considered to be a community benefit and is servicing a particular community group.

- **The R2 zoning of 47 and 49 Woids Avenue is not an anomaly as stated in the SEE**

Officer comment: The zoning of No.47 and 49 Woids Avenue is not an anomaly as the immediate locality is a residential area and the Residential R2 zoning is outlined in the KLEP.. The Education SEPP has been implemented to allow for the expansion of schools in certain “prescribed zones” without the need to submit Planning Proposals and rezone land. Educational Establishments are considered to be important community facilities and the Policy direction is to ensure that expansion and redevelopment can occur in certain zones including the R2 zone.

- **The proposal will alter the terms and conditions of the use of the Child care centre which was approved under DA291/2012**

Officer comment: This application, if determined, will supersede the previous applications in so far as the extent of the new works. If the proposal will affect the long term use of the child care centre (subject to that DA being taken up) then the school will need to amend that application or submit a new application in respect of this use. The Applicant was requested to provide some more details relating to the functioning and operation of the Before and After (B&A) school care services that are currently provided on site. The following information was provided;

*Development Application 291/2012 was approved by Kogarah Council on 24 January 2013. This DA applies to Part Lot 1 DP 1172012 which is the consolidated lots 51-69 Woids Avenue, Allawah, part Bogie Lane and 60-74 Bellevue Parade. The original DA was granted to the YMCA who initially provided a before and after school care service to the School. This Service was subsequently transferred to Keyorris Pty Limited and approved by NSW Department of Education and Communities on 14 January 2014. The DA states “The maximum patrol capacity within the premises shall be limited to sixty (60) persons at any time”. The current daily numbers range from 25 to 45.*

*The B&A school care service operates from the Chapel. The playgrounds on the Woids Av side of the campus are also used. A classroom in the (recently relocated) demountable was also registered for use by the OOSH, should the Chapel facilities be insufficient, but to the school's knowledge this room has not been required for use.*

*The OOSH service provided by the school is approved by NSW Department of Education and Communities.*

*The current DA proposes to operate the OOSH from the Junior School building on Bellevue Pde. This is detailed on the Ground Floor Plan. Depending on the staging of work, it might be necessary to accommodate the OOSH within other buildings on the school site whilst the Chapel undergoes renovation.*

*The Chapel on the Senior School (Woids Avenue) side is used for OOSH. The OOSH bus operates from the Junior School side of the School where the students are supervised by School staff both on embarkation and disembarkation. In using this area there is no need for students to cross a road.*

*Allawah Community Church will continue to operate from the hall"*

A condition will ensure the Allawah Community Church continue to use the Hall in accordance with the current terms and provisions. In addition, a Plan of Management (POM) will be required in respect to the rehousing of the Before and After School and holiday Service. The POM will include the following (but not limited to these);

- Hours of operation restricted to 7am to 6pm Monday to Fridays.
  - A maximum of 60 children are to be catered for at this service.
  - Highlight/designate a specific area of open space they can use and ensure the space is more private and away from immediately adjoining residential properties.
  - General operating provisions.
- **The school should enter into a Deed of Agreement to ensure that student numbers remain as existing.**

Officer comment: Public Schools are obligated to take students from the local area until they are unable to cope with the numbers whilst Private/Independent schools need to obtain development consent for any increase or intensification in student numbers. School student numbers are registered with the Department of Education and most Private/Independent schools have a maximum allowable intake.

A condition will cap the student numbers as no increase is proposed, however, numbers can not just naturally increase, the school will need to amend this application or lodge a new application to amend and increase student numbers. It will also cap the staff numbers to 95 persons as this is the current staffing numbers.

- **The Clause 4.6 Statement for floor space is not well founded and justification for the non-compliance is considered inadequate and the gross floor area calculations are not accurate.**

Officer comment: Originally the non-compliance with both Clause 4.3 (Height) and Clause 4.4 (Floor Space) was amalgamated into one Clause 4.6 Variation. After the scheme was amended the Applicant updated the Clause 4.6 Statements and lodged two independent statements. These have been discussed in detail above and considered to be well founded in this case.

An independent assessment of the gross floor area has been conducted and it is considered that the Applicants gross floor area calculations are generally acceptable and accurate. A break down of the GFA and FSR is provided and discussed in detail above.

- **The new building is not four storey in height as the basement level protrudes above ground level and this becomes a storey in accordance with the definition of “storey” and “basement” as set out in the National Construction Code 2016.**

Officer comment: The Education SEPP establishes some standard controls in respect to “complying development”. These provisions are used as a guide when considering this application as the proposed works are not “complying development” due to the Chapel being a listed Heritage Item.

The Education SEPP states that complying development can have a maximum height of 22m and have a maximum of 4 storeys. The Policy does not include a definition for a “storey”. It is acknowledged earlier in this report that the development exceeds the four storey limit given that the nominated basement is considered a “storey” pursuant to the definition of “storey” in the KLEP however the buildings on site are well below the 22m height limit. This is addressed in more detail in the body of the report and is considered to comply with the numeric height control. In planning terms if the SEPP does not include a definition then you revert back to the planning instrument then DCP and so forth then potentially reference is made to the BCA or National Construction Code. The NCC is not a document that needs to be relied upon in this case.

- **The Applicant’s failure to prepare and make available the schools Masterplan which goes against the SSPP recommendation in its original briefing of this matter.**

Officer comment: It is acknowledged that the submitter has found information to suggest the school had prepared a masterplan some time ago and this plan is not being made available for the public, Council and the Panel. There is no legal requirement for a Masterplan to be prepared for this Site. The Applicant has stated that the works are substantial in nature and have been appropriately phased and staged and therefore intend to serve the purpose and objectives of a masterplan as they relate to

redevelopment of this site in a consolidated and comprehensive works across the whole site.

- **Documents were withheld from the Council's DA Tracker in respect to the fourth notification period and the time period for comment was reduced to 12 days as a result. Denial of procedural fairness has occurred.**

Officer comment: The Planning Officer discussed this issue with the submitter on a number of occasions. No new plans, documents or information was lodged during the final notification period. The plans and documents online are current and up to date. The fourth notification period occurred because it was unclear that the previous notification periods identified the whole school site. Given the site comprises of properties along Woids Avenue and Bellevue Parade the notification intended on ensuring the public were clear of the land and site boundaries. The notification was about clarity regarding the site description and boundaries rather than any new information or amendments being made to the application.

- **Councillor Katris should declare an interest in this matter as he has been involved in a development across the road.**

Officer comment: Although this is not a planning consideration, it is understood that Councillor Katris has declared a potential conflict of interest and will not be involved in the determination of this application.

- **Before and after school care is operated from the Church and the children were supposed to be using the western side of the church but instead are out along the eastern side of the front which increases noise.**

Officer comment: A condition will be imposed to enforce this and ensure that OOSH utilises the area that was designated for use in accordance with DA2012/0291.

- **Desperately needed upgraded facilities and contemporary learning and teaching spaces**

Officer comment: The school infrastructure is generally outdated and has been developed in an adhoc way. There are many demountable buildings which are old and facilities require modernisation. The proposal will provide for contemporary buildings and services and substantially improve the amenity, functionality and operation of the school as it will be more coordinated and organised.

- **Reduce reliance on street parking**

Officer comment: This issue has been addressed in detail earlier in this report, the additional parking now meets the parking requirements for the site and should alleviate the pressure to some degree on the street parking.

- **Amalgamate outdated demountables and class rooms**



Officer Comment: It is agreed that the proposal will substantially modernise and improve the facilities and learning spaces within the school and establish a contemporary and attractive educational facility.

- **Increase in the amount of outdoor play area**

Officer Comment: the demolition of some outdated and adhoc buildings within the site will consolidate spaces and create a larger more function and usable playground area.

## **REFERRALS**

### **Council Internal Referrals**

#### Senior Building Officer (Major Projects)

Council's Senior Building Officer has raised no objection subject to conditions of consent being attached to any consent granted.

#### Development Engineer

Council's Development Engineer has raised no objection subject to conditions of consent being attached to any consent granted.

#### Traffic Engineer

Council's Traffic Engineer has reviewed the Traffic Assessment Report and has raised no objection to the proposed development. It should be noted that the Traffic Committee endorsed the following recommendations to be implemented;

- i) That a Transport Management Plan be prepared and submitted to RMS for review and approval proposing to restrict Church Lane, between Bellevue Parade and Woids Avenue, Allawah to one-way in the eastbound direction and;
- ii) If this development is approved then the frontage outside No.47 and No.49 Woids Avenue will be restricted to "No Parking, 8.00am-9.30am, 2.30pm-4.00pm on school days".

The cost of implementing the signage and any appropriate line marking in respect to ii) above, will be borne by the School. A condition will ensure this is undertaken.

#### Environmental Health Officer

Council's Environmental Health Officer has raised no objection subject to conditions of consent being attached to any consent granted.

#### Coordinator of Environment Sustainability and Waste

Council's Coordinator of Environment Sustainability and Waste has raised no objection to the proposal as there is no proposed increase in student numbers. A revised waste management plan for operation of the school has been conditioned.

#### Council's Landscape Management Officer

Council's Consultant Arborist has raised no objection subject to conditions of consent being attached to any consent granted.

## **External Referrals**

### Roads and Maritime Services

The application was referred to RMS for comment in accordance with the provisions of Clause 13 (3) of the Education SEPP which requires consultation with RMS if "*the development will result in a new vehicular access point to the school, or a change in location of an existing vehicular access point to the school*". The proposal involves a basement car park which results in the provision of a new driveway access off Woids Avenue.

RMS provided a formal response and raised no objections to the proposed parking and access arrangements.

## **CONCLUSION**

The application has been assessed having regard to the Matters for Consideration under Clause 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 application seeks approval for the construction of the part 3, part 4 storey homebase building situated along the northern and western side of the site (St George adjoining Woids Avenue and Bogie Lane with basement car parking, including refurbishing the existing learning spaces at the Middle School including demolishing the rear addition to the Church building conducting conservation works to this building and converting it back to a Chapel. The works involve new landscaping and associated site works at St George Christian School.

The proposed development application was lodged on the 22 December 2017 with a capital investment value of \$14,215,077 which classifies it as a Regional Development. Therefore, the Sydney South Regional Planning Panel is the consent authority.

The proposal has in most part been designed to satisfy the complying development provisions within the Education SEPP (Schedule 2 and 4) and where the development fails to comply with all the provisions the design and planning outcome is considered satisfactory given the context of the site, general nature of the streetscape and the fact the development has been designed so there are no adverse amenity impacts to immediately adjoining residential properties in terms of noise, overshadowing or overlooking.

The northern part of the new building relies on Clause 4.6 variations to the height and floor space standards within the KLEP have been addressed as part of the Clause 4.6 Statements submitted with the application. The non-compliances are considered to be reasonable in this case given additional fourth storey has been sensitively located and

setback from the northern boundary and its bulk and scale has been managed so that there will be no adverse amenity impacts to the adjoining residential properties to the north and will sit within the streetscape given that the eastern side of the road is zoned R3 and permits medium density development. The variations in this instance satisfy both the objectives of the standards (height and FSR) and are consistent with the objectives of the zone. Notwithstanding, The development has also been assessed against the requirements of the relevant planning instruments and development control plans and is consistent with those requirements and pursuant to the imposition of conditions the proposal is considered to be an acceptable planning and design outcome. Following detailed assessment it is considered that Development Application No DA2017/0657 should be approved subject to conditions.

## **DETERMINATION AND STATEMENT OF REASONS**

The reasons for this recommendation are:

- The proposed development generally complies with the objectives and general intent of the Education SEPP and where the proposal fails to comply with the controls the design of the development
- The proposed consolidation and amalgamation of existing spaces and the provision of new and contemporary facilities at the school is beneficial in creating an attractive and progressive learning environment.
- Despite the non-compliance with the northern section of the new building with the height and floor space controls applicable to the R2 zone, the built form has been redesigned to be reduced in form and mass to create a building that is more consistent and sympathetic to development in the streetscape.
- The proposed works will improve the visual appearance and historic integrity of the old Chapel building. It will be restored and its integrity and significance improved.
- The proposed Clause 4.6 variations in respect to height and floor space have been addressed and appropriately justified on the basis of site's context, specific land use and design which has been modified to create a more sympathetic development that will not adversely affect the amenity of the dwelling at No.45 Woids Avenue and will fit into the general nature of the streetscape. In this case they are considered to be well founded.

## **CONCLUSION**

THAT pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act, 1979, as amended, the South Sydney Planning Panel, grants Deferred development consent to Development Application DA2017/0657 for site consolidation and construction of a new part 3, part 4 storey homebase building along the northern and western side of the Site including basement car parking an additional level to the Middle School, refurbishment of existing learning spaces and administrative offices, conservation works to the Church to convert this building back into a Chapel associated

landscaping and site works at on Lots A and B DP331079, Lot 1 DP1172012, Lots 8,10,14,16,18 DP2793 and known as 47-69 Woids Avenue and 50, 54, 56, 58 Bellevue Parade, Allawah subject to the following conditions of consent:

Strict compliance is required with **all conditions appearing in Section A** within **two (2) years from the Determination Date of this consent**. Upon confirmation in writing from Georges River Council that the Section A Conditions have been satisfied, the consent shall commence to operate as a Development Consent for a period of five (5) years from the **Determination Date of this consent**.

## **Section A Deferred Commencement**

- A. Pursuant to the Environmental Planning and Assessment Act, 1979, the consent will not operate until the following requirements are satisfied;

### **Traffic Management Plan**

1. A comprehensive and detailed Traffic Management Plan (TMP) shall be prepared by a Qualified Traffic Engineer and shall resolve vehicular and pedestrian management issues and address the following;
  - i) The TMP shall restrict access to Church Lane, between Bellevue Parade and Woids Avenue, Allawah to one-way in the eastbound direction.
  - ii) The frontage outside No.47 and No.49 Woids Avenue will be restricted to “No Parking, 8.00am-9.30am, 2.30pm-4.00pm on school days”. The Plan shall include a diagram and visuals relating to the proposed signage and location of the signage.
  - iii) Address how larger buses are to be catered for at the site and where they should be parked when they are required for camps, excursions or outings. Staggering the bus arrivals and departures.
  - iv) If the school has a shuttle bus/s where are these parked and how do they operate.
  - v) Investigate the potential to provide a loading or bus bay within the site.
  - vi) Indicate clearly the designated drop off and pick up zones and how these are to be managed and monitored in the morning and afternoon peaks to minimise traffic congestion and potential conflicts.
  - vii) Include the provision of school crossing attendants at critical/dedicated crossings between 8am – 9am and 3pm to 4pm or longer if required on school days.
  - viii) All loading and unloading shall occur on site. The Plan shall designate how this will operate. The use of Bogie Lane may be able to facilitate this purpose.
  - ix) The Plan shall ensure that there is no obstruction to parking and access to No.45 Woids Avenue in any way.

- x) The on-site parking spaces are to be provided and reserved for staff parking during school times unless a better parking arrangement can be justified to reduce pressure on street parking.
- xi) The purpose of the TMP is to look at a variety of design and operational solutions that could be implemented to reduce traffic and parking impacts and conflicts in and around the school.
- xii) The recommendations of the Traffic and Parking assessment prepared by McLaren and dated 7 January 2019 shall be implemented where possible.
- xiii) The Plan shall implement controls and techniques that will minimise potential pedestrian and vehicular conflicts and minimise impacts on the street and to residential properties by improving existing systems.
- xiv) Carparking within the basement and spaces located within the school grounds shall be designated for staff parking during school hours.

The TMP will need to be referred to Council and the RMS and the arrangements proposed shall be to the satisfaction of both these authorities.

Documentary evidence as requested or the above information must be submitted within **two (2) years** of the granting of this deferred commencement consent. Commencement of the Consent cannot commence until written approval of the submitted information has been given by Council.

Subject to Section A above being satisfied a development consent be issued, subject to the following conditions:

### **GENERAL CONDITIONS**

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

### **Section B Development Details**

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

Description	Reference No.	Date	Revision	Prepared by
Cover Sheet	N/A	August 2018	N/A	NBRS Architecture
Site Analysis and Site Plan	17072-DA-02	10/12/2018	E	NBRS Architecture

Existing Lower Ground Floor	17072-DA-03	10/12/2018	E	NBRS Architecture
Existing Upper Basement Plan	17072-DA-04	10/12/2018	E	NBRS Architecture
Existing Ground Floor Plan	17072-DA-05	10/12/2018	E	NBRS Architecture
Existing Level 1 Plan	17072-DA-06	10/12/2018	E	NBRS Architecture
Proposed Staging Plan	17072-DA-13	10/12/2018	E	NBRS Architecture
Lower Basement Level Plan	17072-DA-07	10/12/2018	E	NBRS Architecture
Upper Basement Plan	17072-DA-08	10/12/2018	E	NBRS Architecture
Proposed Ground Floor Plan	17072-DA-09	10/12/2018	E	NBRS Architecture
Proposed Level 1 Plan	17072-DA-10	10/12/2018	E	NBRS Architecture
Proposed Level 2 Plan	17072-DA-11	10/12/2018	E	NBRS Architecture
Proposed Level 3 Plan	17072-DA-12	10/12/2018	E	NBRS Architecture
Material Schedule	17072-DA-20	10/12/2018	E	NBRS Architecture
Privacy sightline	17072-DA-25	10/12/2018	E	NBRS Architecture
Elevations	17072-DA-14	10/12/2018	E	NBRS Architecture
Sections	17072-DA-15	10/12/2018	E	NBRS Architecture
Signage Plan	17072-DA-21	10/12/2018	E	NBRS Architecture
Perspective	17072-DA-27	10/12/2018	E	NBRS Architecture
Perspective	17072-DA-28	10/12/2018	E	NBRS Architecture
Landscape Plan A Ground Floor West	17072-LDA01-C	10/10/2018	N/A	NBRS Architecture Landscape
Landscape Plan B and Landscape Sections Ground Floor east	17072-LDA02-C	10/10/2018	N/A	NBRS Architecture Landscape
Level 3 Landscape Plan	17072-LDA03-C	10/10/2018	N/A	NBRS Architecture Landscape
Planting schedule and Palette	17072-LDA04-C	10/10/2018	N/A	NBRS Architecture

				Landscape
Landscape Details	17072-LDA05-C	10/10/2018	N/A	NBRS Architecture Landscape
Survey Plan	Sheets 1-7	7/01/2016 and 25/05/2017	N/A	CMS Surveyors
Stormwater Drainage Design Statement	N/A	30 October 2018	N/A	Jones Nicolson Consulting Engineers
Stormwater Drainage Plans	20150585V3 Sheets 1-7 C000[DA1], C001[DA1], C002 [DA1] C003 [DA1] C004[DA1] C005[DA1] C006[DA1] C007[DA1]	November 2017	N/A	AJ Whipps Consulting Group

## REQUIREMENTS OF OTHER GOVERNMENT AGENCIES

### 2. **Sydney Water – Tap in TM**

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

### 3. **Notice of Requirements for a Section 73 Certificate** - A Notice of Requirements for a Section 73 Compliance Certificate under the *Sydney Water Act 1994* that relates specifically to this development consent must be obtained from Sydney Water Corporation. Application will be made through an authorised Water Servicing Co-ordinator. The Notice of Requirements will be submitted prior to the commencement of work.

### 4. **Electricity Supply** - An application will be made to Ausgrid for a network connection. This may require the network to be extended or its capacity

augmented. Evidence of this application to Ausgrid will be provided to the Certifier prior to the issue of a Construction Certificate.

5. **Trade Waste Agreements** - A Trade Waste Agreement with Sydney Water may be required. Details of any work required to comply with the agreement must be detailed on the plans lodged with the Construction Certificate. If no trade waste agreement or grease trap is required, a letter from Sydney Water to this effect must be submitted with the application for the Construction Certificate.
6. **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.

## **SEPARATE APPROVALS UNDER OTHER LEGISLATION**

7. **Section 138 Roads Act 1993 and Section 68 Local Government Act** Unless otherwise specified by a condition of this consent, this Development Consent does not give any approval to undertake works on public infrastructure. If separate activity approvals are required under other legislation, these approvals will be obtained and evidence of the approval(s) provided to the Certifier prior to the issue of the Construction Certificate.

Separate approval is required under the *Roads Act 1993* and/or 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.

- (a) Placing or storing materials or equipment;
- (b) Placing or storing waste containers or skip bins;
- (c) Erecting a structure or carrying out work
- (d) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
- (e) Pumping concrete from a public road;
- (f) Pumping water from the site into the public road;
- (g) Constructing a vehicular crossing or footpath;
- (h) Establishing a "works zone";
- (i) Digging up or disturbing the surface of a public road (eg Opening the road for the purpose of connections to utility providers);



(j) Stormwater and ancillary works in the road reserve;

(k) Stormwater and ancillary to public infrastructure on private land; and

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

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

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

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

## **PRIOR TO ISSUING THE CONSTRUCTION CERTIFICATE**

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

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

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

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

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

<b>Fee Type</b>	<b>Fee</b>
<b>GENERAL FEES</b>	
Builders Damage Deposit	\$2,250.00

Inspection Fee for Refund of Damage Deposit	\$375.00
<b>DEVELOPMENT CONTRIBUTIONS</b>	
Georges River Council Section 94A Development Contributions Plan 2017	\$ 140,125.77

## **Development Contributions**

The Section 94 contribution is imposed to ensure that the development makes adequate provision for the demand it generates for public amenities and public services within the area.

A Section 94A contribution has been levied on the subject development pursuant to the GRC Section 94A Contributions Plan.

### Indexation

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

### Timing of Payment

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

### Further Information

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

9. **General Heritage conditions** – the following conditions will need to be implemented prior to the issuing of the Construction Certificate;
  - (a) The proposed works are to be carried out in a manner that minimises demolition, alterations and new penetrations/fixings to the significant fabric of the existing building which is listed as a Heritage Item.
  - (b) Original fabric and features to be retained by the proposal must be properly protected during the process of demolition and construction.
  - (c) All construction and adaptation works are to be in accordance with the Articles of the Australian ICOMOS Burra Charter 1999.
  - (d) New services are to be surface mounted rather than chased-in to existing walls to minimise impact on heritage fabric.

- (e) Appropriately qualified tradespersons (as appropriate) are to be commissioned who are skilled in traditional building and engineering trades to carry out the proposed scope of works.
  - (f) The new window sashes on the existing building must match the original material, which is painted timber joinery.
  - (g) The face brickwork/stone must not be rendered, painted or coated.
10. **Heritage conditions (Repair of Significant Fabric)** – the following conditions will need to be implemented prior to the issuing of the Construction Certificate;
- (a) New materials for making good and repairs are to match the existing in terms of colours, finishes, sizes, profile and properties.
  - (b) Following non-original internal fitout approved to be removed including floor coverings, partitions and false ceilings, all original fabric including floor, wall and ceiling finishes are to be patched repaired where damaged to match adjacent original fabric.
  - (c) Original brickwork pointing where deteriorated is to be repointed, or where missing is to be pointed-up to the front and side elevations of the heritage building. New mortar is to match sound original adjacent fabric with respect to material, colour and finishing of the joint.
  - (d) Non-original and redundant ferrous fixings, conduits and the like are to be removed from the front and side elevations of the heritage building and affected original fabric repaired.
11. **Heritage conditions (Conservation Details)** –The following conservation details are to be provided for review and approval by Council's Heritage Advisor prior to the issue of a Construction Certificate:
- (i) New timber window sash joinery to side elevations.
  - (ii) Rear elevation including identification of wall finishes.
  - (iii) Rear elevation door and window schedule at 1:20 scale.
12. **Heritage conditions (Use of Heritage Consultant)** – An architect with demonstrated experience in conserving buildings of significance is to be commissioned to work with the consultant team throughout the design development, contract documentation and construction stages of the project. The heritage architect is to be involved in the resolution of all matters where existing significant fabric and spaces are to be subject to preservation, restoration, reconstruction, adaptive reuse, recording and demolition. The heritage architect is to be provided with full access to the site and authorised by the applicant to respond directly to Council where information or clarification is required regarding the resolution of heritage issues throughout the project. Evidence and details of the above commission on the above terms are to be provided to Council's Heritage Advisor prior to commencement of work on site.

13. **Heritage condition (Sign Off Report)** - The heritage architect must sign off the completed project and submit a final report to Council's Heritage Advisor specifying how the heritage conditions are satisfied prior to the issue of an Occupation Certificate or the commencement of the use, whichever is earlier.
14. **Plan of Management – Before and After School Services** – A detailed Plan of Management shall be prepared and submitted to Council to the satisfaction of the Manager of Development of Building prior to the issuing of the Construction Certificate for the proposed new facility in relation to the development and the following issues shall be addressed in the POM;
  - (i) The number of children at the service shall be restricted to a maximum of 60.
  - (ii) The hours of operation shall be restricted to 7am to 6pm daily.
  - (iii) Staff parking, Number of staff and where parents pick up and drop off children that will be attending this service.
  - (iv) General logistical and operational requirements shall be specified.
  - (v) A plan showing the dedicated internal and external play area that will be dedicated and allocated to this use including any signage. This area should be located sensitively to reduce the potential for impacts to adjoining residential properties.
15. **Design** – The following changes are to be made to the plans prior to the issuing of the Construction Certificate;
  - (i) The balustrade along the third level of the new building along the roof top terrace facing Woids Avenue shall be set in from the edge of the building at a minimum of 2m. This aims to reduce the visibility of the balustrade and to reduce the size of the roof top terrace area.
  - (ii) The areas within Level 3 shall be restricted only for staff uses and administrative activities, they are not to be learning areas and students are not permitted to utilise the roof top and associated spaces unless required by a member of staff.
  - (iii) The doors along the northern side of the new building at the ground floor level shall remain closed classes are in session.
  - (iv) The area of open space to the north of the new building adjoining No.45 Woids Avenue shall not be utilised for passive or active recreational spaces.
  - (v) Proposed materials, colours and finishes of all new works shall be designed to be non-reflective.
  - (vi) Planter boxes with a minimum width of 1.5m shall be installed along the western and south-western side of the building along Level 3 to reduce the potential for overlooking and softening this upper level area.
  - (vii) The balustrade around the ground floor terrace adjoining the “artist in residence” shall have a maximum height of 1.2m and designed of open

style, transparent materials.

- (viii) The proposed bi-fold doors proposed to the “artist in residence” shall be closed when art classes are in session to reduce potential noise impacts.
- 16. **Street Trees** – An amended Landscape plan shall be submitted to the satisfaction of the Manager of Development and Building which shows the proposed street tree planting along both Bellevue Parade and Woids Avenue Allawah and shall consider the planting of new trees and retention of existing trees along the whole street frontage/s. The cost of planting of the trees will be borne by the Applicant and the trees are to be installed at minimum 200L pots and have a height at maturity between 6-8m.
- 17. **Access** - The recommendations of the Access Report prepared by MGAC and dated 30 April 2018 shall be implemented in the Construction Certificate Plans and during works.
- 18. **Acoustic Report** - The recommendations of the Acoustic Report prepared by PKA Acoustic Consultants and dated 26 April 2018 shall be included as part of the Construction Certificate Plans.
- 19. **BCA Report** - The recommendations within the BCA Report prepared by Steve Watson Partners and dated April 2018 shall be incorporated within the Construction Certificate Plans.
- 20. **Geotechnical Report** - The recommendations within the Geotechnical Report prepared by Birzulis Associates and dated 29 November 2017 shall be included in the Construction Certificate Plans.
- 21. **Building** - Prior to the issue of a Construction Certificate the applicant may be required, under Clause 144 of the Environmental Planning & Assessment Regulation, 2000 to seek written comment from FR NSW about the location of water storage tanks, construction of hydrant/booster pump and valve rooms, and any Fire Engineered Solution developed to meet the performance requirements under the Category 2 Fire Safety Provisions.

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

- 22. **Waste** – Prior to the issuing of the Construction Certificate the waste storage areas for the school must be dedicated and must satisfy the following provisions:
  - (a) be screened, and
  - (b) be located behind the primary road frontage building line, and

(c) not be located in any car parking, loading or landscaped area, and (d) not be located on any side of the building that faces an adjoining lot on which there is residential accommodation.

(d) Despite subclause (1) (a), the waste storage area may be part of an existing facility on the site that has capacity.

23. **Traffic** – Prior to the issuing of a Construction Certificate a Qualified Traffic Engineer shall certify that the development complies with the following requirements (to the satisfaction of the Certifier);

- The layout of the proposed car parking and loading areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1-2004, AS2890.6-2009 and AS 2890.2-2002 for heavy vehicle usage.
- All vehicles are to enter and exit the basement in a forward direction.
- All vehicles are to be wholly contained on site before being required to stop.
- Bicycle parking associated with the subject development should be in accordance with AS 2890.3 (Bicycle Parking Facilities).

24. **General Tree Protection Measures** – the following measures are to be adhered to;

- (a) All street trees to be retained shall be protected before and maintained during demolition, excavation and construction of the site.
- (b) The tree protection measures must be undertaken in accordance *AS4970-2009 Protection of trees on development sites*.
- (c) Details of the tree protection measures to be implemented must be provided with the application for a Construction Certificate by a **suitably qualified Arborist who holds an AQF Level 5 or above in Arboriculture and who is a current financial member of Arboriculture Australia – AA and or Institute of Australian Consulting Arboriculturists – IACA.**
- (d) The Project Arborist must be present on-site during the stages of excavation, demolition and construction when works are being undertaken that could impact on the tree canopy or root zone within the tree protection zone of each tree.
- (e) Unless otherwise specified in *AS 4970-2009 Protection of trees on development sites*, a protective fence consisting of 2.4 x 1.8 metres high, fully supported chainmesh fence shall be used. The distance of the fence from the base of each tree is to be in accordance with the TPZ listed in the table above. A layer of organic mulch 100 millimetres thick shall be placed over the protected area and no soil or fill should be placed within the protection area.

- (f) The Tree Protection Zone of each tree, to be protected, shall be watered thoroughly and regularly to minimise the effects of construction works.
- (g) No building products/ materials or services shall be installed within the TPZ of the tree/s unless approved by Council. This fence shall be kept in place during demolition, construction and also have a sign displaying 'Tree Protection Zone – DO NOT ENTER' attached to the fence and must also include the name and contact details of the Project Arborist.

**Excavation works near tree to be retained – the following measures are to be adhered to;**

- Excavations around the trees to be retained on site or the adjoining properties shall be supervised by the Project Arborist to ensure that the root system will not adversely be affected.
- Where the Tree Protection Zone (TPZ) of trees on site or adjoining sites become compromised by any excavation works, the Project arborist shall be consulted to establish the position of any major roots and determine the necessary measures to protect these roots. The recommendations of the Arborist shall be submitted to Council prior to any further demolition or construction works taking place.
- (h) Tree Protection Zone around the trees to be retained are not to have soil level changes, building product / materials stored or services installed in this area. Any structures proposed to be built in this area of the trees are to utilise pier and beam or cantilevered slab construction.

Details satisfying this condition shall be shown on the Construction Certificate plans.

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).

25. **Below ground anchors** - In the event that the excavation associated with the basement carpark is to be supported by the use of below ground (cable) anchors that are constructed under Council's roadways/footways, an application will be lodged with Council under Section 68 of the *Local Government Act 1993* and the *Roads Act 1993* for approval, prior to commencement of those works. If this is required the following information needs to be provided;

- (a) That cable anchors will be stressed released when the building extends above ground level to the satisfaction of Council.
- (b) The applicant has indemnified Council from all public liability claims arising from the proposed works, and provide adequate insurance cover to the satisfaction of council.
- (c) Documentary evidence of such insurance cover to the value of \$20 million.



(d) The applicant must register a non-terminating bank guarantee in favour of Council for the amount of.

The guarantee will be released when the cables are stress released. In this regard it will be necessary for a certificate to be submitted to Council from a structural engineer at that time verifying that the cables have been stress released.

(e) That in the event of any works taking place on Council's roadways/footways adjoining the property while the anchors are still stressed, all costs associated with overcoming the difficulties caused by the presence of the 'live' anchors will be borne by the applicant.

26. **Development Engineering - Driveway Construction Plan Details** - Engineer's details shall be submitted with the Construction Certificate application regarding the proposed construction of the driveway.

These details shall show longitudinal and cross sections, gradients, swept paths, type of construction materials and shall be designed in accordance with AS/NZS2890.1-2004.

The driveway shall be designed with a surface that shall be non-slip.

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

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

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



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

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

(a) Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development and to ensure the construction of the civil works to be complete at the applicant's expense: **\$2,250.00**

(b) Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee to enable assessment of any damage and repairs where required: **\$2,250.00**

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

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

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

30. **Access for Persons with Disabilities** - Access for persons with disabilities will be provided throughout the site, including to all common rooms, lobby areas and sanitary facilities in accordance with the requirements of the Premises Standards, the Building Code of Australia and AS 1428.1. Details must be submitted with the Construction Certificate Application. Pedestrian access throughout basement levels will be highlighted/line marked and sign posted to safeguard egress.

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

- (a) All stormwater shall drain by gravity to Council's drainage line directly in front of the development site in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).
- (b) Stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a professional engineer who specialises in Hydraulic Engineering in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (2005 or 2016) and Council's Stormwater Drainage Guidelines, shall accompany the application for the Construction Certificate.
- (c) The underground basement car park must pump to and all other stormwater must drain by gravity to the OSD system.
- (d) The construction of the building and driveway shall be designed to protect the underground basement from possible inundation by surface waters. The crest of the driveway shall be set least 150 mm above the top of the kerb levels.
- (e) The sub soil drainage for the below ground structures including basement car parks shall be designed in accordance with the findings and recommendations in the geotechnical report. The geotechnical report should assess any possible impact of the proposed development upon existing ground water table and surrounding land and buildings. Should the results of the report indicate that the site is likely to experience issues associated with groundwater management, a fully-tanked dry basement with no sub soil drainage collection or disposal and an allowance made for any hydrostatic pressures.

These plans shall be prepared in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (2005 or 2016) and Council's Water Management Policy (Kogarah Council), August 2006.

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

An on-site detention (OSD) facility designed by a professional engineer who specialises in Hydraulic Engineering must be designed, approved and installed.

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

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

Full details shall accompany the application for the Construction Certificate.

33. **Stormwater - Pump-Out System Design for Stormwater Disposal**

The design of the pump-out system for storm water disposal will be permitted for drainage of basement areas only, and must be designed in accordance with the following criteria:

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

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

- a) An oil/silt separator sized to the catchment area must be specified on the Detailed Stormwater Plan and located downstream of the proposed basement car parks and prior to discharge to Councils stormwater system.
- b) A suitably qualified engineer is to certify that appropriate design measures have been taken to ensure that the basement levels are protected from flooding in the case of the On-site Detention system malfunctioning or reaching capacity.
- c) A safe overflow is to be provided from the On-site Detention tank to the street gutter in case of the orifice becoming blocked or the storage reaching capacity.

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

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

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

- (d) Prior to the issue of a Construction Certificate, a longitudinal driveway section is to be prepared by a qualified civil/traffic engineer and be submitted for to and approved by the Certifying Authority. This profile is to be at 1:100 scale of the proposed driveway, starting from the centreline of the frontage street carriageway to the proposed basement floor level. The civil/traffic engineer shall provide specific written certification on the plans that:
  - a. Vehicular access can be obtained using grades of 25% (1 in 4) maximum and
  - b. All changes in grade (transitions) comply with Australian Standard 2890.1 (2004) – “Off-street car parking” to prevent the scraping of the underside of the vehicles.
  - c. Headroom clearance of the designated vehicles using the ramp into the basement shall comply with the requirement of the relevant AS289.0
  - d. The proposed driveway location across the footpath shall be clear from any adjoining Power Pole.

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

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

36. **Commonwealth Disability (Access to Premises) Standard** - The *Commonwealth Disability (Access to Premises - Buildings) Standards 2010* (the Premises Standards) applies to all applications (including a Construction Certificate). This requires any new building, part of a building and the affected part of the existing building to comply with the Premises Standards, the Building Code of Australia and AS 1428.
37. **Waste Storage** - The plans shall include details of the waste storage area. The waste storage area shall not be visible from the street. The waste storage area shall be located within the lot/building in accordance with the approved plans.

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

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

unobstructed at all times.

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

- waste room floor to be sealed;
- waste room walls and floor surface is flat and even;
- all walls painted with light colour and washable paint;
- equipment electric outlets to be installed 1700mm above floor levels;
- The bin storage rooms will be mechanically exhausted as required by AS 1668.2;
- light switch installed at height of 1.6m;
- waste rooms must be well lit (sensor lighting recommended);
- optional automatic odour and pest control system installed to eliminate all pest
- types and assist with odour reduction - this process generally takes place at building handover - building management make the decision to install;
- all personnel doors are hinged and self-closing;
- waste collection area must hold all bins - bin movements should be with ease of access;
- conform to the Building Code of Australia, Australian Standards and local laws; and childproofing and public/operator safety shall be assessed and ensured.
- Occupational Health and Safety issues such as slippery floors in waste rooms and the weight of the waste and recycling receptacles will need to be monitored.
- Cleaners will monitor the bin storage area and all spills will be attended to immediately by cleaners.

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

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

39. **Slip Resistance** - All pedestrian surfaces in areas such as foyers, public corridors/hallways, stairs and ramps as well as floor surfaces in the wet rooms in any commercial/retail/residential units will have slip resistance classifications, as determined using test methods in either wet or dry conditions, appropriate to their gradient and exposure to wetting. The classifications of the new pedestrian surface materials, in wet or dry conditions, will comply with AS/NZS4586:2004 -

Slip Resistance Classifications of New Pedestrian Materials and will be detailed on the plans lodged with the application for the Construction Certificate.

40. **Construction Traffic Management Plan** - A Construction Traffic Management Plan detailing:
  - (a) construction vehicle routes;
  - (b) anticipated number of trucks per day;
  - (c) hours of construction;
  - (d) Access arrangements; and
  - (e) Proposed traffic measures to minimise impacts of construction vehicles must be submitted for the approval of Council's Engineers. Council's Engineers will specify in writing that they are satisfied with the Traffic Management Plan prior to the issue of the Construction Certificate.
41. **Waste Management Plan** - A Waste Management Plan incorporating all requirements in respect of the provision of waste storage facilities, removal of all materials from the site that are the result of site clearing, extraction, and, or demolition works and the designated Waste Management Facility must be submitted to the Certifier prior to the issue of any Construction Certificate.
42. **Driveway Construction Plan Details** - Detailed engineering plans for the driveway will be submitted with the Construction Certificate application.

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

43. **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, will be erected in a prominent location on site. The site sign warns of the penalties which apply to pollution, storing materials on road or footpath and breaches of the conditions relating to erosion and sediment controls. The sign will remain in a prominent location on site up until the completion of all site and building works.
44. **Structural details** - Engineer's details prepared by a practising Structural Engineer being used to construct all reinforced concrete work, structural beams, columns and other structural members. The details are to be submitted to the Principal Certifier for approval prior to the commencement of the specified works.

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



45. **Pre-Construction Dilapidation Report - Private Land** - A professional engineer specialising in structural or geotechnical engineering will prepare a Pre-Construction Dilapidation Report detailing the current structural condition of all neighbouring buildings likely to be affected by the excavation as determined by the consulting engineer.

The report will be prepared at the expense of the applicant and submitted to the satisfaction of the Certifier prior to the issue of the Construction Certificate.

A copy of the pre-construction dilapidation report is to be provided to the properties that are the subject of the dilapidation report a minimum of 5 working days prior to the commencement of work. Evidence confirming that a copy of the pre-construction dilapidation report was delivered to the adjoining properties must be provided to the Certifier prior to the commencement of any work on the site.

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

46. **Structural Engineer's Details - Supporting excavations and adjoining land** - Prior to the commencement of work in connection with the excavation of the site associated with the basement car park, structural engineer's details relating to the method of supporting the excavation will be submitted.
47. **Building - Hoarding Application** - Prior to demolition of the buildings on the site and/or the commencement of work above ground level a separate application for the erection of an A class (fence type) or a B class hoarding or C type scaffold, in accordance with the requirements of Work Cover Authority of NSW, will be erected along that portion of the footway/road reserve, where the building is within 3 metres of the street boundary.

An application for this work (Hoarding Application) under Section 68 of the *Local Government Act 1993* and the *Roads Act 1993* will be submitted for approval to Council.

48. **Road Opening Permit** - A Road Opening Permit will 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.
49. **Demolition & Asbestos** - The demolition work will 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 will 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 will be submitted to the Certifier prior to the commencement of works.

For demolition work which involves the removal of asbestos, the asbestos removal work will 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* and the *Demolition Code of Practice (NSW Work Cover July 2015)*.

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

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

51. **Development Engineering – Physical connection of Stormwater to site** - No work is permitted to proceed above the ground floor slab level of the building until there is physical connection of the approved stormwater drainage system from the land the subject of this consent to Council's drainage network.



Stormwater drainage connection to Council's infrastructure shall be carried out to the satisfaction of the Council's engineering services unit.

52. **Dial before your dig** - The applicant will contact "Dial Before You Dig on 1100" to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from "Dial Before You Dig" will be forwarded to Council's Engineers for their records.
53. **Dilapidation Report on Public Land** - Prior to the commencement of works (including demolition and excavation), a dilapidation report will be prepared for the Council infrastructure adjoining the development site, including:
- (a) Photographs showing the existing condition of the road pavement fronting the site,
  - (b) Photographs showing the existing condition of the kerb and gutter fronting the site,
  - (c) Photographs showing the existing condition of the footpath pavement fronting the site,
  - (d) Photographs showing the existing condition of any retaining walls within the footway or road, and
  - (e) The full name and signature of the structural engineer

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

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

The report is to be supplied in electronic format in Word or PDF. Photographs are to be in colour, digital and date stamped. Note: Council will use this report to determine whether to refund the damage deposit after the completion of works.

54. **Registered Surveyor's Report - During Development Work** - A report will be submitted to the Certifier at each of the following applicable stages of construction:
- (a) Set out before commencing excavation.
  - (b) Floor slabs or foundation wall, before formwork or commencing brickwork.
  - (c) Completion of Foundation Walls - Before any construction of flooring, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans.

(d) Completion of Floor Slab Formwork - Before pouring of concrete/walls construction, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans. In multi-storey buildings a further survey will be provided at each subsequent storey.

(e) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries.

(f) Completion of all Work - Detailing the location of the structure (including eaves/gutters) relative to adjacent boundaries and its height relative to the datum shown on the approved plans. A final Check Survey will indicate the reduced level of the main ridge.

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

55. **Structural Engineer's Details - Supporting Council road/footway** - Prior to the commencement of work in connection with the excavation of the site associated with the basement carpark, structural engineer's details relating to the method of supporting Council's roadways/footways will be submitted to the satisfaction of Council.

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

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

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

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

## DURING CONSTRUCTION/BUILDING WORK

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

(a) Construct a footpath for the full length of the frontage(s) of the site in accordance with Council's Specifications applying at the time construction approval is sought.

(b) All associated road pavement restorations.

(c) Installation of turf as required across all street frontages.

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

(e) Construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontage(s) of the site in accordance with Council's Specifications for kerb and guttering, applying at the time construction approval is sought.

(f) Any existing vehicular crossing and/or laybacks which are redundant will be removed. The kerb and gutter, any other footpath and turf areas will be restored at the expense of the applicant. The work will be carried out in accordance with Council's specification, applying at the time construction approval is sought.

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

58. **Demolition of existing structure with hazardous material** - The demolition of existing structure shall demonstrate compliance with the hazardous material survey submitted and approved by Council, titled Report for Hazardous Building Materials Survey – Residential property 47 Woids Avenue Allawah NSW 2218 prepared by HIBBS & Associates Pty Ltd and dated August 2017.

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

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

60. **Cost of work to be borne by the applicant** - The applicant will bear the cost of all works associated with the construction of the development that occurs on Council property. Care will be taken to protect Council's roads, including the made footway, kerbs, etc., and, where plant and vehicles enter the site, the footway will be protected against damage by deep-sectioned timber members laid crosswise, held together by hoop iron straps and chamfered at their ends. This construction must be maintained in a state of good repair and condition throughout the course of construction.
61. **Physical connection of Stormwater to site** - No work is permitted to proceed above the ground floor slab level of the building until there is physical connection of the approved stormwater drainage system from the land the subject of this consent to Council's public drainage system.
62. **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 the *Roads Act 1993* and/or the *Local Government Act 1993*.
63. **Registered Surveyors Report - During Development Work** - A report must be submitted to the PCA at each of the following applicable stages of construction:
- (a) Set out before commencing excavation.
  - (b) Floor slabs or foundation wall, before formwork or commencing brickwork.
  - (c) Completion of Foundation Walls - Before any construction of flooring, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans.
  - (d) Completion of Floor Slab Formwork - Before pouring of concrete/walls construction, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans. In multi-storey buildings a further survey must be provided at each subsequent storey.
  - (e) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries.
  - (f) Completion of all Work - Detailing the location of the structure (including eaves/gutters) relative to adjacent boundaries and its height relative to the datum shown on the approved plans. A final Check Survey must indicate the reduced level of the main ridge.

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

64. **Stormwater to Kerb** - Any stormwater connections to the kerb and gutter are to be in accordance with Council's '*Specification for Construction by Private Contractors*'.

All roof water and surface water from paved or concreted areas are to be disposed of in accordance with the Stormwater Plan by means of a sealed pipeline constructed in accordance with AS/NZS 3500.3:2015. The line will pass through a silt arrestor pit.

65. **Engineering - Vehicular Crossing & Frontage work** – The following vehicular crossing and road frontage works will be required to facilitate access to and from the proposed development site:
- (a) Construct a 1.50 metre wide x 80mm thick concrete path for the full length of the frontage of the site in Bellevue Parade and Woids Avenue (where required) in accordance with Council's Specifications for footpaths.
  - (b) Construct a 150mm thick concrete vehicular crossing reinforced with F82 fabric in accordance with Council's Specifications for vehicular crossings.
  - (c) Construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontage(s) of the site Lawrence in accordance with Council's Specifications for kerb and guttering.
  - (d) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the beneficiary of this consent and in accordance with Council's *Specification for Vehicular Crossings and Associated Works*. The work shall be carried out by a private contractor, subject to Council approval.
66. **Hazardous Waste** - Hazardous or intractable waste arising from the demolition or construction process shall be removed and disposed of in accordance with the requirements of SafeWork NSW and the NSW Environment Protection Authority and with the provision of:
- Work Health and Safety Act 2011 (NSW) (as amended);
  - Work Health and Safety Regulation 2011 (as amended);
  - Protection Of the Environment Operations Act 1997 (NSW) (as amended);
- and
- Protection of the Environment Operations (Waste) Regulation 2014 (as amended)
67. **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.

68. **Redundant Driveway** - All existing vehicular crossings adjacent to the subject premises that have become redundant will be removed and the footway and kerb and gutter reinstated at the developer/applicant's expense.
69. **Damage within Road Reserve & Council Assets** - The owner will bear the cost of restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site. This may include works by Public Utility Authorities in the course of providing services to the site.
70. **Public Utility & Telecommunication Assets** - The owner will bear the cost of any relocation or modification required to any Public Utility Authority assets including telecommunication lines & cables and restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site.
71. **Works Zone** - The installation of a "Works Zone" for the site will require the approval from the Traffic Advisory Committee. As a result, the applicant will provide a formal request to Council's Traffic Section with the duration and exact location of the required "Works Zone" at least 6 weeks prior to its required installation date. All costs associated with the installation of a "Works Zone" will be at the applicant's expense.
72. **Site contamination – Additional information** - Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately.
73. **Waste Management Facility** - All materials removed from the site as a result of demolition, site clearing, site preparation and, or excavation will be disposed of at a suitable Waste Management Facility. No vegetation, article, building material, waste or the like will be ignited or burnt.

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

74. **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.

75. **Building - Structural Certificate During Construction** - The proposed building



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

## **PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE**

76. **Consolidation of Site** - The site shall be consolidated into one allotment and by a Plan of Consolidation being prepared by a Registered Surveyor. This Plan shall be registered at the NSW Land and Property Information prior to the issue of a final occupation certificate.
77. **Structural Certificate** - The proposed building will be constructed in accordance with details designed and certified by a practising qualified structural engineer. All structural works associated with the foundations, piers, footings and slabs for the proposed building will be inspected and structurally certified for compliance by an independent practising geotechnical and structural engineer. In addition a Compliance or Structural Certificate, to the effect that the building works have been carried out in accordance with the structural design, will be submitted to the Principal Certifier at each stage of construction and prior to the issue of the Occupation Certificate.
78. **Acoustic Compliance** - Prior to the issue of any Occupation Certificate, a report prepared by a suitably qualified acoustic consultant must be submitted to the PCA certifying that the construction has incorporated the recommendations in the DA Acoustic Report titled St George Christian School, Hurstville – Noise assessment Impact assessment prepared by Acoustic Logic and dated 27 November 2017.
79. **Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the *Sydney Water Act 1994* that relates specifically to this development consent must be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.
80. **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.
81. **Restriction to User and Positive Covenant for On-Site Detention Facility** - A Restriction on Use of the Land and Positive Covenant will 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 will not make or permit or suffer the making of any alterations to any on-site stormwater management system which is, or will be, constructed on the lot(s) burdened without the prior consent in writing of Georges River Council. The expression "on-site stormwater management system" will include all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to manage stormwater quantity or quality including the temporary detention or permanent retention of stormwater storages. Any on-site stormwater management system constructed on the lot(s) burdened is hereafter referred to as "the system."*

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

### **Positive Covenants**

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

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

*2. Pursuant to Section 88F(3) of the Conveyancing Act 1919 the Council will 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 will 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.*

82. **Maintenance Schedule – On-site Stormwater Management.** A Maintenance Schedule for the proposed on-site stormwater management measures is to be prepared and submitted to Council. The Maintenance Schedule will outline the required maintenance works, how and when these will be done and who will be carrying out these maintenance works.
83. **Requirements prior to the issue of the Occupation Certificate** - The following will be completed and or submitted to the Principal Certifier prior to the issue of the Occupation Certificate:
- (a) All the stormwater/drainage works will be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
  - (b) The internal driveway construction works, together with the provision for all services (conduits and pipes laid) will be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
  - (c) Construct any new vehicle crossings required.
  - (d) Replace all redundant vehicle crossing laybacks with kerb and guttering, and replace redundant concrete with turf.
  - (e) A Section 73 (Sydney Water) Compliance Certificate for the Subdivision will be issued and submitted to the Principal Certifier prior to the issue of the Occupation Certificate.
  - (f) Work as Executed Plans prepared by a Chartered Professional Engineer or a Registered Surveyor when all the site engineering works are complete will be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.
84. **Stormwater Drainage Works - Works As Executed** - Prior to the issue of the Occupation Certificate, storm water drainage works are to be certified by a professional engineer specialising in hydraulic engineering, with Works-As-

Executed drawings supplied to Council detailing:

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

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

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

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

- (i) New or reinstated kerb and guttering within the road related area; and
- (j) New or reinstated road surface pavement within the road.

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

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

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

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

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

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

Council's Engineering Services Division will advise in writing that the works have been completed to their satisfaction prior to the issue of an Occupation Certificate.

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

(a) That the measure has been assessed by a person (chosen by the owner of the building) who is properly qualified to do so.

(b) That as at the date of the assessment the measure was found to be capable of functioning at a standard not less than that required by the attached Schedule.

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

88. **Acoustic Certification** - Prior to the issue of any Occupation Certificate, a suitably qualified acoustic consultant will certify that the operation of the premises and plant equipment will not give rise to a sound pressure level at any affected premises that exceeds the relevant acoustic criteria. The development will at all times comply with these noise levels post occupation.

89. **Vehicular crossing** - The vehicular crossing and/or footpath works shall be constructed by a private contractor at the expense of the applicant, in accordance with the Vehicular Crossing Approval issued by Council's Engineering Services Division and in accordance with Council's Specification for Vehicular Crossings and Associated Works and the issued.

Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the applicant and in accordance with Council's Specification for Vehicular Crossings and Associated Works. '

**NOTE:** No stencilled or coloured concrete may be used outside the boundary of the property. The work must be completed before the issue of an Occupation Certificate.

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

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

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

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

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

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

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

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

92. **Electricity Supply** - Evidence will be provided demonstrating that the development has been connected to the Ausgrid.

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

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

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

94. **Certification - Air handling systems (including water-cooling system, hot-water systems and warm-water systems)** - Certification by a suitably qualified

person engineer '2012 must be submitted to the PCA prior to the issue of any occupation certificate verifying that the air handling system has been installed in accordance with:

(a) Public Health Act 2010 (as amended)

(b) Public Health Regulation 2012 (as amended)

(c) AS/NZS 3666.1:2011 Air-handling and water systems of buildings -Microbial control -Design, installation and commissioning

## **ONGOING CONDITIONS**

95. **Cleanliness** – the school grounds and adjoining public domain shall be clean and tidy at all times.
96. **Student and staff numbers** - This consent does not approve of any increase in student numbers (currently 650 students) and staff numbers (currently 95 staff members). If numbers are to increase a separate application will need to be lodged with Council.
97. **Disabled access** – The development must be designed and constructed to comply with: AS 1428.1 – 1993 Design for Access and Mobility Part 1 and AS 1428 – 1993 Design for Access and Mobility Part 2 Enhanced and Additional Requirements – Buildings and Facilities.
98. **Acoustic Requirements** - The Construction Certificate plans shall demonstrate compliance with the Acoustic Report submitted and approved by Council, titled St George Christian School, Hurstville – Noise assessment Impact assessment prepared by Acoustic Logic and dated 27 November 2017.
99. **Noise** – The Public Address (PA) system shall only be utilised between the hours of 9am-3pm when the school is in operation. The noise transmission of the system should be kept to a minimum where possible.
100. **Traffic Management** - The approved TMP shall be implemented by the school and a summarised version shall be prepared and distributed to all parents and staff so that they understand the road rules and adhere to the parking and traffic controls to ensure a safe pedestrian and traffic environment is maintained.
101. **Parking** and access – All vehicles shall enter and leave the site in a forward direction.
102. **Noise Control** - The use of the premises will not give rise to the transmission of offensive noise to any place of different occupancy. Offensive noise is defined in the *Protection of the Environment Operations Act 1997*.

103. **Use of the rooftop terrace** – the rooftop terrace shall be restricted in its use and availability. The following restrictions to this area apply;
- (i) It shall only be used by staff and no students will be able to use this space for recreational purposes.
  - (ii) The hours of use of the space shall be restricted from 8am to 10pm during school days only.
  - (iii) The roof top area shall not cater for more than 50 persons at any one time.
  - (iv) The area is not to be used if the school is not in operation. The space is to be used for school purposes only and not for any social functions.
  - (v) Signage shall be included along access points to this space to enforce rules around the use of the area.
104. **Roof top terrace** – The A Plan of Management for the use of this space shall be adhered to for the perpetuity of the development. The school shall ensure that the plan is provided to all staff members and the school community and students understand the restrictions placed on its use. A sign shall be installed adjoining access points to this space outlining the operational restrictions i.e keeping the space clean, rules around its use, hours of operation etc.
105. **Allawah Community Church use** – The Allawah Community Church and its associated services (youth groups) shall continue to operate in accordance with Development Consent 93/2010.
106. **Before and after school care** – The existing before and after school care arrangements and facilities shall be managed and maintained in accordance with the development consent DA2012/0291 until the development is constructed and an occupation certificate issued.
107. **Plan of Management for Before and After school service** (new facility) – The endorsed POM for the new/relocated before and after school service shall be kept on site and every operator shall be familiar with the terms and conditions of the POM and these shall be adhered to when the new development is occupied and in perpetuity unless amended.
108. **Final Acoustic Report – Verification of Noise report** - Within three months from the issue of an Occupation Certificate, an acoustic assessment is to be carried out by an appropriately qualified acoustic consultant, in accordance with the EPA's Industrial Noise Policy and submitted to Council for consideration. This report should include but not be limited to, details verifying that the noise control measures as recommended in the acoustic report.
109. **Lighting - General Nuisance** - Any lighting on the site will 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.



110. **Amenity of the Neighbourhood** - The implementation of this development will not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, dust, waste water, waste products, grit, oil or other harmful products.
111. **Activities and Storage of Goods Outside Buildings** - There will be no activities including storing or depositing of any goods or maintenance to any machinery external to the building with the exception of waste receptacles.
112. **Maintenance of Landscaping** - All trees and plants forming part of the landscaping will be maintained. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilising, pest and disease control, replacement of dead or dying plants and any other operations required to maintain healthy trees, plants and turfed areas.
113. **Landscape Plans** - All landscape works will be carried out in accordance with the approved landscape plans. The landscaping will be maintained in accordance with the approved plans in perpetuity.
114. **Community uses** – In accordance with the objectives of the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 the spaces and areas within the school grounds should be made available for utilisation by community, sporting, social, non-for-profit organisations (and the like) outside of school hours.
115. **Annual Fire Safety Statement** - The owner of the building premises will ensure the Council is given an annual fire safety statement in relation to each essential fire safety measure implemented in the building. The annual fire safety statement will be given:
- (a) Within 12 months after the date on which the fire safety certificate was received.
  - (b) Subsequent annual fire safety statements are to be given within 12 months after the last such statement was given.
  - (c) An annual fire safety statement is to be given in or to the effect of Clause 181 of the *Environmental Planning and Assessment Regulation 2000*.
  - (d) A copy of the statement is to be given to the Commissioner of Fire & Rescue NSW, and a further copy is to be prominently displayed in the building.
116. **Responsibility of Owners Corporation** - The Owners Corporation will be responsible for presenting all approved waste and recycling receptacles for



collection, and returning all receptacles to the Main Waste Collection Room, as soon as practicable after they have been serviced.

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

117. **Site Safety Fencing** - Site fencing will 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 will be erected before the commencement of any work and maintained throughout any demolition and construction work.

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

118. **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*.

Payment of the required Long Service Levy payment must be made and proof of payment provided to the Principal Certifier prior to the issue of an Occupation Certificate.

119. **Electricity Supply** - This development may need a connection to the Ausgrid network which may require the network to be extended or its capacity augmented. The applicant is advised to contact Ausgrid for further details and information on lodging your application to connect to the network.

120. **Disability Discrimination Act** – The applicant is responsible to ensure compliance with this and other anti-discrimination legislation.

121. **Security deposit administration & compliance fee** - Under the *Local Government Act 1993*, a security deposit (or part) if repaid to the person who provided it is to be repaid with any interest accrued on the deposit (or part) as a consequence of its investment.

Council will cover administration and other costs incurred in the investment of these monies. The current charge is \$50.00 plus 2% of the bond amount per annum.

The interest rate applied to bonds is set at Council's business banking facility rate as at 1 July each year. Council will accept a bank guarantee in lieu of a deposit.

All interest earned on security deposits will be used to offset the Security Deposit Administration and Compliance fee. Where interest earned on a deposit is not sufficient to meet the fee, it will be accepted in full satisfaction of the fee.

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

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

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

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

### **Schedule C – Prescribed Conditions**

Prescribed conditions are those which are mandated under Division 8A of the *Environmental Planning and Assessment Regulation 2000* and given weight by Section 80A (11) of the *Environmental Planning and Assessment Act 1979*.

Detailed below is a **summary** of all the prescribed conditions which apply to development in New South Wales. Please refer to the full details of the prescribed conditions as in force, at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au).

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

123. **Clause 97A – BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
124. **Clause 98 – Building Code of Australia** - Requires all building work to be carried out in accordance with the Building Code of Australia.

125. **Clause 98A – Erection of Signs** - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the Principal Certifier and the Principal Contractor.
126. **Clause 98E – Protection & support of adjoining premises** - If the development involves excavation that extends below the level of the base of the footings of a building on adjoining land, this prescribed condition requires the person who benefits from the development consent to protect and support the adjoining premises and where necessary underpin the adjoining premises to prevent any damage.

### **Operational & Statutory Conditions**

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

127. **Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued by the consent authority, the Council (if the Council is not the consent authority) or an accredited Certifier.
128. **Appointment of a Principal Certifier** - The erection of a building must not commence until the beneficiary of the development consent has appointed a Certifier for the building work.
129. **Notification of Critical Stage Inspections** - No later than two (2) days before the building work commences, the Principal Certifier must notify:
- (a) the consent authority and the Council (if not the consent authority) of his or her appointment; and
  - (b) the beneficiary of the development consent of the critical stage inspections and other inspections that are to be carried out with respect to the building work.
130. **Notice of Commencement** - The beneficiary of the development consent must give at least two (2) days notice to the Council and the Principal Certifier of their intention to commence the erection of a building.
131. **Critical Stage Inspections** - The last critical stage inspection must be undertaken by the Principal Certifier. The critical stage inspections required to be carried out vary according to Building Class under the Building Code of Australia

and are listed in Clause 162A of the Environmental Planning and Assessment Regulation 2000.

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

Advisory Note: There is a development proposal for 70 - 78 Regent Street that also requires the extension of the existing Council drainage system along Stanley Lane and Regent Lane. If both developments are to proceed the applicant will be required to liaise with the applicant for this proposal with regards to lodgement of the required Stormwater Drainage Application(s), the detailed design(s) and the construction works. Council will not become involved in any negotiations with regards to responsibilities and costs associated with these works. Note that the extension to the drainage system will become Council's assets upon completion and that Council may approve the connection of other properties / developments stormwater discharge to the system.

## **END CONDITIONS**

### **NOTES/ADVICES**

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133. **Review of Determination** - Section 82A of the Environmental Planning and Assessment Act confers on an applicant who is dissatisfied with the determination of the application the right to lodge an application with Council for a review of such determination. Any such review must however be completed within 6 months from its determination. Should a review be contemplated sufficient time should be allowed for Council to undertake public notification and other processes involved in the review of the determination.

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

134. **Appeal Rights** - Division 8 (Appeals and Related matters) Part 4 of the Environmental Planning and Assessment Act 1979 confers on an applicant who is dissatisfied with the determination of the application a right of appeal to the Land and Environment Court of New South Wales.
135. **Lapsing of Consent** - This consent will lapse unless the development is

physically commenced within 5 years from the Date of Operation of this consent, in accordance with Section 95 of the Environmental Planning and Assessment Act 1979 as amended.

136. **Council as PCA - Compliance with the BCA** - Should the Council be appointed as the Principal Certifying Authority in determining the Construction Certificate, the building must comply with all the applicable deemed to satisfy provision of the BCA. However, if an alternative solution is proposed it must comply with the performance requirements of the BCA, in which case, the alternative solution, prepared by an appropriately qualified fire consultant, accredited and having specialist qualifications in fire engineering, must justifying the non-compliances with a detailed report, suitable evidence and expert judgement. Council will also require if deemed necessary, for the alternative solution to undergo an independent peer review by either the CSIRO or other accredited organisation. In these circumstances, the applicant must pay all costs for the independent review.
137. **Energy Efficiency Provisions** - Should Council be appointed as the Principal Certifying Authority, a report prepared and endorsed by an Energy Efficiency Engineer or other suitably qualified person must be submitted, detailing the measures that must be implemented in the building to comply with Section J of the BCA. The proposed measures and feature of the building that facilitate the efficient use of energy must be identified and detailed on the architectural plans. At completion of the building and before the issue of an Occupation Certificate, a certificate certifying that the building has been erected to comply with the energy efficiency provisions must be submitted to the Principal Certifying Authority.
138. **Compliance with Access, Mobility and AS4299** - Adaptable Housing - Should the Council be appointment as the PCA, the Construction Certificate Application must be accompanied by detailed working plans and a report or a Certificate of Compliance from an Accredited Access Consultant certifying that the building design and access to the adaptable units complies with Council's DCP and AS 4299 Adaptable Housing.
139. **Site Safety Fencing** - Site fencing must be erected in accordance with SafeWork Guidelines, to exclude public access to the site throughout the demolition and/or construction work, except in the case of alterations to an occupied dwelling. The fencing must be erected before the commencement of any work and maintained throughout any demolition and construction work.

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

140. **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.

141. **Electricity Supply** - This development may need a connection to the Ausgrid network which may require the network to be extended or its capacity augmented. You are advised to contact Ausgrid on 13 13 65 or [www.ausgrid.com.au](http://www.ausgrid.com.au) (Business and Commercial Services) for further details and information on lodging your application to connect to the network.
142. **Noise** - Council will generally enforce noise related conditions in accordance with the *Noise Guide for Local Government* (<http://www.environment.nsw.gov.au/noise/nlg.htm>) and the *Industrial Noise Guidelines* (<http://www.environment.nsw.gov.au/noise/industrial.htm>) publish by the Department of Environment and Conservation. Other state government authorities also regulate the [Protection of the Environment Operations Act 1997](#).
143. **Stormwater & Ancillary Works - Applications under Section 138 Roads Act and/or Section 68 Local Government Act 1993** - To apply for approval under Section 138 of the Roads Act 1993:
  - (a) Complete the Driveway Crossing on Council Road Reserve Application Form which can be downloaded from Georges River Council's Website at [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au).
  - (b) In the Application Form, quote the Development Consent No. (eg. DA2017/0491) and reference this condition number (e.g. Condition 23)
  - (c) Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Council's adopted Fees and Charges for the administrative and inspection charges associated with Vehicular Crossing applications.

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

### Occupation Certificate.

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

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

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