

AGENDA - IHAP

Meeting:	Georges River Independent Hearing Assessment Panel (IHAP)
Date:	Thursday, 21 September 2017
Time:	4.00pm
Venue:	Council Chambers, Georges River Civic Centre
Participants:	Adam Seton (Chairperson) Gabrielle Morrish (Panel Member) Paul Vergotis (Panel Member) Chris Young (Community Representative)
Additional Invitees:	Meryl Bishop (Director Environment and Planning) Laura Locke (Acting Manager Development and Building) Rita Vella (Acting Manager Strategic Planning) Cathy Mercer (Team Leader Administration) Monica Wernej (Admin Assistant)

1. On Site Inspections - 1.00pm – 3.30pm

- a) 84D Roberts Avenue Mortdale
- b) 26 Llewellyn Street Oatley
- c) 18 Carlton Crescent Kogarah Bay
- d) 73 Vista Street Sans Souci
- e) 27-29 Andover Street Carlton

Break - 3.30pm

2. Public Meeting – Consideration of Items 4.00pm– 6.00pm

Public Meeting Session Closed - 6.00pm
(Break – 6.00pm)

3. Reports and IHAP Deliberations in Closed Session - 6.30pm

Item:	DA No:	Address:	Description:
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3.1	DA2017/119	27-29 Andover Street Carlton	New residential flat building new demolition
3.2	DA2016/279	18 Carlton Crescent Kogarah Bay	Demolition of existing structures and construction of a multi-level dwelling, swimming pool and seawall
3.3	DA2016/0192	26 Llewellyn Street Oatley	Boundary adjustment to approved subdivision and construction of attached dual occupancy on battleaxe lot
3.4	PP2017/0001	84D Roberts Avenue Mortdale	Planning Proposal to permit the uses of retail premises, bulky goods premises and child care centres by way of a Schedule 1 amendment to the Hurstville Local Environmental Plan 2012
3.5	PP17/42	73 Vista Street Sans Souci	The Planning Proposal seeks to amend the Kogarah Local Environmental Plan 2012 Land Use Zone, Foreshore Building Line development controls and insert an additional permitted use for Seniors Housing by way of Schedule 1 with increased maximum permissible building height and floor space ratio specifically relating to 73 Vista Street, Sans Souci

4. Confirmation of Minutes by Chair

REPORT TO GEORGES RIVER COUNCIL IHAP MEETING OF THURSDAY, 21 SEPTEMBER 2017

IHAP Report No	3.1	Application No	DA2017/119
Site Address & Ward Locality	27-29 Andover Street Carlton Kogarah Bay Ward		
Proposal	New residential flat building new demolition		
Report Author/s	Independent Assessment, Consultant Planner		
Owners	David and Cathryn Mueller and Bernard and Renee Moroz		
Applicant	David Mueller		
Zoning	Zone R3 - Medium Density Residential		
Date Of Lodgement	8/06/2017		
Submissions	Eight (8) submissions were received		
Cost of Works	\$7,039,972.00		
Reason for Referral to IHAP	Site is partially owned by staff member		

Recommendation	That the application be approved in accordance with conditions included in the report.
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Site Plan



Executive Summary

Proposal

1. The proposed development seeks approval for demolition of existing structures, site consolidation and construction of a 5-storey residential flat building containing 20 x dwellings and basement parking on the site at 27-29 Andover Street, Carlton.
2. The proposed building features 18 x 3-bedroom dwellings and 2 x 2-bedroom dwellings and rooftop communal open space area. Access to the basement parking is proposed from Andover Street.

Site and Locality

3. The subject site is legally identified as Lots 4-5 DP2818, commonly known as 27-29 Andover Street, Carlton. The site is located at the south corner of the intersection of Andover Street and Balfour Street, and is bounded by Andover Lane to the rear.
4. The site rectangular in shape and has a total site area of 1,210sqm. The site has frontages of 26.82m to Cross Street and Andover Lane, and 45.11m to Balfour Street. The site comprises two existing residential allotments, each containing a detached dwelling house. The site slopes moderately from the rear down to Andover Street.
5. The site is in an area undergoing a transition from low to medium density residential development due to the recent rezoning associated with the Kogarah New City Plan. The existing surrounding context is characterised by medium density residential development to the north and low density residential development to the south, but it is anticipated that the remainder of Andover Street to the south will redevelop as medium density residential given the recent rezoning.
6. Adjoining development includes a detached dwelling house to the south. Residential flat buildings (2-3 storeys) are located opposite the site across Andover Street and Balfour Street, and a detached dwelling house is located across Andover Lane.
7. The Eastern Suburbs/Illawarra train line runs east-west approximately 300m north of the site, with Carlton and Allawah train stations less than 700m from the site to the northeast and northwest, respectively.

Zoning and Permissibility

8. The site is zoned R3 – Medium Density Residential. The development meets the objectives of the zone and is permissible development with consent.

Clause 4.6 variation – height

9. The development seeks a variation to Clause 4.3 Height of Buildings for the lift overrun and a portion of the roof eave, up to a maximum 1.5m or 7.5% variation. The applicant has submitted a written request seeking to justify the contravention of the height standard, and the request is supported.

Submissions

10. A total of eight (8) submissions were received raising a number of issues which have been discussed in detail in this report. Key issues raised include privacy impacts, overshadowing, traffic and parking, local wildlife impacts and heritage impacts.

Conclusion

11. The application seeks approval for demolition of existing structures, site consolidation and construction of a 5-storey residential flat building containing 20 x dwellings and basement parking on the site at 27-29 Andover Street, Carlton. The proposed development has been assessed against the requirements of the relevant environmental planning instruments and development control plan and generally complies, with sufficient justification provided for any variations. The environmental impacts of the development have also been assessed and have been found to be minor and manageable.

Report in Full



Figure 1: Subject Site

Compliance and Assessment

12. The development has been inspected and assessed under the relevant Section 79C (1) "Matters for Consideration" of the Environmental Planning and Assessment Act 1979.

Environmental Planning Instruments

Kogarah Local Environmental Plan 2012

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

Clause	Standard	Proposed	Complies
1.2 – Aims of the Plan	In accordance with Clause 1.2 (2)	The development is consistent with the aims of the plan.	Yes

1.4 - Definitions	“Residential flat building”	The proposed development meets definitions.	Yes
2.3 - Zone objectives and Land Use Table	Site is zoned R3 Medium Density Residential (refer to Figure 2 below). Meets objectives of R3 Medium Density zone. Development must be permissible with consent.	Development meets objectives and is permissible development with consent.	Yes
2.7 - Demolition	Demolition is permissible with consent.	Demolition is proposed as part of this application.	Yes
4.3 – Height of Buildings	15m as identified on Height of Buildings Map	Approx. 16.5m (at lift overrun)	No – refer to discussion below table
4.4 – Floor Space Ratio	1.5:1 (1,815sqm) as identified on Floor Space Ratio Map	1.5:1 (1,814sqm)	Yes
4.6 Exceptions to development standards	Written request for variation must be considered.	Development seeks variation to clause 4.3 Height of Buildings. A request for the variations has been provided and is discussed later in this report.	Yes
5.9 – Preservation of Trees or Vegetation	Trees proposed for removal are specified in DCP 2013.	Development consent is sought for removal of six trees. Council’s Tree and Landscape Section has reviewed the proposed removal and has raised no objections subject to planting of replacement trees.	Yes
5.10 (5) – Heritage Assessment	The consent authority may, before granting consent to any development: (a) on land on which a heritage item is located, or (b) on land that is within a heritage conservation area, or (c) on land that is within the vicinity of land referred to in paragraph	The site does not contain a heritage item, is not located in a conservation area and is not located in the vicinity of a heritage item or conservation area.	Yes

	(a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.		
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Figure 2: Zoning Map

Detailed assessment of variation to Clause 4.3 Height of Buildings

14. The proposed development features a maximum building height of approximately 16.5m, which is 1.5m or 7.5% above the permitted building height of 15m shown on the KLEP 2012 Height of Buildings Map. As shown in Figure 2, the non-compliance occurs at the lift overrun and at the Level 5 eave over the access point to the rooftop communal open space area. As shown in Figure 4, the total area of the roof non-compliances is approximately 43sqm or 7% of the building footprint or 3.6% of the site area. None of the non-complying area contains habitable space.
15. To support the non-compliance, the applicant has provided a request for a variation to Clause 4.3 in accordance with Clause 4.6 of KLEP 2012.

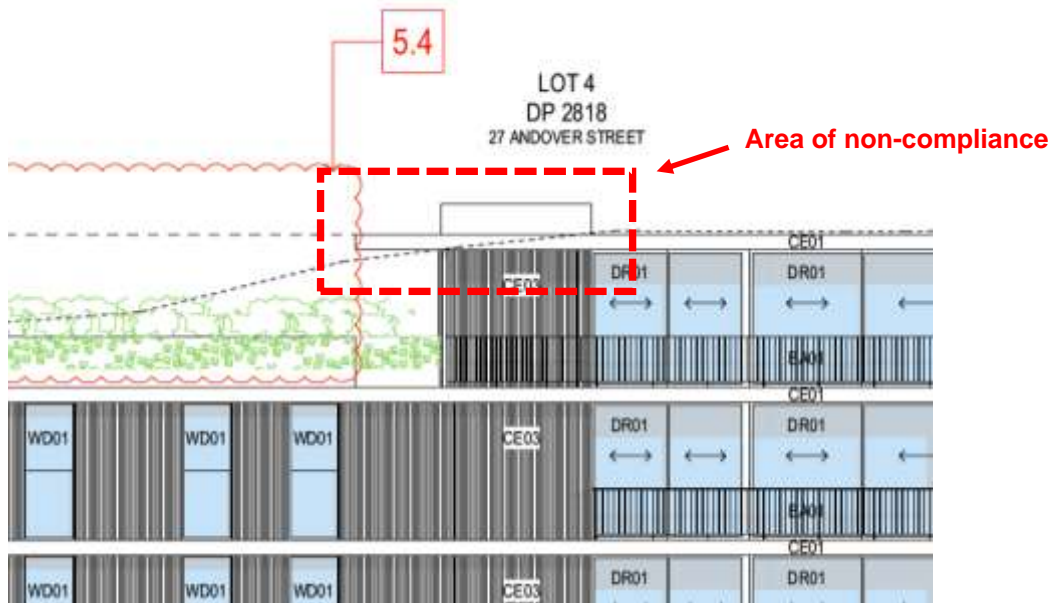


Figure 3: West Elevation

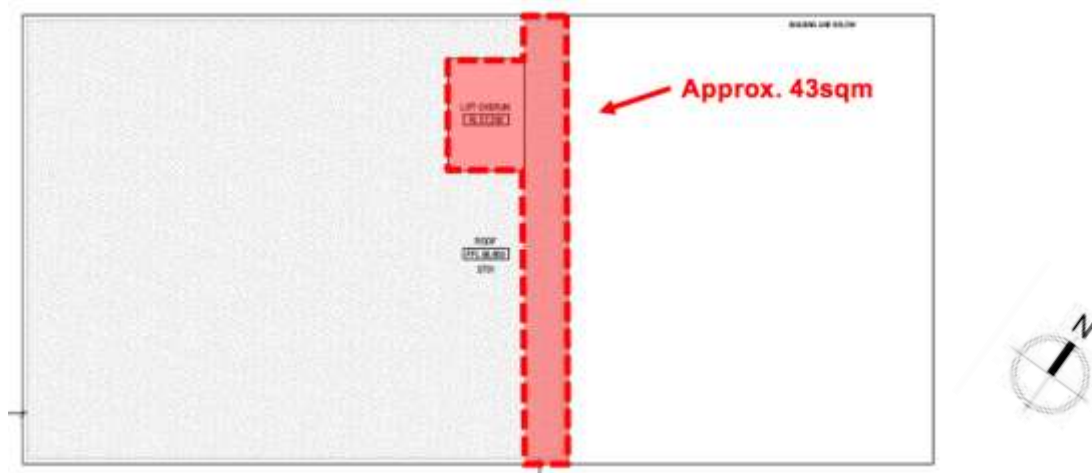


Figure 4: Roof plan

Is the planning control in question a development standard?

16. Yes, the Height of Buildings limitation under Clause 4.3 of the KLEP 2012 is a development standard.

What are the underlying objectives of the development standard?

17. The objectives of Height of Buildings standard under Clause 4.3 of KLEP 2012 are:
- (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.

Comment: The applicant has provided the following justification regarding the development's consistency with the above objectives:

- *The proposal will provide a high quality urban form that relates well to the context of the site in terms of the natural topography and adjoining development;*
- *The extent of non-compliance does not contain any areas of enclosed habitable floor space and is limited to the lift overrun.*
- *The extent of variation does not discernibly increase the extent of amenity impacts in terms of loss of sunlight, privacy, visual intrusion or shadowing;*
- *The proposal presents a suitable scale of development relative to surrounding development and future development within the locality given the provisions of the Kogarah LEP 2012- Amendment 2.*

Due to the minor nature of the variation it will not have any adverse amenity impacts. In this regard it is noted:

- *The variation will be largely unapparent and will have no adverse effect on the physical bulk, height or scale of the development.*
- *The variation will not lead to a reduction in solar penetration on site or to adjoining properties nor will it lead to sunlight loss or overshadowing.*
- *The proposed variation will not lead to view loss or interrupt views to and from the site*
- *The proposed variation will not lead to a reduction in privacy afforded to existing residents or future residents of the proposal.*
- *The proposed development will permit the site to develop to its full potential whilst complementing the future vision envisioned for the site by providing a residential flat building that provides good address to the street frontages, clearly identifiable entrances and compliance with all remaining key planning controls that apply to the proposal.*
- *The development proposal has been generally designed to provide an attractive building that addresses the local context and sets the tone and scale for future medium density development in the locality. The development provides a residential flat building that will contribute towards increasing housing stock within the Georges River Council LGA.*

Comment: The applicant's justification is supported. The variation has no overshadowing, visual or privacy impacts, does not result in an excessive built form, and is largely imperceptible from the public domain. As such, compliance with the height standard would not result in a more suitably scaled development or otherwise improve the built form outcome at the site, and therefore the development is considered to be consistent with the objectives of Clause 4.3.

What are the underlying objectives of the zone?

18. The objectives of the R3 Medium Density Residential zone are as follows:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment: The applicant has provided the following statement of compliance with the zone objectives as part of the Statement of Environmental Effects:

- *The proposal will provide additional housing to meet the needs of the community within the medium-density zoned residential environment.*
- *The proposal provides a variety of dwelling sizes including two and three bedroom units.*
- *The proposal does not provide commercial uses, however, numerous food shops, banks, medical facilities, post office etc. are located within walking distance of the subject site to provide for the needs of residents.*

Comment: The applicant's arguments are supported. The development is consistent with zone objectives in that it will deliver apartments of varying types (2- and 3-bedroom) to meet the needs of the community. The height non-compliance does not impede the development's ability to meet the objectives. Given the minor scale and extent of the variation, the development still achieves the medium-density residential environment envisioned by the standard. The variation does not add habitable space to the building, does not add gross floor area and does not otherwise contribute to an overdevelopment of the site.

Is the variation to the development standard consistent with Clause 4.6 of the HLEP 2012?

19. Clause 4.6(1): *The objectives of this clause are as follows:*

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

Comment: Flexibility in applying the standard is appropriate in this case, as the variations provide for increased amenity and are integral components of the proposed residential flat building. The eave is an attractive and functional design element which provides protection from rain and summer sun, and the lift overrun allows for equitable access to the rooftop communal open space area. As such, a better outcome is achieved through improved design and amenity.

20. Clause 4.6(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 4.3 Height of Buildings is not excluded from the operation of Clause 4.6.

21. 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*

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

Comment: The applicant has provided a written variation request prepared by Rod Logan Planning, which addresses Clause 4.6(3)(a) and (b). The relevant text is extracted above at item no. 17 of this report.

22. Clause 4.6(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*

Comment: The written request prepared by Rod Logan Planning adequately addresses the matters in subclause (3). Compliance with the standard is unreasonable and unnecessary because the development remains consistent with the objectives of the R3 zone and height of building standard as described above. There are sufficient environmental planning grounds to justify contravening the standard in that the non-compliance provides for an improved amenity outcome while resulting in no adverse environmental impacts. The lift overrun allows for universal access to the rooftop communal open space area, and the roof eave provides weather protection. There are no notable overshadowing, privacy or view impacts, and the non-complying areas do not add significant bulk or mass to the building.

23. (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*

Comment: For the reasons detailed above, the development is considered to be consistent with the objectives of Clause 4.3 Height of Buildings and the R3 Medium Density Residential zone.

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

Comment: Planning Circular PS 08-003 dated 9 May 2008, as issued by the NSW Department of Planning, advises that the concurrence of the Director General may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, if the variation is found to be consistent with the objectives of the zone, the concurrence of the Director-General for the variation to the building height Development Standard can be assumed.

State Environmental Planning Instruments

25. Compliance with the relevant state environmental planning policies is detailed in the table below:

State Environmental Planning Policy	Complies
Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment	Yes

State Environmental Planning Policy 55 – Remediation of Land	Yes (1)
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Yes (2)
State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development	Yes (3)

(1) State Environmental Planning Policy 55 – Remediation of Land

26. The site has a long history of residential use and is located in an established residential area. There are no known records of contaminating activity on the site. As such, it is considered that there is minimal risk that the land is contaminated and that the development is suitable for the proposed development, with no preliminary site investigation necessary. Based on this, it is considered that Clause 7 of the SEPP has been satisfied.

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

27. A BASIX Certificate and BASIX-stamped plans have been submitted with the application. A condition is recommended requiring compliance with the commitments indicated on the certificate.

(3) State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development

28. The proposed development is for a new building of at least 3 storeys, which meets the definition of “residential flat building”. Therefore, it must be assessed against SEPP 65 and the Apartment Design Guide (ADG). This assessment is provided below.
29. A design verification statement has been provided by Robert Woodward (Registration No. 9383) of ESS architects in accordance with Clause 50 of the Environmental Planning and Assessment Regulation 2000.
30. The application was referred to the Design Review Panel (DRP) for comment. An assessment of the Design Quality Principles and the comments of the DRP are provided below.

Context and Neighbourhood Character

Panel’s comment:

31. *The Panel pointed out that the site analysis plan is deficient because it is based on the proposed development and not the existing conditions and provides no information on any understanding of context.*
32. *The proposal responds to the slope of the site by stepping down.*
33. *The Panel notes that the access lane to the rear of the site is not used to provide vehicular access to the site. It is understood that the site slope makes this difficult. However, the Panel would appreciate an attempt for an explanation as to why the use of the rear lane is not possible. Making access from the lane would dramatically improve the streetscape to Andover Street. This area is in transition and the proposal will eventually sit comfortably in a future context.*

Applicant's response:

34. *The site analysis plan has been updated to provide that context.*
35. *In respect to vehicular access, initial design consideration was given to the provision of driveway access to the development from Andover Lane. As noted by the Panel, the site slope did make this design approach difficult and vehicular access and egress to and from the site could not be achieved in accordance with the relevant design standards. Further, the positioning of an access driveway along Andover Lane would result in a potential amenity impact to the neighbouring dwelling at 2 Balfour Street in terms of noise impacts from the opening and closing of the garage access door and light impacts resulting from headlights being directed into the windows of this neighbouring dwelling from vehicles making their way up the driveway ramp. A decision was therefore made to provide vehicular access to the site from Andover St.*

Assessor's comment:

36. The applicant's response is supported. The amended site analysis plan provides appropriate context for assessment, and the ability to accommodate the driveway off the laneway is compromised due to the slope of the land. It is also noted that the driveway off Andover Street is consistent with other residential flat development in the street to the north.
37. Overall it is considered that the development responds appropriately to its context and contributes positively to the character of the area. The building responds to the topography, addresses its corner position and features a high quality design.

Built form and scale

Panel's comment:

38. *Satisfactory*

Applicant's response:

39. *Acceptable – no action required.*

Assessor's comment:

40. The development achieves a bulk and scale appropriate to the desired character of the street as expressed in Clause 4.3 Height of Buildings and Clause 4.4 Floor Space Ratio in the KLEP 2012. The development seeks a minor variation to the height standard, but this variation is minor (7.5% above control), occurs only over a small portion of the development (3.6% of the site area) and does not add excessive bulk of the building.
41. The building positively addresses both street frontages, aligns with the predominant built form pattern of the area and features good façade articulation through the use of window placement, eaves and materiality.
42. While the development provides for 5 total aboveground storeys, the ground level dwellings are located partially below existing ground level so that the full 5 storeys are not apparent when the development is viewed from the street. The development's

stepping form, which follows to the slope of the land, also mitigates development's apparent scale.

Density

Panel's comment:

43. *Complies with Draft City Plan*

Applicant's response:

44. *Acceptable – no action required.*

Assessor's comment:

45. The development achieves a density appropriate to the site and context. The development complies with Clause 4.4 Floor Space Ratio under KLEP 2012, and provides for a high level of residential amenity (refer to ADG discussion below).

Sustainability

Panel's comment:

46. *Subject to BASIX*

Applicant's response:

47. *A Basix Certificate has been prepared by Zoran Cvetkovski, which has been submitted under separate cover.*

Assessor's comment:

48. Overall the development's sustainability measures are considered satisfactory. A condition is recommended requiring compliance with the commitments listed on the certificate.

Landscape

Panel's comment:

49. *The Cheese Trees to the ground floor landscape plan should be reconsidered as their roots will invade the underground structure.*

50. *Drying areas should be relocated to make full use of northern aspect particularly in the winter months.*

51. *The Panel suggests putting clothes line on the roof abutting the building wall so they cannot be seen from the street.*

52. *The roof top common space area should provide social facilities such as a sink, toilet, and shade.*

- 53. *The architectural plan should be amended to reflect the roof top layout shown in the landscape plan.*
- 54. *The Panel suggests better use of the deep soil zone by minimising extended hardscape and providing good sized canopy trees. The Panel recommends that the interface with the public domain be carefully designed and appropriately illustrated.*
- 55. *The fire escape from the basement to Balfour Street in the architectural drawings is contradictory to the scope of the landscape plan and is unclear as to where the exit is to the public domain.*

Applicant's response:

- 56. *In respect to the reconsideration of the Cheese Trees on the ground floor landscape plan, the landscape designer for the project was consulted on this matter and advised, contrary to the Panel's comment, that any invasion of the underground structure was highly unlikely. Landscape plan amendments have therefore not been made. However, if Council's landscape officer deems the placement of these Cheese Trees as unsuitable, a consent condition could be imposed requiring the provision of an alternate species.*
- 57. *A drying area has been provided on the roof of the building adjacent to the lift area, while roof top facilities including a bbq area, sink and wc have also been incorporated.*
- 58. *The architectural plans have been amended and now align the landscape plan design.*
- 59. *As demonstrated on the landscape plans, it is proposed to introduce additional street tree planting along both the Andover and Balfour Street verges in accordance with Council's Street Tree Planting Masterplan.*
- 60. *In regards to the fire escape along Balfour Street, this has now been clarified on the architectural plans.*

Assessor's comment:

- 61. *The applicant's response is supported. The application has been assessed by Council's Tree and Landscape Section and has been found to be acceptable subject to conditions. The proposed Cheese Trees were not flagged as inappropriate, and therefore no condition requiring an alternative species is recommended.*
- 62. *Overall it is considered that the development demonstrates a high quality landscape scheme appropriate to the context with a good mix of grasses, groundcovers, shrubs and small and canopy trees.*

Amenity

Panel's comment:

- 63. *The kitchens in accessible Units 103 and 104 have very limited bench space for a two (2) bedroom dwelling. Consideration should be given to moving the laundry into the entrance corridor.*

64. *At least one (1) bedroom in Unit 101 has no window at all and should be reconsidered. All the north-west unit bedrooms could be provided with better light and ventilation.*

Applicant's response:

65. *The laundry areas of Units 103 and 104 have been relocated into the entrance corridor. A bedroom window has been provided to one of the rear facing bedrooms of Unit 1.01.*
66. *In terms of light and ventilation to the north-western unit bedrooms, all bedrooms are provided with suitably sized windows or are located adjacent to well ventilated terrace areas.*

Assessor's comment:

67. The applicant's response is supported. The relocation of the laundry areas allows for sufficient kitchen bench space, and the addition of the window to the northwest corner bedroom provides needed light and ventilation.
68. Overall it is considered that the development demonstrates a high level of amenity in terms of room dimensions and layout, sunlight access, natural ventilation, outlook, visual and acoustic privacy, storage and private open space.

Safety

Panel's comment:

69. *It is unclear how the car park driveway operates, misleadingly labelled as a one way ramp instead of a one lane ramp. The exit into the basement is poorly sighted and a system of mirrors or traffic lights is required.*
70. *Also, the drawings need to be amended to clarify how the basement fire egress stair works and whether it will provide places of concealment.*

Applicant's response:

71. *The notation of a one - way ramp has been amended to stipulate a one lane ramp. In relation to the provision of traffic lights and mirrors to the basement, this will be subject to review by Council and consent conditions can be imposed regarding this detail. In regards to basement fire egress, a BCA Alternate Solution Report has been prepared by Building Certificates Australia which outlines that alternate solutions can be implemented in order to achieve BCA compliance, without the provision of a possible place of concealment. That Report is attached under separate cover.*

Assessor's comment:

72. The applicant's response is supported. The access arrangement has been reviewed by Council's Traffic Section and has been found to be acceptable subject to conditions, including the installation of mirrors to improve driver visibility.
73. In regards to the basement fire egress, the submitted BCA letter satisfactorily confirms that the egress can readily comply with the BCA by way of a performance based solution.

74. Overall it is considered that the development generally optimizes safety and security, providing clearly defined spaces, easily identifiable entries and passive surveillance opportunities.

Housing Diversity and Social Interaction

Panel's comment:

75. *Satisfactory*

Applicant's response:

76. *Acceptable – no action required.*

Assessor's comment:

77. The development provides 18 x 3-bedroom dwellings and 2 x 2-bedroom dwellings. While this mix does not offer much variety, it will cater to the needs of families and is considered acceptable for an apartment building of this (small) scale.
78. The development provides for adequate communal space (rooftop) to facilitate social interaction among residents.

Aesthetics

Panel's comment:

79. *The Panel notes that the elevations do not provide any useful information to enable an understanding of the appearance of the building. The Panel was only assisted by the photomontage taken from Balfour Street. A montage of similar quality showing the building from Andover Street would help even more. Nevertheless, the elevations should be amended to provide a more accurate depiction of the appearance of the building.*
80. *The abovementioned elevations provide no confidence in the quality of the interface treatment with the public domain on Andover Street.*

Applicant's response:

81. *The elevations have been amended to provide a better and more accurate depiction of the building. The fenestration and design finishes of the building along the Andover Street frontage will be identical to those noted within the provided montage depicting the buildings elevation along Balfour Street.*

Assessor's comment:

82. The development achieves a built form with good proportions and balanced composition of elements, and features a variety of materials, colours and textures. The Andover Street elevation is considered acceptable, with no further clarification required.

Clause 28 – Consideration of Apartment Design Guide

83. The following table provides an assessment against the key design criteria of the Apartment Design Guide.

Clause	Standard	Proposal	Complies
Objective 3D-1	Communal open space has minimum area equal to 25% of site area	18.2%	No – refer to discussion below table
	50% direct sunlight to principal usable part of communal open space area for minimum of 2 hours between 9am and 3pm at mid-winter.	2 hours of sunlight is achieved to at least 50% of the rooftop communal open space area.	Yes
Objective 3E-1	Minimum 7% deep soil zone	13%	Yes – refer to discussion below
	Deep soil zone to have minimum 3m dimension	At least 3m	Yes
Objective 3F-1	Up to 4 storeys: Minimum setback to adjoining allotment boundary: <ul style="list-style-type: none"> Habitable rooms: 6m Non-habitable: 3m 5-8 storeys: <ul style="list-style-type: none"> Habitable rooms: 9m Non-habitable: 4.5m Additional 3m separation required where sites adjoin a low density residential zone.	8m setback to east boundary and 6.5m setback to laneway. Development adjoins main streets on the other two boundaries.	No – refer to discussion below
Objective 3J-1	For sites within 800m of a railway station in Sydney Metropolitan Area, the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less This results in a requirement of 31 spaces (27 residential and 4 visitor)	27 residential spaces 3 visitor spaces	Yes No – refer to discussion below table
Objective 4A-1	Living rooms and private open spaces of at least 70% of dwellings to receive minimum of 2 hours of direct sunlight	15/20 dwellings (75%)	Yes

	between 9am and 3pm at mid-winter		
	Maximum 15% of apartments receive no direct sunlight between 9am and 3pm at mid-winter.	No dwellings receive no direct sunlight between 9am and 3pm at mid-winter.	Yes
Objective 4B-3	60% of apartments to be naturally cross ventilated	20/20 dwellings (100%)	Yes
Objective 4C-1	Minimum ceiling height of 2.7m for habitable rooms and 2.4m for non-habitable rooms	2.7m for all rooms	Yes
Objective 4D-1	<p>Apartments to have the following minimum internal areas:</p> <ul style="list-style-type: none"> • 1-bed: 50sqm • 2-bed: 70sqm • 3-bed: 90sqm <p>Additional bathrooms increase the requirement by 5sqm.</p>	<p>2-bedroom dwellings are each 76sqm.</p> <p>3-bed dwellings are all 91sqm but contain an extra bathroom.</p>	<p>Yes</p> <p>No – refer to discussion below table</p>
Objective 4D-2	Habitable room depths are limited to a maximum of 2.5 x ceiling height	Within range	Yes
	In open plan layouts the maximum habitable room depth is 8m from window	Within range	Yes
Objective 4D-3	Master bedrooms have minimum area of 10sqm and other bedrooms 9sqm excluding wardrobe space	All bedrooms comply.	Yes
	Bedrooms have a minimum dimension of 3m excluding wardrobe space	All bedrooms comply.	Yes
	Living rooms or combined living/dining rooms have a minimum width of 4m for 2- and 3-bedroom apartments.	All living rooms comply.	Yes
Objective 4E-1	<p>All apartments are required to have primary balconies as follows:</p> <ul style="list-style-type: none"> • 2-bed: 8sqm area and 2m depth • 3-bed: 12sqm area and 2.4m depth 	<p>All balcony areas comply.</p> <p>Balcony depth of 2-bed units do not comply at 2m.</p>	<p>Yes</p> <p>No – refer to discussion below</p>

	Ground level apartments to provide minimum private open space area of 15sqm with minimum depth of 3m	All ground level dwellings comply.	Yes
Objective 4F-1	Maximum number of apartments off circulation core on a single level is 8	Maximum of 4 dwellings off core	Yes
Objective 4G-1	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is to be provided: <ul style="list-style-type: none"> • 1-bed: 6 cubic metres • 2-bed: 8 cubic metres • 3-bed: 10 cubic metres 	Required storage provided in main corridor of each dwelling	Yes

Building separation discussion

84. The development provides an 8m setback from the east boundary for all levels, resulting in a non-compliance at Level 5, where a 9m setback is required.
85. This non-compliance is considered acceptable because the non-complying areas do not result in any privacy impacts. The windows are shielded by fixed aluminium louvres, which provide effective screening.
86. The development provides for a 6.5m setback from Andover Lane at all levels. This is sufficient for separation from the neighbouring dwelling at 2 Balfour Street, which is located in zone R2 Low Density Residential and thus requires an additional 3m of separation. The intervening Andover Lane is approximately 6m in width, and therefore the total setback from the adjoining dwelling's boundary is approximately 12.5m. This total separation complies with the minimum total setback requirement from the neighbouring R2 zone, which is 9m and 12m for storeys 1 to 4 and 5 to 8, respectively.

Communal open space discussion

87. The development provides for communal open space at the rooftop level equal to 18.2% of the site area, which is below the required 25%.
88. It is noted there are oversized private open space areas at ground level, particularly at southeast portion of the site, which theoretically present the opportunity for increased communal open space. However, it is considered that communal open space at this location is undesirable due to the lack of solar access and potential impacts on private amenity.
89. Overall it is considered that the rooftop communal open space area provides sufficient space for social interaction and recreation and therefore satisfies the relevant objectives.

Deep soil zone discussion

90. There is a slight discrepancy between the deep soil diagram prepared by ESS Architects and the remainder of the architectural plans. The diagram shows a total deep soil area of 163sqm; however, part of this area along the west boundary (approximately

6.5sqm) is shown on the architectural drawings as taken up by the fire egress and therefore this area is not suitable for deep soil plantings and should not be counted as deep soil area.

91. Nonetheless, the deep soil zone area is well above the minimum requirement (13% proposed vs. 7% required) and, as shown on the Landscape Plan prepared by Zenith Landscape Design, is capable of accommodating multiple canopy trees with a mature height of 8m. The deep soil provision is therefore considered acceptable.

Parking discussion

92. The development provides 3 visitor parking spaces, while 4 spaces are required. This shortfall is considered acceptable because it is minor and unlikely to have a noticeable impact on street parking availability, and because the development sits in close proximity to bus and rail services. It is also noted that Councils' Traffic Section assessed the application and raised no issue with the parking provision.
93. The corner site also offers greater opportunity for on-street parking, which would otherwise not be provided in a mid-block site. This affords another 2 to 3 onstreet parking spaces which can be used by visitors.
94. Furthermore, the urban setting of the site, which is characterised by a mixture of medium density and attached/detached dwellings, is such as that there is spare capacity on the existing street network for on-street overflow visitor parking.

3-bedroom apartment size discussion

95. All proposed 3-bedroom dwellings feature an area of 91sqm but are required to have an area of 95sqm because they feature two bathrooms.
96. The design guidance under Objective 4D-1 of the ADG states:

Where minimum areas or room dimensions are not met apartments need to demonstrate that they are well designed and demonstrate the usability and functionality of the space with realistically scaled furniture layouts and circulation areas. These circumstances would be assessed on their merits

97. In accordance with the above design guidance, the 3-bedroom dwellings are well designed and demonstrate a highly functional layout with clear, logical paths of circulation. Living/dining areas are generously sized and can accommodate furniture appropriate to the dwelling size as shown on the plans. Balconies are generously sized, ranging in area from 18sqm to 24sqm, and located directly off living areas, affording residents with ample living space. The dwellings also demonstrate an overall high level of amenity in terms of natural cross ventilation, solar access and privacy.
98. Overall it is clear that the architect has achieved an efficient floorplan, with a strong street address to the corner, a high level of internal amenity and a positive streetscape appearance.

Balcony depth discussion

99. Eight of the 3-bedroom dwellings do not achieve the full balcony depth of 2.4m, providing only 2m. This non-compliance is considered acceptable given that the balcony areas are well above the minimum requirement, ranging in size from 18sqm to 24sqm (vs. 12sqm required), and are capable of accommodating a table setting appropriate to the dwelling size.

Draft Environmental Planning Instruments

100. There are no draft environmental planning instruments relevant to the application.

Any other matters prescribed by the Regulations

101. The Regulations prescribe no other matters for consideration for the proposed development.

Development Control Plans

102. Kogarah Development Control Plan (KDCP) 2013 applies to the proposed development. The development's compliance with the KDCP 2013 is discussed in the following table.

Control	Provision	Proposal	Complies
PART B – GENERAL CONTROLS			
B2 Tree Management and Greenweb	Compliance with provisions of Clause 5.9 Preservation of Trees or Vegetation of KLEP 2012 must be achieved.	Consent sought for removal of 6 trees.	Yes
B4 Parking and Traffic	39 residential parking spaces 4 visitor spaces	27 residential spaces and 3 visitor spaces provided. As the development is within 800m of a railway station, ADG parking requirements apply.	No – refer to ADG discussion above
	9 bicycle parking spaces (7 residential, 2 visitor)	Bicycle storage room shown on plans, but no spaces are marked.	Yes – a condition is recommended to ensure appropriate quantity is provided
	1 car wash bay required; may be also be visitor space	No car wash bay shown.	No – a condition is recommended requiring provision of a car wash bay
	Car park access and layout to comply with relevant Australian Standards	Complies with relevant AS.	Yes – the design of the parking area has been assessed by Council's Traffic Section and has been found to be acceptable subject to conditions

B5 – Waste Management and Minimisation	Submit waste management plan	WMP submitted.	Yes
B6 – Water Management	All developments require consideration of Council's Water Management Policy.	A Concept Stormwater Plan has been submitted with the application. The plan has been assessed by Council's Engineering Section and found to be acceptable subject to conditions of consent.	Yes
B7 Environmental Management	Building to be designed to improve solar efficiency and are to use sustainable building materials and techniques	Design, materials, siting and orientation generally optimise solar efficiency, with high proportion of north-facing dwellings. Glazing is minimised on south elevation, and operable screens are provided on west elevation. Development is BASIX-compliant	Yes
PART C2 – MEDIUM DENSITY HOUSING			
1. Site isolation and amalgamation for medium density development	Adjoining sites not to be left isolated	No isolation resulting from development. Three allotments remain to the south capable of amalgamating for medium density redevelopment.	Yes
2. Specific precinct controls – residential flat buildings	-	Site is noted located in a special precinct.	NA
4. Medium site and density requirements	20m minimum frontage for residential flat building	26m frontage to Andover Street	Yes
	Site is not subject to minimum site area per dwelling control.	-	NA
5. Height and building envelope requirements			No – refer to discussion below table
6. Building setbacks			No – refer to discussion below table
7. Site coverage	Maximum 45%	520sqm or 43%	Yes
8. Open space	Maximum 55% impervious area	65% impervious area	No – refer to discussion below table
	Private open space – 35sqm with min. 3m	Ground floor private open space areas range in size	No – refer to ADG discussion above

	dimension for ground level dwellings and 12sqm with min. 3m dimension for other dwellings	from 18sqm to 241sqm. Balconies range in size from 18sqm to 24sqm. This control is inconsistent with the ADG, and therefore the ADG prevails.	
	Common open space – 30sqm per dwelling with overall area of 75sqm and min. dimension of 5sqm.	220sqm of common open space at rooftop terrace (18.2% of site area).	No – refer to discussion below table
9. Vehicular access, parking and circulation	Car parking to be provided in accordance with Part B4	27 residential spaces and 3 visitor spaces. As the development is within 800m of a railway station, ADG parking requirements apply.	No – refer to ADG discussion above.
	Garages to be accessed from rear lane where available	Access provided from Andover Street.	No – refer to discussion below
	All residential flat buildings to provide car wash bay	No car wash bay provided.	No – a condition is recommended requiring provision of a car wash bay
11. Solar access	Primary open space to achieve 4 hours of direct sunlight between 9am and 3pm at mid-winter	This DCP control contradicts the ADG, and therefore the ADG prevails.	No – refer to ADG discussion above
	Neighbours' private open space and living areas to maintain 3 hours of direct sunlight between 9am and 3pm at mid-winter	Adjoining dwelling at 31 Andover Street overshadowed.	No – refer to discussion below
12. Views and view sharing	Provide for reasonable sharing of views	Development steps with the land and generally complies with the height limit.	Yes
13. Adaptable and accessible housing	2 adaptable units required for developments with 11-20 units	2 adaptable dwellings provided.	Yes

Height and Building Envelope Requirements Discussion

103. The development does not comply with the required height and building envelope controls. However, these controls were developed prior to rezoning of the subject site under the Kogarah New City Plan and are not considered strictly applicable to the proposed development. Nonetheless, the development provides a built form appropriate to its context and generally complies with the KLEP 2012 height limit, with only minor and acceptable variations as detailed at the KLEP Clause 4.6 discussion above.

Building Setbacks Discussion

104. The DCP requires that a maximum of 75% of the width of the building be setback a minimum of 5m, with the remainder being setback a minimum of 7m. The development features a front setback from Andover Street of 4.15m. This non-compliance is considered acceptable, as the reduced setback is appropriate to the corner lot and allows the development to present a strong urban edge. The benefit of increasing the front setback to comply is not readily apparent: overshadowing to the south would not be notably improved, and the streetscape would not be unreasonably disrupted, particularly given the site's corner location. It is also noted that the front setback to the *building wall* achieves the full 7m; the 4.15m setback refers to the *balcony edge*. The balcony edge is in fact the appropriate setback measurement point as per Standard Instrument definitions; however, the absence of a solid wall at the 4.15m mark mitigates the bulk of the form, and the glazed balcony balustrades function as articulation elements and allow the 7m setback line to be apparent.
105. The development provides a rear (Andover Lane) setback of 6.5m and a side (east) setback of 6.85m, both of which comply with controls.
106. It is noted that the DCP contains no setback control for the secondary street frontage of residential flat buildings on corner lots. Given this lack of control, it is necessary to assess the development's setback to Balfour Street on merit by looking at its impacts on the streetscape. The development generally provides a 3.64m setback to Balfour Street. This appears to be less than at least some of the front setbacks for the dwellings farther to the north along Balfour Street. However, it is considered that the streetscape would not be unreasonably disrupted, as there is no strong character or pattern to the street, and Andover Lane provides a break in the built form, limiting the noticeable variation in setbacks. Furthermore, the residential flat building directly opposite the site across Balfour Street appears to have a similar setback.

Open Space Discussion

107. The proposed development features an impervious area of 68% of the site area, which does not comply with the maximum of 55%. This is considered acceptable for the following reasons:
 - The development achieves 13% deep soil area, well above the 7% required by the ADG.
 - The development's stormwater management system has been assessed by Council's engineers and has been found to be acceptable.
 - The controls in the DCP have not been updated to reflect the development intensity permitted by recent LEP amendments, and therefore it is difficult to comply fully with all detailed controls. The 55% control was based on achieving a smaller building typology under the previous LEP height and FSR.
108. In regards to common open space, the DCP requires 30sqm per dwelling with a minimum overall area of 75sqm and minimum dimension of 5m. The development provides 220sqm of (rooftop) communal open space or 18.2% of the site area, which is well below the DCP's requirement. It is noted there are oversized private open space areas at ground level (particularly at southeast portion of the site), which theoretically present the opportunity for increased communal open space. However, it is considered that communal open space in this location is undesirable due to the lack of solar access

and potential impacts on private amenity. Overall it is considered that the rooftop communal open space area provides sufficient space for social interaction and recreation, and therefore satisfies the objectives of the control.

Vehicular Access, Parking and Circulation Discussion

109. Control (4) of this part states that garages should be accessed from a rear lane where available. The applicant has noted that this option was explored but ultimately discarded because ingress and egress could not achieved in accordance with the relevant design standards due to the site's slope.
110. Furthermore, locating the driveway off the rear lane could result in adverse amenity impacts on the adjoining dwelling at 2 Balfour Street. The dwelling's setback from the laneway is minimal, and therefore the dwelling would be susceptible to traffic noise. Also, headlights from vehicles exiting the site up the ramp would potentially shine directly into the living areas of the dwelling.
111. It is noted that the proposed access and circulation arrangement has been assessed by Council's Traffic Section and has been found to be acceptable subject to conditions.
112. Overall the development complies with the objectives of this section.

Overshadowing

113. At least 50% of neighbours' principal open space or windows to main living areas must receive a minimum of three hours of direct sunlight between 9am and 3pm at mid-winter. The adjoining dwelling to the east will be overshadowed as a result of the proposed development: all windows on the dwelling's west elevation and more than 50% of the dwelling's rear private open space area will be overshadowed throughout the day. This is considered acceptable, as the area is undergoing a transition from low to medium density development, and the adjoining lot is capable of amalgamating with lots farther to the east to redevelop as a residential flat building.

4. Impacts

Natural Environment

114. The development is unlikely to have adverse impacts on the natural environment. Basement excavation is proposed, but basements are common in the area, and the development is unlikely to adversely impact on existing drainage patterns and soil stability in the locality. The proposed tree removal has been deemed acceptable by Council's Tree and Landscape Section subject to planting of replacement trees.

Built Environment

115. The proposed development is unlikely to have adverse impacts on the built environment. The development achieves a bulk and scale suitable to the existing and desired future character of the locality, and provides a form with visual interest that responds to the slope of the land. Though the development varies from the height standard under KLEP 2012, the variation is minor (7.5% above the standard), occurs only over a small area of the development (lift overrun and small portion of eave or 3.6% of the site area) and would be largely imperceptible from the public domain.

116. The development's side and rear setbacks comply with controls, and the street setbacks to, though non-compliant, are appropriate to the site's corner location and are consistent with the street setbacks of the existing residential flat buildings opposite the site across Balfour Street and Andover Street.
117. The development has been assessed by Council's Design Review Panel and has been recommended for approval subject to implementation of recommendations, which have subsequently been implemented or sufficiently addressed (refer to SEPP 65 discussion above).

Social Impacts

118. The development would contribute additional housing stock to the area and cater to the needs of families by providing a large proportion of 3-bedroom dwellings. There are no known adverse social impacts associated with the development.

Economic Impacts

119. The development would have positive short term economic impacts associated with construction and no known adverse economic impacts.

Suitability of the Site

120. The subject site has no impediments that preclude it from being developed for the proposed development.

Referrals, Submissions and the Public Interest

Submissions

121. Eight submissions from the public were received. The key issues raised are discussed below:

Demolition of federation-style house

122. Concern was raised that one of houses to be demolished has significance as a federation-style house.

Comment:

123. The dwellings proposed to be demolished are neither heritage-listed nor located within a heritage conservation area. Demolition can thus be approved without detailed consideration of impacts on the architectural significance of the dwellings.

Overshadowing

124. Concern was raised that the development would overshadow the surrounding properties.

Comment:

125. Based on the submitted shadow diagrams by ESS, it is apparent that the only notable overshadowing would occur to the adjoining property at 31 Andover Street. As

discussed earlier in this report, this overshadowing is considered acceptable given that the development generally complies with key building controls including the height limit. The proposed variations to the height limit are minor and would not result in noticeable additional overshadowing to the adjoining property.

126. Notably, the development provides for an increased side setback (8m vs. 6m required) along its east boundary, which helps alleviate some of the overshadowing to 31 Andover Street.

Views

127. Concern was raised that the development would block views.

Comment:

128. The development generally complies with the LEP height limit of 15m, and therefore any blocking of views is expected and justified. The proposed variations to the height limit (lift overrun and small portion of roof eave) are small in extent and area and thus unlikely to affect views.

Traffic and Parking

129. Multiple submissions raised concern about impacts on street parking availability.

Comment:

130. The development includes residential parking in accordance with requirements and is only one space short of visitor requirements. This one-space shortfall is considered acceptable given the development's proximity to bus and rail services, and the location on a corner site provides for additional on-street parking. Hence it is unlikely that a one-space shortfall would have any noticeable impact on parking availability.

Local wildlife

131. Concerns were raised about the development's impacts on wildlife, namely possums and birds.

Comment:

132. There are no known critical habitats or other significant vegetation on the site. The proposed removal of 6 trees has been deemed acceptable by Council's Tree and Landscape Section subject to planting of replacement trees. It is also noted that the development proposes new street trees along Andover Street, which will provide additional habitat for wildlife that currently does not exist.

Height

133. Concern was raised about the non-complying height.
134. Multiple submissions objected to the 5-storey height and expressed a preference for 3 storeys.

Comment:

135. The development is generally compliant with the height limit of 15m. As detailed in the Clause 4.6 variation discussion above, the height non-compliances are minor in extent and area, have no adverse impact on amenity, and would not be evident from the public domain.
136. Notwithstanding the minor height variations at the lift overrun and roof eave, the proposed 5-storey height is consistent with the 15m LEP height limit. This is due to the fact that some of the dwellings are partially below existing ground level.

Built form context and neighbourhood character

137. A number of the submissions raised concern that the development is out of character and oversized for the locality.

Comment:

138. While Andover Street to the south of the site currently contains 1- to 2-storey detached dwelling houses, this area has recently been rezoned from low to medium density residential as part of the New Kogarah City Plan. The proposed built form generally complies with the new controls and is therefore consistent with Council's desired future character of the area.
139. It is also noted that the design has been reviewed and supported by the Design Review Panel, subject to changes that have since been satisfactorily implemented as outlined in the SEPP 65 discussion above.

Privacy

140. General concern was raised about impacts on the privacy of surrounding residences.

Comment:

141. The development complies with side and rear setback requirements and is therefore unlikely to have any unacceptable privacy impacts. The development provides for an increased setback from its east boundary (8m provided vs. 6m required under ADG), reducing potential overlooking to the adjoining dwelling. Also, the rooftop communal open space features screen planting around its edges, further reducing the opportunity for overlooking.

Infrastructure

142. General concern was raised about the development's stress on the area's infrastructure, including parks, public transport, water and electricity.

Comment:

143. The development is modest in scale and located in an established urban residential area with good local infrastructure. As such, it is considered that there would be no unacceptable stress placed on the area's parks, public transport, water or electricity as a result of the development.

Council Referrals

Traffic

144. Council's Traffic Section raised no objection to the development subject to conditions of consent being attached to any consent granted.

Stormwater

145. Council's Engineering Section raised no objection to the application subject to conditions of consent being attached to any consent granted.

Tree and Landscape

146. Council's Tree and Landscape Section raised no objection to the application subject to conditions of consent being attached to any consent granted.

External referrals

147. No external referrals were required.

Conclusion

148. The application seeks approval for demolition of existing structures, site consolidation and construction of a 5-storey residential flat building containing 20 x dwellings and basement parking on the site at 27-29 Andover Street, Carlton. The proposed development has been assessed against the requirements of the relevant environmental planning instruments and development control plan and generally complies, with sufficient justification provided for any variations. The environmental impacts of the development have also been assessed and have been found to be minor and manageable.

RECOMMENDATION

149. THAT pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979, as amended, Georges River Council grant development consent to Development Application 9/2017/119/1 for demolition of existing structures, site consolidation and construction of a 5-storey residential flat building containing 20 x dwellings and basement parking on the site at 27-29 Andover Street, Carlton, subject to the following conditions of consent:

SPECIFIC DEVELOPMENT CONDITIONS

SECTION A - General Conditions

The conditions that follow in this Section A of the Notice of Determination are general conditions which are imposed to ensure that the development is carried out in accordance with the development consent.

(1) Approved Plans of Consent

The development must be implemented in accordance with the approved plans, specifications and details listed below and any supporting information submitted with the

Development Application except as amended by any conditions attached to the Development Consent:

- General Plan Basement, ESS Architects, Drawing No. A2101, REV DA02, 05.05.17
- General Plan Ground, ESS Architects, Drawing No. A2102, REV DA02, 05.05.17
- General Plan Level 01, ESS Architects, Drawing No. A2103, REV DA02, 05.05.17
- General Plan Level 02, ESS Architects, Drawing No. A2104, REV DA02, 05.05.17
- General Plan Level 03, ESS Architects, Drawing No. A2105, REV DA02, 05.05.17
- General Plan Level 04, ESS Architects, Drawing No. A2106, REV DA02, 05.05.17
- General Plan Level 05, ESS Architects, Drawing No. A2107, REV DA02, 05.05.17
- General Plan Roof, Drawing No. A2108, REV DA02, 05.05.17
- Elevation North, ESS Architects, Drawing No. A3001, REV DA02, 05.05.17
- Elevation South, ESS Architects, Drawing No. A3002, REV DA02, 05.05.17
- Elevation East, ESS Architects, Drawing No. A3003, REV DA02, 05.05.17
- Elevation West, ESS Architects, Drawing No. A3004, REV DA02, 05.05.17
- Section North-South, ESS Architects, Drawing No. A3101, REV DA02, 05.05.17
- Section East-West, ESS Architects, Drawing No. A3102, REV DA02, 05.05.17
- Finishes Board Finishes, ESS Architects, Drawing No. A9001, REV DA02, 05.05.17
- Waste Management Plan submitted on 12 Sep 2017
- Drainage Details, LMW Design Group, Drawing No. D2, Rev A, Sep. 2016
- Basement Stormwater Drainage Concept Plan, LMW Design Group, Drawing No. D3, Rev A, Sep. 2016
- Ground Floor Stormwater Drainage Concept Plan, LMW Design Group, Drawing No. D4, Rev B, Sept. 2016
- OSD Design Details, LMW Design Group, Drawing No. D4A, Rev B, Sep. 2016
- First Floor Stormwater Drainage Concept Plan, LMW Design Group, Drawing No. D5, Rev B, Sep. 2016
- Second Floor Stormwater Drainage Concept Plan, LMW Design Group, Drawing No. D6, Rev A, Sep. 2016
- Third Floor Drainage Plan, LMW Design Group, Drawing No. D7, Rev A, Sep. 2016
- Fourth Floor Stormwater Drainage Concept Plan, LMW Design Group, Drawing No. D8, Rev A, Sep. 2016
- Fifth Floor Stormwater Drainage Concept Plan, LMW Design Group, Drawing No. D9, Rev A, Sep. 2016
- Roof Floor Stormwater Drainage Concept Plan, LMW Design Group, Drawing No. D10, Rev. A, Sep. 2016
- Landscape Plan, Zenith Landscape Designs, Drawing No. 16-3324 L01, Rev A, 29.09.16
- Landscape Plan, Zenith Landscape Designs, Drawing No. 16-3324 L02, Rev A, 29.09.16
- Landscape Plan, Zenith Landscape Designs, Drawing No. 16-3324 L03, Rev A, 29.09.16
- BASIX Certificate— 821414M dated 16 May 2017

SECTION B –Prior to the Issue of a Construction Certificate or Demolition Conditions

The conditions that follow in this Section B of the Notice of Determination relate to the payment of fees, amendments being made to the proposal, further investigation being undertaken or the

preparation of documentation that must be complied with prior to the issue of a Construction Certificate or Demolition.

Note: A copy of the Construction Certificate shall be forwarded to Council prior to commencement of construction where Council is not the certifier who issued the Construction Certificate.

(2) Asset & Building Fees

Payment of the following amounts as detailed below:

• *Builders Long Service Levy of	\$ 24,639.00
• Driveway and Restoration Works Design Inspection Fee of	\$ 750.00
• Asset Inspection Fee of	\$ 110.00
• Restoration Deposit of	\$ 20,300.00
• Sign Installation of	\$ 150.00
• Section 94A Contributions of	\$240,954.81

*Note: The Builders Long Service Levy quoted is based on the market value of the proposed building works and the Levy Rate applicable at the time of assessing the Development Application and may be subject to change prior to payment.

(3) Restoration Deposit

A deposit of \$20,300.00 shall be lodged with Council to ensure the completion of the following works to be completed at the applicant's expense

- * Construction of a new kerb and gutter across the full street frontage in Andover Lane.
- * Construction of a new footpath across the full street frontage in Andover Lane.
- * All associated road pavement restorations.

These works are to be in accordance with plans and specifications to be issued by Council.

(4) Sign Installation

The applicant shall pay a fee of \$150.00 to cover the costs for Council to install a "No Stopping" sign in Balfour Street at the intersection with Andover Lane.

(5) Section 94 Index

Section 94 Contributions are to be paid as detailed below in the following condition, and until paid all contributions will be indexed four (4) times a year (on the following dates) to allow for the cost increases: 31 January, 30 April, 31 July and 31 October.

(6) Section 94 Contributions

As at the date of Development Consent the following contributions have been levied on the subject development under Section 94 of the Environmental Planning and Assessment Act, 1979 and the nominated Section 94 Contributions Plans:

No.1 – Roads and Traffic Management – Residential	\$ 4,022.78
No.5 – Open Space 2007	\$227,323.00
No.9 – Kogarah Libraries – Buildings	\$ 5,609.52
No.9 – Kogarah Libraries – Books	\$ 3,999.50
Ramsgate Commercial Centre Contributions Plan	
TOTAL	\$240,954.81

Any of the above Section 94 Contributions Plans may be inspected at the Georges River Council Customer Service Centres.

(7) Dilapidation Report

Prior to issue of any construction certificate or commencement of any demolition or earth works on site, the applicant shall submit, for acceptance by the Principal Certifying Authority (PCA), with a copy forwarded to Council where Council is not the PCA, a full dilapidation report on the visible and structural condition of the following properties:

- (i) All neighbouring buildings likely to be affected by the excavation as determined by the consulting engineer.

The report must be completed by a suitably qualified consulting structural/ geotechnical engineer as determined necessary by that professional based on the excavations for the proposal, the subsoil conditions and any recommendations of a geotechnical report for the site. The report shall have regard to protecting the applicant from spurious claims for structural damage and shall be verified by all stakeholders as far as practicable.”

Reports relating to properties that refuse access to carry out inspections to complete the dilapidation report, after being given reasonable written notice to request access (at least 14 days) at a reasonable time (8.00am-6.00pm), are not to hold up the release of the Construction Certificate.

(8) Soil and Water Management

A Soil and Water Management Control Plan, incorporating contour levels and prepared in accordance with Environmental Site Management Policy shall be submitted to Council detailing all measures to control soil erosion and sedimentation runoff from the site during excavation and construction activities.

(9) Adaptable Housing Compliance

The proposed development including the 2 nominated adaptable units shall comply with the adaptable housing provisions of AS4299 – Adaptable Housing and AS1498 – Access and Mobility (Parts 1 and 2). The Adaptable Housing checklist and circulation diagram demonstrating compliance shall be submitted.

(10) Ausgrid Sub Station

The applicant is to confer with Ausgrid to determine if an electricity distribution substation is required. If so, shall be incorporated within the Construction Certificate and it will be necessary for the final film survey plan to be endorsed with an area having dimensions 5m x 4m over the location of the proposed electricity distribution substation to be

dedicated to Council as public roadway, or as otherwise agreed with Ausgrid. Ausgrid's requirements are to be met prior to release of the occupation certificate.

(11) Clearances to Overhead Mains

If any part of the proposed structure, within 5m of a street frontage, is higher than 3m above footway level, the applicant is to confer with Ausgrid to determine if satisfactory clearances to any existing overhead mains will be affected. If so, the applicant is to make arrangements with Ausgrid for any necessary modification to the electrical network in question.

These works to be at the applicant's expense and Ausgrid's requirements are to be met prior to actual construction commencing on site or as agreed with Ausgrid.

(12) Sydney Water (DA Only)

The approved plans must be processed through Sydney Water to determine whether the development will affect any Sydney Water asset's (sewer and water mains, stormwater drains and/or easements) and if any further requirements need to be met. An approval receipt will be issued by Sydney Water which is to be submitted to Council or the Principal Certifying Authority.

Please refer to the web site www.sydneywater.com.au for:

- Sydney Water Tap in – see Plumbing, building and developing and then Sydney Water Tap in; and
- Building over/adjacent to a Sydney Water Asset - see Plumbing, building and developing, building then Building Approvals or telephone 13 20 92.

(13) Basement Layout

The columns within the carpark area shall be constructed in accordance with "AS/NZS 2890.1:2004 - Off Street Car Parking. Section 5.2".

SECTION C – Prior to Commencement of Construction Conditions

The conditions that follow in this Section C of the Notice of Determination are specific to the proposed development and must be complied with prior to the commencement of construction on the site.

(14) Geotechnical Report

Excavation of the site is to extend only to that area required for building works depicted upon the approved plans. All excess excavated material shall be removed from the site. In this regard, all excavated waste materials shall be disposed of at an approved Waste Depot.

No rock breaking or other machinery for the excavation, drilling, cutting or removal of rock shall be used on the site prior to the acceptance by the principal certifying authority of the following documentation:

- (i) A report by a geotechnical engineer detailing the measures recommended in undertaking the works so as to prevent damage to any adjoining or nearby buildings.
- (ii) The type and size of machinery proposed.
- (iii) The routes of all trucks to convey material to and from the site.

(15) On-Site Detention

A 31.5m³ On-Site Detention system with a Maximum Site Discharge of 21.2 Litres per Second is to be provided in accordance with the Stormwater Concept Plan and associated Design Assessment Report. The overflow is to be directed to the site drainage system.

(16) Detailed Stormwater Plan

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

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

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

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

(17) Certification of Detailed Plan

The detailed stormwater plan is to be certified by a Chartered Professional Engineer. A statement, that the stormwater system has been designed in accordance with Kogarah Council's Water Management Policy and satisfies the provisions and objectives of that policy, must be included in the Stormwater Detailed Plan.

(18) Certification by Mechanical Engineer

To ensure that adequate provision is made for ventilation of the building, mechanical and /or natural ventilation shall be provided. These systems shall be designed in accordance with the provisions of:-

- a) The Building Code of Australia;
- b) Australian Standard AS 1668 Part 1 - 1998;
- c) Australian Standard AS 1668 Part 2 - 2002;
- d) The Public Health Act 2010;
- e) The Public Health Regulation 2012;
- f) Australian Standard 3666.1 - 2002;

- g) Australian Standard 3666.2 - 2002;
- h) Australian Standard 3666.3 - 2000.

Details of all mechanical and /or natural ventilation systems, along with specific certification, provided by an appropriately qualified person, verifying compliance with the abovementioned requirements.

(19) Structural Engineer's Details

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

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

(20) Protection of Site – Hoarding

A hoarding or fence must be erected between the work site and the public place if:

- the work involved in the erection or demolition of a building is likely to cause obstruction or inconvenience to pedestrian or vehicular traffic in a public place; or
- if it involves the enclosure of a public place.

If necessary an awning is to be erected which is sufficient to prevent any substance from or in connection with the work from falling into a public place.

Any such hoarding, fence or awning is to be removed when the work has been completed.

If the work site is likely to be hazardous to persons in a public place, it must be kept lit between sunset and sunrise.

(21) Ground Anchors

Should the proposed development require the installation of ground anchors to a road reserve the following must be complied with:

- The appropriate Roads Act 1993 approvals shall be obtained.
- The anchoring is to be de-stressed once no longer required.
- The work is to be clear of all services contained within the public roadway and the required dial before you dig investigations are to be undertaken in relation to any services that may be in the proposed anchor locations.
- Public liability insurances being held by the builder/ developer with a copy being submitted to Council.
- A works-as-executed plan showing the exact location of all anchoring points being submitted to Council upon their installation.

It is to be noted that if anchoring into adjacent private properties is required any such approval would need to be obtained from the owners of this property.

(22) Driveway

In respect to vehicular access to the proposed development the gutter crossing and driveway are to be reconstructed between the kerb and street alignment to Council's specifications.

In this regard a separate driveway application is to be lodged with Council for works outside the property boundary. Furthermore the design boundary level is to be received from Council prior to construction of the internal driveway.

(23) 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 shall provide a formal request to Council's Traffic Section with the duration and exact location of the required "Works Zone" at least 6 weeks prior to its required installation date. All costs associated with the installation of a "Works Zone" will be at the applicants expense.

(24) Road Closure

A Road Closure Application form and associated documents shall be submitted to Council for approval at least 5 business days prior to any proposed lane usage for concrete pours, cranes or other activities involved in the demolition, excavation and construction on the site.

(25) Council Infrastructure Inspection

Prior to the commencement of any works an authorised representative of the applicant is to organise and attend a meeting on site with Council's Infrastructure Compliance Co-ordinator to discuss protection of Council's infrastructure. To organise this meeting contact Council's Customer Service Centre on 9330 6400.

(26) Public Liability Insurance

All nominated contractors / applicants carrying out driveway and/or restoration works on Council property must carry public liability insurance with a minimum cover of twenty million dollars (\$20,000,000.00). In this regard, prior to commencement of works, the principal contractor is to lodge an "Application for the Construction of Work by Private Contractor" to Council, which includes submitting evidence of their current insurance. The principal contractor must ensure that sub-contractors are also adequately insured.

(27) Soil Erosion Controls

Prior to commencement of any site works, erosion and sediment controls are to be installed in accordance with Environmental Site Management Policy and any approved Soil & Water Management Plan and shall incorporate:

- Measures to prevent sediment and other debris escaping from the cleared or disturbed areas into drainage systems or waterways;
- Controls to prevent tracking of sand, soil, aggregates, etc, by vehicles onto adjoining roadways.

SECTION D – Construction and Operational Conditions

The conditions that follow in this Section D of the Notice of Determination are imposed to ensure the development is constructed and operates having regard to relevant legislation and does not unreasonably impact on the amenity of the locality or environment during the construction phase or the operation of the use.

(28) Inspections – Multi Unit

The following lists of inspections are the **MANDATORY CRITICAL STAGE INSPECTIONS** that **MUST** be carried out by the Principal Certifying Authority (PCA).

- (a) at the commencement of building works
- (b) prior to covering waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within a building, and
- (c) prior to covering any stormwater drainage connections, and
- (d) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

Certificates from your engineer or subcontractor are **NOT** acceptable in the first instance for the above inspections. Failure to have your PCA carry out these inspections could result in a delay or refusal to issue an Occupation Certificate.

In addition to the above, it is recommended that the following inspections be carried out for the subject development;

- Erosion Control
- Earthworks/Excavation
- Building setout
- Concrete reinforcement
- Timber and/or steel framework
- Mechanical/Hydraulic work
- Driveways
- Landscaping
- External Finishes

(29) Storage of materials on Public Road

All building materials or waste containers must be stored within the confines of the site. The storage of such building materials, waste containers or equipment associated with the project upon the public roadway, including the pedestrian footway or unpaved verge, is prohibited.

(30) Use of Crane on Public Road

Prior approval must be obtained from Council a minimum of 24 hours before the use on any site of a crane, hoist or similar machinery that will be used to transfer materials across Council's footpath. This includes cranes that are situated on roadways, footpaths and road reserves.

Any application for approval must be accompanied by the following information:-

- Site sketch indicating the proposed location of the crane, pedestrian controls and traffic controls;
- A copy of current public liability insurance with minimum cover of twenty million

- dollars (\$20,000,000) indemnifying Council in the event of an incident;
- A copy of an RMS accredited traffic control plan;
- Proof that the local area command of the NSW Police have been advised of the proposal.

The use of a crane, hoist or similar machinery on any site without prior approval is prohibited.

(31) Building Height - Surveyors Certificate

The proposed building is not to be erected at a height greater than that indicated on the approved plan. A certificate from a Registered Surveyor verifying the correct Reduced Level of the ground floor slab and boundary clearances shall be submitted prior to inspection of the steel reinforcement.

(32) Excavation of Site

Excavation of the site is to extend only to that area required for building works depicted upon the approved plans. All excess excavated material shall be removed from the site. In this regard, all excavated waste materials shall be disposed of at an approved Waste Depot (details are available from Council).

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

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

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

(33) 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'*.

(34) Redundant Driveway

All existing vehicular crossings adjacent to the subject premises that have become redundant shall be removed and the footway and kerb and gutter reinstated at the developer/applicants expense.

(35) Work within Road Reserve

A Development Consent or any related Construction Certificate does not allow for the erection of a structure or to carry out work in, on or over a public road. Should a structure or work be required a separate approval under S138 of the Road Act 1993 must be granted by Council prior to the commencement of any works within the road reserve. Applications may be made at Council's Customer Service Centre.

(36) Damage within Road Reserve & Council Assets

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

(37) Public Utility & Telecommunication Assets

The owner shall bear the cost of any relocation or modification required to any Public Utility Authority assets including telecommunication lines & cables and restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site.

(38) Stormwater Drainage

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 proposed connection to Council's stormwater pit is to be made as high within the pit as practical and must be at a level at or above the top third of the Council pipe exiting the pit. The connection is to be neat and shall not protrude into the pit. The applicant is required to contact Council's Stormwater Section to inspect the connection to Council's stormwater pit prior to backfilling. A minimum of 24 hours' notice is required for inspections. A Road Opening Permit will need to be lodged with Council for these connection works.

A section of brick kerb and gutter is to be reconstructed at and surrounding the stormwater connections in Andover Street to allow for these connections to be made in accordance with Council Drawing SD016 and for adequate longitudinal fall in the street gutter to be maintained.

(39) Garbage Room

The proposed garbage room must be provided with the following:

- a) A smooth concrete floor graded and drained to a floor waste connected to the sewer of the Water Board.
- b) The walls being cement rendered with the intersection of the walls and floor being coved to a radius of not less than 25mm.
- c) The door being close fitting to prevent the access of rats and mice.
- d) A cold water hose cock being provided for the cleaning of containers and the room itself.
- e) Ventilation being provided by means of direct connection to the outside air to the satisfaction of Council.
- f) A sign, minimum size 600mm x 600mm, directing residents not to place recyclables in garbage carts and encouraging residents to recycle. Details of an acceptable wording for the sign are available from Council.

(40) Hours of Construction

Construction may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday.

(41) Restriction on Hours of Excavation (other than single residential dwelling)

Despite the general hours of construction above,

- a) The hours where rock breaking, cutting, hammering and drilling occur shall be limited to 9:00am – 4:00pm on weekdays only.
- b) A noise management plan for the above works, prepared by a suitably qualified acoustical practitioner in accordance with the Interim Noise Construction Guidelines prepared by the Department of Environment & Climate Change NSW, must be submitted to Council prior to commencement of any excavation works.

(42) Provision of Amenities

Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site or as specified by Workcover requirements .

- each toilet provided must be a standard flushing toilet and must be connected:
- to a public sewer; or
- if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council; or
- if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

The provision of toilet facilities must be completed before any other work is commenced.

(43) C440 – Oil/Silt Separator

An oil/silt separator sized to the catchment area must be specified on the Stormwater Detailed Plans and located downstream of the proposed basement car park and prior to discharge to councils stormwater system.

(44) Letter Boxes

Suitable letter box facilities (including Owner's Corporation in the case of strata units) shall be provided in accordance with Australia Post specifications.

(45) Car Wash

One (1) car wash bay shall be provided within the parking area. This space may also be used as a visitor space.

To ensure that wastewater is treated in an acceptable manner, the car wash bay shall be designed and constructed to ensure that wastewater is discharged to the sewer in

accordance with the requirements of Sydney Water. Evidence of a permit issued by Sydney Water shall be submitted.

(46) Basix Certificate Details – DA Only

Construction of building works given Development Consent must be carried out in accordance with a valid and current BASIX certificate and all required commitments must be satisfied.

(47) Air Conditioning / Offensive Noise

Air conditioning plant and equipment shall be installed and operated so as to not create an offensive noise as defined under the Protection of the Environment Operations Act 1997 and Protection of the Environment Operations (Noise Control) Regulation 2008.

(48) Building Finishes

The building finishes are to be constructed in accordance with the colour board and perspective submitted with the Development Application.

(49) Allocation of Car Parking Spaces

A minimum of 30 off street car parking spaces shall be constructed, drained, marked and maintained at all times in accordance with the approved plans. These spaces shall be allocated as follows:

- a) 27 are to be allocated to the residential units.
- b) 3 are to be allocated as visitor parking spaces.

(50) Residential Car Parking Spaces

A minimum of one (1) unrestricted car parking space shall be allocated to each residential unit. Where a three (3) or more bedroom residential unit is provided within the development it is to be allocated two parking spaces in the first instance.

(51) Visitor Parking

A directional sign shall be provided at the front of the site indicating the availability of visitor and/or customer parking on site. Those visitor and/or customer spaces shall be marked or signposted.

(52) Bicycle Parking

A minimum of nine (9) bicycle parking spaces shall be provided within the designated basement bicycle storage area. These spaces are to be designed as Class B facilities in accordance with Australian Standard AS2890.3 – 2015.

(53) Tree Protection

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

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

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

(54) Tree Protection – Excavation

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.

Tree Protection Zone (TPZ) around the trees to be retained are not to have soil level changes or services installed in this area. Any structures proposed to be built in this area of the trees are to utilise pier and beam or cantilevered slab construction.

(55) Tree Retention

The trees identified in the table below shall be retained and not damaged, pruned or removed without the prior approval of Council. These trees shall be protected in accordance with the requirements of Section 4 - Australian Standard AS 4970-2009 - Protection of trees on development sites.

Tree Species	Location of Tree/Tree No	TPZ
<i>Eucalyptus microcorys</i>	Street tree. Balfour St	10m
<i>Eucalyptus microcorys</i>	Street tree. Balfour St	10m

(56) Tree Removal

The trees identified in the table below may be removed:

Tree Species	Location on Site/Tree No	Work Required
2 x <i>Eucalyptus species</i>	27 Andover St	Remove
<i>Hibiscus sinensis</i>	27 Andover St	Remove
<i>Cassia fistula</i>	27 Andover St	Remove
<i>Cupressus species</i>	27 Andover St	Remove
<i>Glochidion ferdinandi</i>	29 Andover St	Remove

All tree removals are to be carried out by a certified Tree Surgeon/Arborist to ensure that removal is undertaken in a safe manner and complies with the AS 4373-2007 - Pruning of Amenity Trees) and Tree Works Industry Code of Practice (Work Cover NSW 1.8.98).

No trees are to be removed on the site or neighbouring properties without the prior written approval of Council.

SECTION E – Prior to Occupation or Subdivision Certificate Conditions

The conditions that follow in this Section E of the Notice of Determination relate to conditions that ensure that the development is completed in accordance with the requirements of the Development Consent prior to the issue of either an Occupation Certificate or a Subdivision Certificate.

(57) Adaptable Housing Certification

Certification shall be provided by a person suitably accredited by the Association of Consultants in Access Australia, verifying that the development has been constructed in accordance with the requirements of AS4299 - *Adaptable Housing* and AS1428 - *Design for Access and Mobility* and in accordance with the report and checklist submitted with the Construction Certificate.

(58) SEPP No 65 Certification

A design verification statement from a qualified designer shall be submitted verifying that the development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to the design quality principals of State Environmental Planning Policy No. 65.

(59) Completion of Landscaping

Certification shall be provided from a suitably qualified and experienced Landscape Designer or Landscape Architect. This Certification shall verify that the landscape works have been completed in accordance with the approved detailed landscape plan and relevant conditions of this consent.

Note: A Landscape Designer is a person eligible for membership of the Australian Institute of Landscape Designers and Managers and a Landscape Architect is a person eligible for membership of the Australian Institute of Landscape Architects as a Registered Landscape Architect.

(60) Safety Mirror

A Convex safety mirror shall be installed in the south-west corner of the ground level carpark and the north-west corner of the basement carpark to improve driver visibility near the driveway ramps.

(61) Consolidation of Lots

The lots covered by this development consent shall be consolidated into one lot and proof of registration of the consolidation shall be submitted to Council.

(62) Section 73 Compliance Certificate

A Section 73 Compliance Certificate under the Sydney Water Act, 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.

Following application a “Notice of Requirements” will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water / sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority.

(63) Stormwater Compliance Certificate

A Stormwater Compliance Certificate is to be obtained for the constructed on-site stormwater management systems in conjunction with the works-as-executed drawings and the final inspection. This Certificate is to be signed by an accredited hydraulic engineer (preferably be the original design consultant) and submitted to the Principal Certifying Authority. Copy of the standard Stormwater Compliance Certificate is shown in Council’s Water Management Policy.

If the proposed works involve Council owned stormwater infrastructure (or infrastructure to be owned by Council), then the applicant should organise inspection with Council and pay Council the appropriate inspection fee. Inspection is to be carried out at the following specified stages:

- Prior to backfilling of pipelines trenches.
- Prior to backfilling of drainage connection to pipeline or channels.
- Prior to casting pits and other concrete structures including kerb and gutter, aprons, pathways, vehicular crossings, dish crossings and pathway steps.

(64) Positive Covenant

A Restriction on Use of the land and Positive Covenant shall be created and registered on the title of the property, which places the responsibility for the maintenance of the on-site stormwater management system on the owner of the land. The terms of the instrument are to be generally in accordance with the Council’s standard terms and conditions for Restriction on Use of the land and Positive Covenant shown in Council’s Water Management Policy.

(65) Maintenance Schedule

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

(66) Fire Safety Schedule

Certain items of equipment or forms of construction shall be nominated as "fire safety measures" within the building.

Upon completion of works, and before occupation of the building, each of the fire safety measures is required to be certified by an appropriately competent person (chosen by the owner of the building). The certificate is to state that the measure was inspected and found to be designed, installed and capable of operating to a standard not less than that required by the relevant regulations.

Further, it is the responsibility of the owner of the building that each fire safety measure is again inspected and certified as to its condition every twelve (12) months following the submission to Council of the original certification.

(67) BASIX Completion Receipt

In accordance with clause 154C of the Environmental Planning and Assessment Regulation 2000, prior to issuing a final occupation certificate the certifying authority must apply to the Director-General for a BASIX completion receipt.

SECTION F – Prescribed Conditions

The following are prescribed conditions of development consent pursuant to s.80A(11) of the Environmental Planning and Assessment Act 1979 and cl.98 of the Environmental Planning and Assessment Regulation 2000.

(68) Compliance with the Building Code of Australia

The development must be carried out in accordance with the provisions of the Building Code of Australia.

(69) Insurance Requirements under Home Building Act 1989

The builder or person who does the residential building work must comply with the applicable requirements of Part 6 of the Home Building Act, 1989. This means that a contract of insurance must be in force in accordance with Part 6 of that Act before any building work authorised to be carried out by the consent commences.

It is the responsibility of the builder or person who is to do the work to satisfy Council that they have complied with the applicable requirements of Part 6 of the Home Building Act, 1989.

If Council is the Principal Certifying Authority it will not carry out any inspections until a copy of the insurance certificate is received.

(70) Erection of Signs

A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and

- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the work site is prohibited.

The sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

(71) Notification of Home Building Act 1989 Requirements

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

- (a) in the case of work for which a principal contractor is required to be appointed:
 - (i) the name and licence number of the principal contractor, and
 - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
- (b) in the case of work to be done by an owner-builder:
 - (i) the name of the owner-builder, and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified above becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

(72) Shoring and Adequacy of Adjoining Property

If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (a) protect and support the adjoining premises from possible damage from the excavation, and
- (b) where necessary, underpin the adjoining premises to prevent any such damage.

The above condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

(73) Council Notification of Construction

The erection of a building which is the subject of a Development Consent must not be commenced until:

- a) Detailed plans and specifications of the building have been endorsed with a construction certificate by Council or an accredited certifier.
- b) the person having the benefit of the development consent has:

- appointed a Principal Certifying Authority (PCA), and
- notified Council (if Council is not the PCA) *in writing* of the appointment, and
- given at least 2 days notice to Council of their intention to commence the erection of the building. The notice may be in writing or by phone.

SECTION G – Demolition Conditions

The following conditions are imposed to ensure the demolition associated with the proposed development is carried out having regard to relevant legislation and does not unreasonably impact on the amenity of the locality or environment.

nil

END CONDITIONS

NOTES/ADVICES

(i) 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.

(ii) 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.

(iii) 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.

(iv) Worksite Safety

It is usually the owner/applicant's responsibility to ensure that the development site is a safe working environment. This may be by the engagement of an appropriately competent principal contractor. There are various legislative and WorkCover requirements with respect to maintaining a safe work-site. Details of these requirements and legislation, as well as, guidance and advisory material, can be found on the WorkCover Website www.workcover.nsw.gov.au.

(v) Worksite Safety Scaffolding

Council is committed to worksite safety and requiring that all scaffolding is installed by competent and qualified professionals with the relative appropriate standards. The applicable Australian Standards for the scaffolding is AS/NZS1576 in respect of the design of the scaffolding and AS/NZS4576 with respect to the erection of the scaffolding. Also, you should ensure that those erecting scaffolding are appropriately qualified and have the appropriate qualifications to erect scaffolding. For further information regarding this please see www.workcover.nsw.gov.au.

(vi) Kid Safe NSW

Kidsafe NSW has produced Safer Homes for Children Design and Construction Guidelines for builders, renovators and home owners. The guidelines identify common hazards for children and recommended practical design applications to improve child safety for all areas of the home. Free copies of the Guidelines are available from Council's Customer Service Centre, or contact Kidsafe on (02) 9845 0890 or their website <http://www.kidsafensw.org/homesafety/index.htm> for more information.

(vii) Dial Before You Dig

Underground pipes and cables may exist in the area. In your own interest and for safety, telephone 1100 before excavation or erection of structures. Information on the location of underground pipes and cables can also be obtained by fax on 1300 652 077 or through the following website www.dialbeforeyoudig.com.au.

(viii) Disability Discrimination Act

This authorisation does not imply that the proposal complies with *Disability Discrimination Act 1992*. The Proponent is responsible to ensure compliance with this and other anti-discrimination legislation. The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS 1428.1 – Design for Access and Mobility. AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under *The Disability Discrimination Act 1992*.

(ix) Demolition Waste

Sorting your construction and demolition waste will save you money. For pricing and disposal options for sorted loads of tiles, bricks, timber concrete or asphalt call Waste Service NSW on 1300 651 116.

(x) Property Address

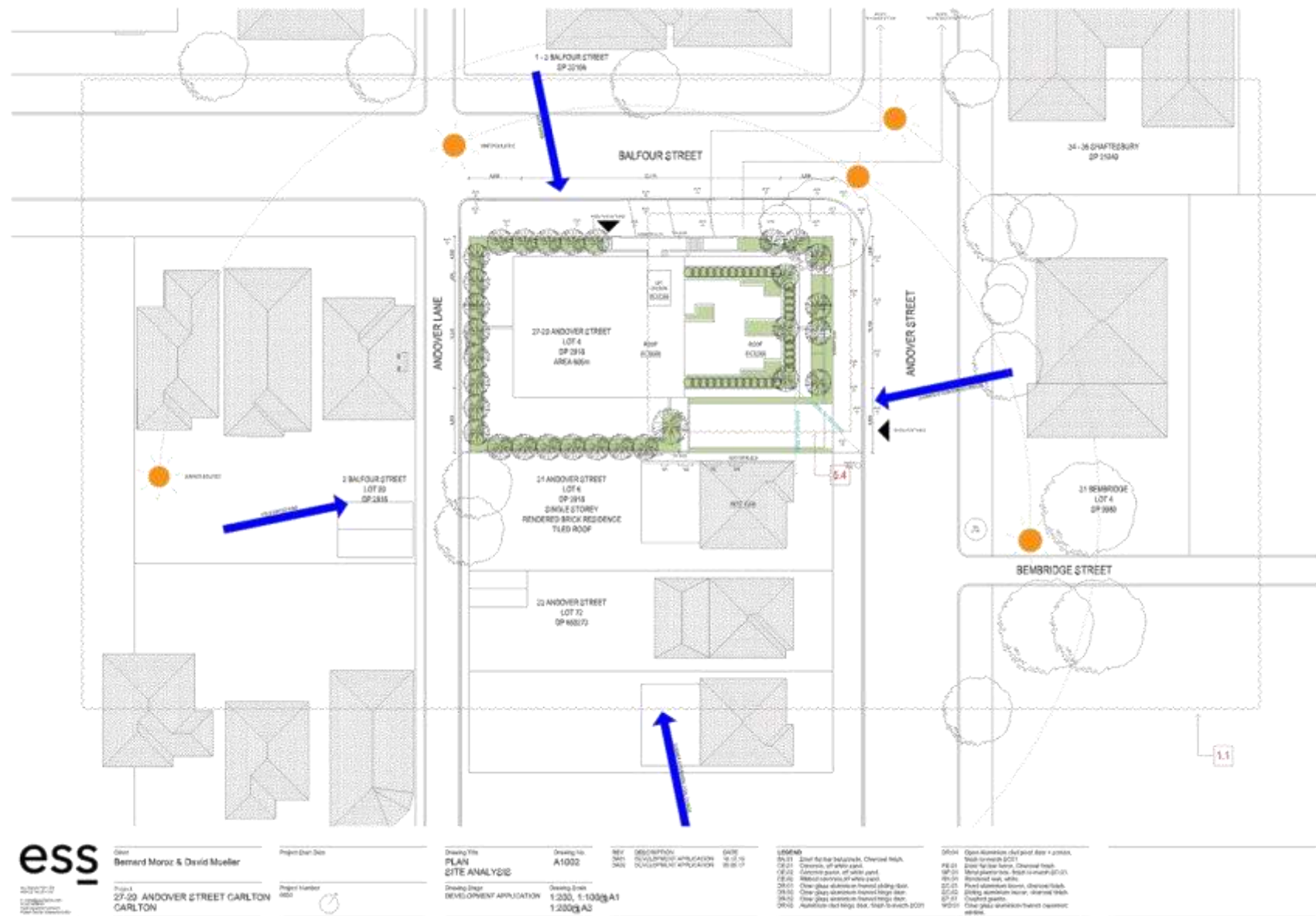
Property addresses shall be allocated by Council in accordance with the Addressing Standard AS/NZS 4819:2011.

ATTACHMENTS

Attachment [View1](#) Site Analysis - 27 - 29 Andover Street Carlton

Attachment [View2](#) North Elevation - 27 - 29 Andover Street Carlton

- Attachment [View3](#) South Elevation - 27 - 29 Andover Street Carlton
- Attachment [View4](#) East Elevation - 27 - 29 Andover Street Carlton
- Attachment [View5](#) West Elevation - 27 - 29 Andover Street Carlton
- Attachment [View6](#) Shadow Diagrams - 27 - 29 Andover Street Carlton
- Attachment [View7](#) Photomontage - 27 - 29 Andover Street Carlton





Client Bernard Morris & David Mueller		Project Draw Date		Drawing Title ELEVATION NORTH		Drawing No. A3051		REV DESCRIPTION DATE		LEGEND	
Project Number 27-29 ANDOVER STREET CARLTON		Project Number 0001		Drawing Sheet DEVELOPMENT APPLICATION		Drawing Sheet 1:1500 A1		001 DEVELOPMENT APPLICATION 15 03 17		00101 Steel Arched Balustrade, Charcoal FPA	
								00102 Concrete, off white sand		00104 Open aluminium clad panel door + window, flush to inside (CCT)	
								00103 Concrete, off white sand		00105 Steel fabric fence, Charcoal FPA	
								00104 Aluclad aluminium off white panel		00106 Round plaster wall, flush to inside (CCT)	
								00105 Char glass aluminium framed sliding door		00107 Round wall, white	
								00106 Char glass aluminium framed light door		00108 Round aluminium fence, charcoal/black	
								00107 Char glass aluminium framed light door		00109 Sliding aluminium fence, charcoal/black	
								00108 Aluminium clad light door, flush to inside (CCT)		00110 Sliding aluminium fence, charcoal/black	
										00111 Sliding aluminium fence, charcoal/black	
										00112 Sliding aluminium fence, charcoal/black	
										00113 Sliding aluminium fence, charcoal/black	



Bernard Moroz & David Mueller

Program Chair: Steve Chong

27-29 ANDOVER STREET CARLTON
CARLTON

Project Number

Drawing Title
ELEVATION
SOUTH

Drawing No.
A2002

Showing Page
DEVELOPMENT APPLICATION

Drawing Unit
 1:500 A1
 1:200 A3

Year	Days of operation	Costs
2005	10,000 days of operation	10,000,000
2006	10,000 days of operation	10,000,000

Legend

SA-31 Silver flat bar (aluminum), Chemical Supply
CR-21 Chromium, off white paint
CR-22 Chromium paint, off white paint
CR-20 White chromium, off white paint
CR-01 Clear glass aluminum framed sliding door
CR-02 Clear glass aluminum framed large door
CR-03 Clear glass aluminum framed large door
CR-04 Aluminum clad large door, high strength 200

0504	Open flume (shallow) flow + zone
FE 01	Flow + zone (FE)
0505	Flow + zone (FE)
0506	Flow + zone (FE)
0507	Flow + zone (FE)
0508	Flow + zone (FE)
0509	Flow + zone (FE)
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0598	Flow + zone (FE)
0599	Flow + zone (FE)
0600	Flow + zone (FE)



Client
Bernard Moroz & David Mueller

Project Date: 2017

Project Name
**27-29 ANDOVER STREET CARLTON
CARLTON**

Project Number
0001

Drawing Title
**ELEVATION
EAST**

Drawing No.
A3053

Drawing Sheet
**DEVELOPMENT APPLICATION
1:1500 A1**

Drawing Sheet
1:1500 A1

DATE
15/09/17

DESCRIPTION
**DEVELOPMENT APPLICATION
DEVELOPMENT APPLICATION**

REVISIONS
1.001 Initial design, based on client brief.
1.002 Revised design, based on client brief.
1.003 Revised design, based on client brief.
1.004 Revised design, based on client brief.
1.005 Revised design, based on client brief.
1.006 Revised design, based on client brief.
1.007 Revised design, based on client brief.
1.008 Revised design, based on client brief.
1.009 Revised design, based on client brief.
1.010 Revised design, based on client brief.

NOTES
1.001 Initial design, based on client brief.
1.002 Revised design, based on client brief.
1.003 Revised design, based on client brief.
1.004 Revised design, based on client brief.
1.005 Revised design, based on client brief.
1.006 Revised design, based on client brief.
1.007 Revised design, based on client brief.
1.008 Revised design, based on client brief.
1.009 Revised design, based on client brief.
1.010 Revised design, based on client brief.

1.001 Initial design, based on client brief.
1.002 Revised design, based on client brief.
1.003 Revised design, based on client brief.
1.004 Revised design, based on client brief.
1.005 Revised design, based on client brief.
1.006 Revised design, based on client brief.
1.007 Revised design, based on client brief.
1.008 Revised design, based on client brief.
1.009 Revised design, based on client brief.
1.010 Revised design, based on client brief.



Client
Bernard Moroz & David Mueller

Project Date/Date

Project Name
**27-29 ANDOVER STREET CARLTON
CARLTON**

Project Number
0001

Drawing Title
**ELEVATION
A3004 WEST**

Drawing Sheet
**DEVELOPMENT APPLICATION
1:500gA1
1:250gA2**

Drawing No.

Sheet Description
**DEVELOPMENT APPLICATION
DEVELOPMENT APPLICATION**

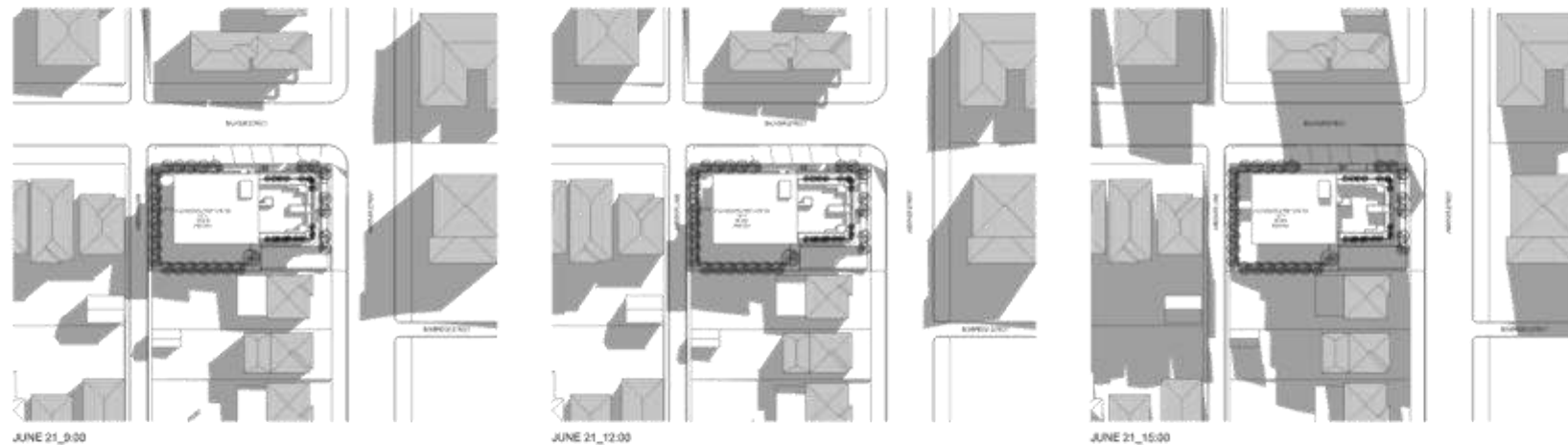
Date

18-09-17

Legend

01/01 Steel fabric balustrade, Charcoal H&A
02/01 Concrete, off white sand
03/01 Common grade, off white sand
04/01 Ribbed concrete, off white sand
05/01 Clear glass aluminium framed bi-part door
06/01 Clear glass aluminium framed bi-part door
07/01 Aluminium clad bi-part door, high to match 0001

08/01 Open aluminium clad panel door + window, high to match 0001
09/01 Steel fabric balustrade, Charcoal H&A
10/01 Ribbed concrete, off white sand
11/01 Ribbed concrete, off white sand
12/01 Clear glass aluminium framed bi-part door
13/01 Clear glass aluminium framed bi-part door
14/01 Clear glass aluminium framed bi-part door
15/01 Clear glass aluminium framed bi-part door



Client
Bernard Moroz & David Mueller

Project Date Date

Project
27-29 ANDOVER STREET CARLTON

Project Number
8881

Drawing Title
SHADOWS
JUNE 21, 9:00AM, 12:00PM, 3:00PM

Drawing No.
A2401

Drawing Sheet
DEVELOPMENT APPLICATION

Drawing Sheet
NT2

REV DESCRIPTION DATE
001 DEVELOPMENT APPLICATION 16-02-17
002 DEVELOPMENT APPLICATION 16-02-17

LEGEND
01/01 Steel fabric balustrade, Charcoal H&A
02/01 Concrete, off white sand
03/01 Concrete, off white sand
04/01 Metal cladding, off white sand
05/01 Charcoal aluminium framed sliding door
06/01 Charcoal aluminium framed light door
07/01 Charcoal aluminium framed light door
08/01 Aluminium clad brick, high to match 1001

09/01 Open aluminium clad panel door + window
10/01 Brick to match 1001
11/01 Charcoal aluminium framed light door
12/01 Charcoal aluminium framed light door
13/01 Charcoal aluminium framed light door
14/01 Charcoal aluminium framed light door
15/01 Charcoal aluminium framed light door
16/01 Charcoal aluminium framed light door
17/01 Charcoal aluminium framed light door
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99/01 Charcoal aluminium framed light door
100/01 Charcoal aluminium framed light door



Client
Bernard Moroz & David Maeder

Project Start Date

Project
27-29 ANDOVER STREET CARLTON
CARLTON

Project Number
4002

Drawing Title
PHOTOMONTAGE
BALFOUR STREET

Drawing Ref
A5001

Drawing Stage
DEVELOPMENT APPLICATION

Drawing Sub
NTS

REV DESCRIPTION DATE
0001 DEVELOPMENT APPLICATION 16.12.16
0002 DEVELOPMENT APPLICATION 05.02.17

LEGEND
00-01 Clear flat sky background, clear blue sky
01-01 Concrete, off-white and
02-01 Concrete, off-white and
03-01 Concrete, off-white and
04-01 Clear glass, aluminium frame, black tinting, door
05-01 Clear glass, aluminium frame, black tinting, door
06-01 Clear glass, aluminium frame, black tinting, door
07-01 Clear glass, aluminium frame, black tinting, door
08-01 Clear glass, aluminium frame, black tinting, door
09-01 Clear glass, aluminium frame, black tinting, door
10-01 Clear glass, aluminium frame, black tinting, door

11-01 Clear flat sky background, clear blue sky
12-01 Clear flat sky background, clear blue sky
13-01 Clear flat sky background, clear blue sky
14-01 Clear flat sky background, clear blue sky
15-01 Clear flat sky background, clear blue sky
16-01 Clear flat sky background, clear blue sky
17-01 Clear flat sky background, clear blue sky
18-01 Clear flat sky background, clear blue sky
19-01 Clear flat sky background, clear blue sky
20-01 Clear flat sky background, clear blue sky

**REPORT TO GEORGES RIVER COUNCIL
IHAP MEETING OF THURSDAY, 21 SEPTEMBER 2017**

IHAP Report No	3.2	Application No	DA2016/279
Site Address & Ward Locality	18 Carlton Crescent Kogarah Bay Kogarah Bay Ward		
Proposal	Demolition of existing structures and construction of a multi-level dwelling, swimming pool and seawall		
Report Author/s	Senior Planner, Kandace Lindeberg		
Owners	Martin Said		
Applicant	Tecton Group		
Zoning	Zone R2 – Low Density Residential		
Date Of Lodgement	16/12/2016		
Submissions	One (1) submission during notification period, one (1) submission outside notification period		
Cost of Works	\$1,012,242.00		
Reason for Referral to IHAP	Unresolved late submission relating to view loss		

Recommendation	That the application be approved in accordance with conditions included in the report.
-----------------------	--

Site Plan



Executive Summary

Proposal

1. Council is in receipt of an application for the demolition of the existing structures and construction of a two (2) storey dwelling house, inground swimming pool and reconstructed seawall on the subject site.

Site and Locality

2. The subject site is located off the southern side of Carlton Crescent and has frontage to crown land adjoining Kogarah Bay.
3. The land comprises a hatchet shape allotment with a 3.6m wide access handle that extends from Carlton Crescent to the main body of the lot. The site has an overall area of 617m² comprising a width of approximately 15.24m and depth ranging from 69.23m and 30.265m throughout its main body.

Zoning and Permissibility

4. The site is zoned R2 – Low Density Residential under KLEP 2012 and the proposal is a permissible form of development with Council's consent. The proposed development satisfies all relevant objectives contained within the LEP.
5. The proposed development satisfies the objectives of the applicable DCP and complements the existing streetscape character. However, the proposal does not comply with Council's controls for:
 - View Sharing
 - Foreshore Locality Controls – Amount of glazing to Foreshore

Submissions

6. One submission was received during the notification period raising the following concerns:
 - Loss of Views
 - Loss of Property Values
7. A late submission was received raising the following concerns:
 - Loss of Views
 - Loss of Property Values

Conclusion

8. Having regard to the Heads of Consideration under Section 79C (1) of the Environmental Planning and Assessment Act 1979 and following a detailed assessment of the proposal Development Application No.279/2016 should be approved subject to the addition of the following specific conditions.

Report in Full

Proposal

9. Council is in receipt of an application for the demolition of the existing structures and construction of a two storey dwelling, swimming pool and seawall on the subject site.
10. The dwelling house comprises two (2) levels, with the floorplate of the ground level split, stepping down with the natural slope of the site. The ground floor level of the dwelling accommodates a two vehicle garage, bicycle storage, stairway access to the level above, study, media room, powder room, kitchen, dining, living, BBQ/outdoor living area and in-ground pool. The upper level of the dwelling accommodates four (4) bedrooms including the master suite with private balcony, ensuite and wardrobe, a family bathroom and family room.
11. The dwelling features cement rendered and painted masonry and light weight clad external walls and feature walls, feature stone, glass balustrading and shallow pitched sheet metal roofing obscured from view at its perimeters by fascia boards and parapets.

The Site and Locality

12. The subject site is located off the southern side of Carlton Crescent between Souter Street and Payten Street and has frontage to crown land adjoining Kogarah Bay.
13. The land comprises a hatchet shape allotment with a 3.6m wide access handle that extends from Carlton Crescent to the main body of the lot. The site has an overall area of 617m² comprising a width of approximately 15.24m and depth ranging from 69.23m and 30.265m throughout its main body. The access corridor forms the driveway access to and from the site and extends through to a concrete ramp where watercraft access is obtained.



14. The site is occupied by a single storey dwelling house comprising of fibro external walls and a gable pitched. Between the dwelling and northern boundary of the site is an annex with a sheet metal roof containing a detached laundry, storeroom and single car garage. Between the dwelling and southern boundary of the site is a turfed area contained by an eroding sandstone sea wall.



View down access handle towards Kogarah Bay



Subject dwelling and access handle (driveway) and neighbouring dwelling (No. 18A) in the background

Background

15. A history of the proposal is provided as follows:

- The application was submitted on 20 December 2016.

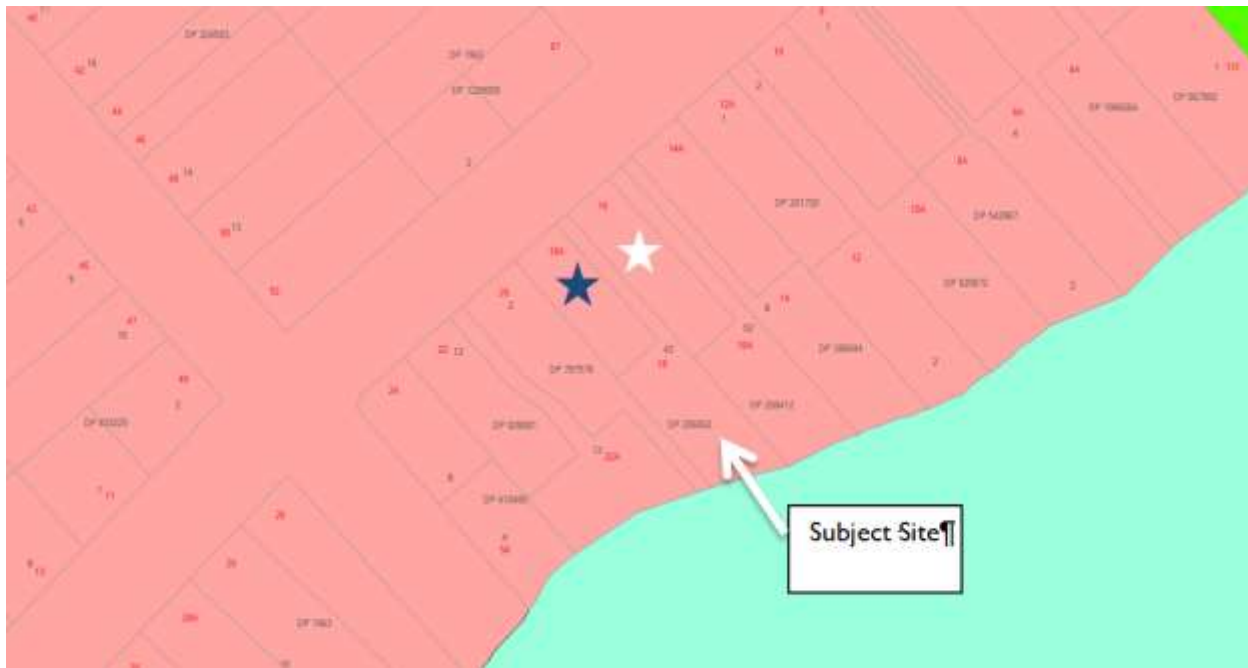
- The application was placed on exhibition, with the last date for public submissions being 9 February 2017. One (1) submission was received from a nearby property during the notification period (16 Carlton Crescent). Concerns raised in this submission relate to view sharing.
- The applicant was requested by letter dated 13 January 2017 to address preliminary issues relating to cost of works, asbestos, development below the foreshore building line, foreshore development including the seawall and architectural plan details.
- The applicant by letter dated 7 February 2017 sought an extension of time to 28 February 2017 in which to respond to Council's issues. The applicant was advised by email that the request was acceptable.
- The requested information was submitted on 9 February, 23 February and 26 February 2017 and referred onto the relevant officers including the Department of Primary Industry for comment.
- On 6 April 2017, a meeting was held onsite with the adjacent property where the objection to the proposal originated. A photo of the current view as obtained from the dining area was taken.
- Numerous discussions were had with the applicant discussing the concerns relating to view loss raised by the submission from 16 Carlton Crescent, which resulted in the applicant being requested via email on 20 April 2017 to amend the plans to widen the eastern side setback with the purpose to enlarge the view corridor to Kogarah Bay from 16 Carlton Crescent.
- A meeting was held in Council's offices on 26 June, where various modifications to the original floor plan were discussed with a view to minimising the view loss experienced by the concerned neighbour. Several discussions were subsequently held negotiating an appropriate outcome.
- A late submission was received from an adjoining neighbour (18A Carlton Crescent) on 6 July 2017 raising concerns relating to view loss and devaluation of property.
- The applicant provided amended plans on 11 August to address the concerns raised by 16 Carlton Crescent during the notification period. The plans rearranged the upper level internal layout to increase the side setback a further 500mm and deleted architectural details to enable oblique views to be obtained across the balcony.
- The nearby neighbour from 16 Carlton Crescent viewed the amended architectural plans at Council's Customer Service on 18 August. The amendments made to address view loss were favourably received.

Kogarah Local Environmental Plan 2012

Part 2 – Permitted or Prohibited Development

Clause 2.1 – Land Use Zones

16. The subject site is zoned R2 – Low Density Residential and the proposal is a permissible form of development with Council's consent and satisfies the objectives of the zone.



Note: White star indicates origin of submission. Blue star indicates origin of late submission

Part 4 – Principal Development Standards

Applicable LEP Clause	Development Standards	Development Proposal	Compliance/ Comment
4.1 Minimum subdivision Lot size	700sqm	617sqm	N/A
4.3 Height of Buildings	9.0m	8.5m	Yes
4.4 Floor Space Ratio	0.6:1	0.54:1	Yes
4.4A Exceptions to Floor Space in R2	0.55:1	0.54:1	Yes

Part 5 – Miscellaneous Provisions

Clause 5.9 – Preservation of Trees or Vegetation

17. The proposed development involves the removal of a non-native tree on the side boundary. Council's tree assessment officer raises no issue with the removal of this tree subject to replacement tree planting being provided within the site. A suitable condition of consent may be imposed to address this recommendation.

Clause 5.10 – Heritage Conservation

18. The subject site is not listed as a heritage item in Schedule 5, is not within a Heritage Conservation Area, nor are there any heritage items located nearby.

Part 6 – Additional Local Provisions

Clause 6.1 – Acid Sulfate Soils

19. The subject site is not shown as being affected by acid sulfate soils as identified on the Acid Sulfate Soil Map.

Clause 6.2 – Earthworks (KLEP 2012)

20. The proposed earthworks are considered acceptable having regard to the provisions of this clause as the works are not likely to have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

Clause 6.3 – Flood Planning (KLEP 2012)

21. The subject site has not been identified as a flood planning area on the Flood Planning Maps.

Clause 6.4 - Limited Development on Foreshore Area

22. The subject site is affected by a 7.6m foreshore building line (FBL) and therefore the provisions of this clause are applicable. The proposed dwelling is contained wholly behind the foreshore building line, however building works are proposed within the foreshore area.
23. The building works proposed within the foreshore area comprise an in-ground pool, pool fencing, sea retaining wall and a below ground rainwater tank. With the exception of the rainwater tank, all works constitute development permissible below the foreshore building line. A condition requiring the relocation of the rain water tank outside the foreshore area is therefore recommended.
24. Amended plans have lowered the pool by 300mm to reduce any unnecessary height of the retaining seawall and improve the visual appearance of foreshore development from the Bay. The significance and amenity of the foreshore area of the subject site will not be unreasonably impacted and the development is consistent with the clause objectives.

STATE POLICIES

Environmental Planning and Assessment Act 1979

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

25. A BASIX Certificate has been issued for the proposed development and the commitments required by the BASIX Certificate have been satisfied.

Deemed State Environmental Planning Policy – Georges River Catchment

26. All stormwater from the proposed development can be treated in accordance with Council's Water Management Policy and would satisfy the relevant provisions of the Deemed State Environmental Planning Policy – Georges River Catchment

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

27. There are no draft planning instruments that are applicable to this site.

DEVELOPMENT CONTROL PLANS

28. The proposed development is subject to the provisions of the Kogarah DCP 2013 (KDCP2013). The following comments are made with respect to the proposal satisfying the objectives and controls contained within the DCP.

Development Control Plan - Compliance Table

29. The following table outlines the proposals compliance with the primary controls contained within the applicable Development Control Plan.

Performance Criteria	DCP Provisions	Proposal	Compliance / Comment
Building Scale			
No of Storeys	2	2	Yes
No of Levels	2	2	Yes
Rhythm of Buildings			
Setbacks			
• Front	-	-	Yes
• FBL	7.8m	7.8m	Yes
• Side (E)	1.2m	1.7m	Yes
• Side (W)	1.2m	1.2m	Yes
Parking requirements			
Residential	2	2	Yes
Other			
Deep Soil Landscaping	15%	16.6% or 102.5sqm	Yes

Open Space

30. The proposed development provides 102.5sqm (16.6%) of deep soil landscaping across the entire site. A condition is recommended which will require the submission of a landscape plan that incorporates a replacement canopy tree and a vegetative buffer between the pool and the foreshore. This will add a necessary softness to the dwelling's hard external appearance.
31. The proposed development provides its principal private open space along the foreshore and includes a swimming pool and terraced areas. The location and nature of the private open space provided is considered acceptable subject to conditions which increase the landscaping along the foreshore.

Vehicular access, Parking and Circulation

32. The proposal provides vehicle access via an access handle from Carlton Crescent. A parking area capable of accommodating two vehicles is located in the north western corner of the site. Adequate manoeuvring area adjacent to the garage is provided to ensure vehicles can exit the site in a forward direction.

Privacy

33. The proposal is well resolved with respect to fenestration and setbacks. Direct overlooking from windows off habitable rooms to adjoining properties is minimised by either offsetting or realigning the orientation of the windows. The master bedroom balcony is orientated to the rear with fixed privacy screening to the side elevation to avoid direct overlooking towards 16A Carlton Crescent. A condition deleting the proposed balcony off bedroom 3 and 4 is to be imposed as the orientation of the balcony encourages direct overlooking of the adjoining property to the north of the site (18A Carlton Crescent). Due to the limited landscaping provided on site, the condition will require the balcony area to be converted into a landscaped roof.

Solar Access

34. The southeast/northwest orientation of the site results in shadow being cast on the 21 June over the private open space of the subject site and the garage of the adjoining property (22A Carlton Crescent) located to the southwest. Given the orientation, overshadowing of some degree is unavoidable, particularly where the neighbour has benefited from increased solar access along its northern elevation, due to the subject site being underdeveloped and of single storey form.
35. The shadow cast is considered acceptable as it does not affect more than 50% of private open spaces or living areas for more than 3 hours in the day (being at the 9am shadow), which complies with Councils development controls contained within the DCP. It should also be noted that the dwelling is low set, 500mm below the maximum height limit which results in a marginal improvement to the shadowing impact of the proposed dwelling. Notwithstanding the orientation, size and scale of adjoining waterfront dwellings, each property is considered to cast significant shadows both onto their own site and their neighbouring southern property.

Views and View Sharing

36. The owner of the adjoining residential property (16 Carlton Crescent, Kogarah Bay) immediately upslope and to the north of the site raises concerns over the impact of the new dwelling, specifically the new upper floor level upon the panoramic views of Kogarah Bay and opposite foreshore currently enjoyed from the dining area at the rear of the dwelling house. A submission was received from the adjoining residential property (18A Carlton Crescent, Kogarah Bay) also upslope and north-west of the subject site. The submission raises a general concern regarding loss of views.
37. The low density housing provisions of KDCP 2013 relating to views and view sharing prescribes that 'development is to provide for the reasonable sharing of views'. The underlying objective of this control is to minimise view loss from adjoining or nearby properties, whilst still recognising the development potential of a site. These provisions also prescribe that applications will be assessed with reference to the view sharing principle established by the Land & Environment Court.
38. In *Tenacity Consulting Pty Ltd v Warringah* (2004 NSWLEC 140), Senior Commissioner Roseth in establishing the planning principle for view sharing made the following comment:

'The notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for their enjoyment. (Taking it all away cannot be called view sharing, although it may, in some circumstances, be quite reasonable). To decide whether or not view sharing is reasonable, I have adopted a four step assessment'
39. An assessment of the proposal in terms of whether it provides for the reasonable sharing of views with respect to the objector's dwelling (16 Carlton Cres) is provided as follows, based on the above planning principle.
40. ***The first step*** is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views are valued more highly than views without icons. Whole views are valued more than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

41. The proposal affects close to long distance views obtained from the main living level (first floor) at the rear of the dwelling across the waterways of Kogarah Bay towards the opposite foreshores of Sans Souci (refer to photographs below) in a southerly direction. The views are unconstrained views at present due to the single storey dwelling which exists on the subject site. They comprise semi-urban views of multi-storey dwellings with waterside ancillary development on the opposite side of the Bay (south east) and distant water views to the south west.
42. The views are of a high value due to their panoramic nature and land/water interface. Their value is enhanced by their varying qualities depending on the direction of the outlook, noting that the view to the southwest towards Georges River has considerable depth and interest including a close view of the immediate eastern foreshores of the adjacent Bay.



Photo 1: South easterly view from 'standing position' in the dining room (no.16 Carlton Crescent)



Photo 2: South easterly view from 'sitting position' in the dining room (no.16 Carlton Crescent)



Photo 3: South easterly view from 'sitting position' in lounge



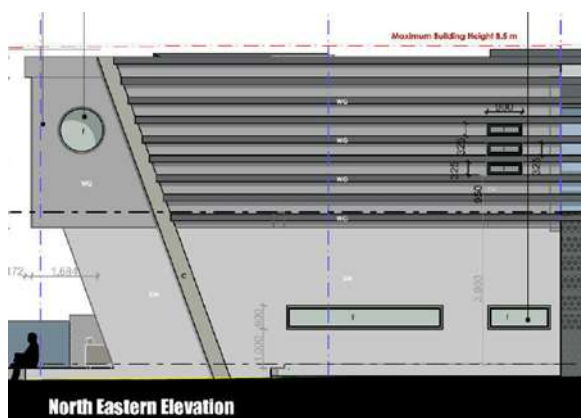
Photo 4: Southerly view from 'standing position' in lounge



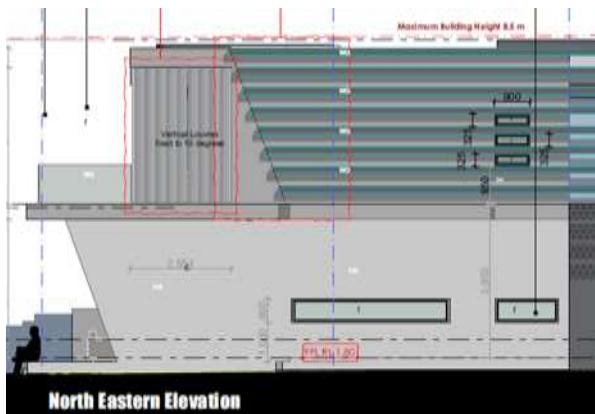
Photo 5: South westerly view from 'standing position' on rear balcony (no. 16 Carlton Crescent)

43. **The second step** is to consider from what part of the property the views are obtained. The protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. The expectation to retain side views and sitting views is often unrealistic.
44. The views of principal concern as detailed in the submission are those obtained from the dining area (photo 1 and 2) located on the first floor main living level at the rear of the dwelling. These views are obtained across the rear boundary and portions of the western side boundary of the objector's property from both sitting and standing positions.
45. **The third step** is to assess the extent of the impact. This should be done for the whole of the property not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued as people spend so much time in them).

46. The objector's property enjoys filtered views across side and rear boundaries in a south easterly, southerly and south westerly direction from the rear dining and living areas of their dwelling and balcony. Views of the water are obtained over the roof of the existing single storey dwelling and a land/water interface view is obtained through a generous eastern side setback. The extent of the impact varies considerably depending on the vantage point chosen.
47. In assessing the extent of view impact, regard has been given to mapping and survey information available within Council's records. From the vantage point of the dining room, the proposed new upper floor level and increased building footprint will ultimately diminish much of the view of the land-water interface and foreshores opposite across the Bay. Unencumbered views across side boundaries are unlikely to be retained. Notwithstanding, the direct view over the rear boundary (south-east over the adjoining dwelling at no.16A Carlton Crescent) will be unaffected due to the angle at which the objector's dwelling is located.
48. As view corridors are being maintained either side of the new upper floor level, the impact from the vantage point of the dining room is deemed to be moderate to severe, depending on the position of the viewing point.
49. ***The fourth step*** is to assess the reasonableness of the proposal that is causing the impact. Where an impact on view arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skillfull design could provide the applicant with the same development potential and amenity and reduce the impact on the view of the neighbours. If the answer to that question is NO, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.
50. The original proposal was considered unreasonable in terms of the view sharing principles as the new upper floor level was to extend across the entire width of the site (within the envelope of minimum side setbacks) occupying a substantial footprint and encroaching upon a generous side setback and existing view corridor along the eastern side of the subject site. The addition has been revised in so that the new upper floor level is setback from the eastern boundary an additional 500mm. The heavy architectural detailing along the western elevation and the extent of the upper floor balcony overhang has been removed to open up oblique views over the glass balustrade and through fixed angled louvres from the elevated living and dining areas of the objector's property.



Original



Revised (heavy architectural features removed)

51. The overall height and scale of the dwelling is not unreasonable having regard to the surrounding context of neighbouring dual level homes. The proposal provides a flat roof design with restrained floor to ceiling heights within the dwelling. The proposal provides a compliant built outcome, sitting beneath the maximum 9m height development standard prescribed by KLEP 2012.
52. It is important to note, there are no reasonable alternatives to the proposal that would still afford the applicant with the same amenity given the single storey scale of the existing dwelling. The site contains a dilapidated dwelling and is highly susceptible to any development. Having regard to the circumstances, the proposal is deemed reasonable.
53. **Upon conclusion**, whilst it is accepted that the views enjoyed from the rear indoor and outdoor living areas on the upper level of the existing dwelling located upslope and to the east of the site will be obstructed to varying degrees, it is not accepted that the associated impact will be devastating as suggested by the objector. At worst, the impact on views will be moderate to severe, depending on the position of the vantage point. Views of the adjacent waterways and foreshores opposite across the Bay and the main channel of Georges River to the southwest will still be maintained over the top and on the eastern side of the new dwelling to a reasonable extent. In view of these circumstances and the foregoing commentary, it is concluded that the proposal results in reasonable view sharing having regard to the planning principle established by the Land and Environment Court.

Ancillary Structures

54. The proposed development is subject to the specific controls for ancillary structures contained within the DCP. The following comments are made with respect to the proposal satisfying the relevant objectives and controls.

Swimming Pools, Spas & Associated Enclosures

55. The proposal involves the construction of a 13.1sqm, quadrangular swimming pool at the rear of the site. The pool has been lowered in a revised submission to sit at natural ground level and below the outdoor living area. The pool is setback 900mm from the rear boundary/MHWM and 1500mm from the western boundary. These setbacks comply with Council's minimum setback standards to boundaries (900mm to coping and 1.5m to water).

Foreshore Locality Plan – Kogarah Bay (North West)

56. The subject site is located within Foreshore Locality Kogarah Bay (North West) and any design for a development within in the locality must have regard to the provisions of Section C4 – Foreshore Locality Controls of KDCP 2013.

57. The site is located within mapping area 3(a) and the following objectives and controls for the proposed development are considered relevant and the following comments are made:

Land Based Development

58. The proposal incorporates a curtain wall of glazing fronting the foreshore. The double height glazing projects from the southern elevation of the dwelling adding dimension and compartmentalizing the impact of a flat glazed façade. The waterfront elevation incorporates a reasonable balance of solid walls to glazed areas despite the proportion of glazed area to solid area on the façade to the waterfront being approximately 55% and exceeding the maximum control (50%). The curtain glazing optimizes opportunity for natural lighting within the internal void of the living areas. Its south facing orientation generates minimal reflectivity, is of low glare and the use of complementary colours and finishes recede the waterfront façade into the background landscape.

Water and Land Interface Development

59. The proposal involves reconstruction of the existing eroding seawall. The proposed seawall protects the natural landforms of the site and protects native vegetation and landscaping close to the water's edge.

Section 94A Contributions

60. The proposed development requires the payment of \$10,122.42 of Section 94A contributions under the provisions of the Georges River Section 94A Plan based on the determined cost of works of \$1,012,242.

Prescribed Matters

61. The requirements of Australian Standard 'AS 2601-1991: *The Demolition of Structures*' are of relevance to the application as the proposal includes demolition of existing buildings on the site. The requirements of this standard including the management of asbestos containing materials may be readily addressed by the imposition of suitable conditions of consent.

Environmental, Social and Economic Impacts

62. The proposed development is of a scale and character that is in keeping with other dwellings being constructed in the locality. Accordingly, the proposal is not considered to have a significant impact on the natural and built environment of the locality.

Suitability of the site

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

Submissions

64. In accordance with the provisions of Council's notification requirements, the application was placed on neighbour notification for a period of fourteen (14) days where adjoining property owners were notified in writing of the proposal and invited to comment. There

were a total of two (2) submissions received, one (1) submission during the notification period and one (1) late submission. These submissions raise the following concerns.

Issue 1 - View Loss

65. Significant concerns are raised over the impact of the new dwelling upon the views currently enjoyed from the existing dwelling houses located upslope on the adjoining properties immediately to the north and north west. Both submissions contend that the proposed dwelling unduly obstructs existing views.

Comment:

66. 16 Carlton Crescent - Council assessment staff have visited the site to which the objection originated and taken photos of the views currently experienced. As a view gained from this property is obtained across side boundaries and over a single storey dwelling, it is unlikely that this view could be retained forever. A reduction in the viewing corridor will occur as a result of the construction of the proposed development, however this is considered reasonable given the nature and degree of views. Furthermore, the application has been assessed against the planning principles in *Tenacity Consulting Pty Ltd v Warringah* (2004 NSWLEC 140), and is deemed acceptable.
67. 18A Carlton Crescent – Council was unable to investigate and resolve the concerns raised in the submission due to the time which the objection was submitted.

Issue 2 - Devaluation of Property

68. Both objections raise concerns that, as a result of the construction of the development, the property value of their dwelling will decrease.

Comment:

69. There is no evidence to suggest that there would be a loss in property values as a result of the construction of the proposed development. Further, loss in property value as a result of the proposal cannot be reasonably assessed and is not a matter for consideration under the provisions of Section 79C of the Environmental Planning and Assessment Act 1979.

Mediation/Public Meeting

70. The objector (16 Carlton Cres) was contacted on several occasions by Council's assessment officer and met on site where the concerns regarding view loss were discussed in detail. The amended plans which set the first floor in 500mm and removed the heavy architectural detailing were presented and reviewed by the objector in Council's offices. The amendments made to the plan were considered satisfactory and accepted.
71. Due to the late receipt of the objection from (18A Carlton Cres), mediation to resolve the concerns raised was not reached. The concerns regarding view loss remain un-investigated and unresolved.

Public Interest

72. The proposed development is of a scale and character that does not conflict with the public interest.

Consultation – Internal and External Referrals

Internal Referrals:

73. The application was referred to Council's Landscape, Stormwater and Traffic Engineers for assessment and comment. Comments were generally supportive of the proposal as amended and recommended conditions of consent were provided.

External Referrals:

74. The works proposed to the seawall required the application be referred to the Department of Primary Industries as the development constituted Integrated Development. A response in support of the application was received which recommends a number of conditions of consent.

Conclusion

75. The application has been assessed having regard to the Heads of Consideration under Section 79C of the Environmental Planning and Assessment Act 1979, the provisions of the relative State Environmental Planning Policies, Local Environmental Plans and Development Control Plans.
76. Following detailed assessment it is considered that Development Application No (DA 279/2016) should be approved subject to conditions

SECTION A - General Conditions

The conditions that follow in this Section A of the Notice of Determination are general conditions which are imposed to ensure that the development is carried out in accordance with the development consent.

(1) Approved Plans of Consent

The development must be implemented in accordance with the approved plans, specifications and details listed below and any supporting information submitted with the Development Application except as amended by any conditions attached to the Development Consent:

- (i) Architectural plans Plan Numbers 1.2, -1.6, 2.1 – 2.6, Revision D, prepared by Tecton Group dated 20.07.2017

SECTION B –Prior to the Issue of a Construction Certificate or Demolition Conditions

The conditions that follow in this Section B of the Notice of Determination relate to the payment of fees, amendments being made to the proposal, further investigation being undertaken or the preparation of documentation that must be complied with prior to the issue of a Construction Certificate or Demolition.

Note: A copy of the Construction Certificate shall be forwarded to Council prior to commencement of construction where Council is not the certifier who issued the Construction Certificate.

(2) Asset & Building Fees

Payment of the following amounts as detailed below:

- Damage Deposit of \$ 1,900.00
- *Builders Long Service Levy of \$ 3,542.00
- Section 94A Contributions of \$10,122.42

*Note: The Builders Long Service Levy quoted is based on the market value of the proposed building works and the Levy Rate applicable at the time of assessing the Development Application and may be subject to change prior to payment.

(3) Section 94A Contributions

As at the date of Development Consent a contribution of \$3,542.00 has been levied on the subject development pursuant to Section 94A Contributions Plan. The amount to be paid is to be adjusted at the time of the actual payment, in accordance with the provisions of the Section 94A Development Contributions Plan.

The Section 94A Contributions Plan may be inspected at Council's Customer Service Centres or online at www.georgesriver.nsw.gov.au.

(4) Dilapidation Report

Prior to issue of any construction certificate or commencement of any demolition or earth works on site, the applicant shall submit, for acceptance by the Principal Certifying Authority (PCA), with a copy forwarded to Council where Council is not the PCA, a full dilapidation report on the visible and structural condition of the following properties;

- (i) All neighbouring buildings likely to be affected by the excavation as determined by the consulting engineer.

The report must be completed by a suitably qualified consulting structural/ geotechnical engineer as determined necessary by that professional based on the excavations for the proposal, the subsoil conditions and any recommendations of a geotechnical report for the site. The report shall have regard to protecting the applicant from spurious claims for structural damage and shall be verified by all stakeholders as far as practicable."

Reports relating to properties that refuse access to carry out inspections to complete the dilapidation report, after being given reasonable written notice to request access (at least 14 days) at a reasonable time (8.00am-6.00pm), are not to hold up the release of the Construction Certificate.

(5) Soil and Water Management

A Soil and Water Management Control Plan, incorporating contour levels and prepared in accordance with Environmental Site Management Policy shall be submitted to Council detailing all measures to control soil erosion and sedimentation runoff from the site during excavation and construction activities.

(6) Revised Landscape Plan

The landscape plan prepared by Zenith Landscape Designs shall be revised having regard to the requirements of section B2 – Tree Management and GreenWeb of Kogarah Development Control Plan 2013.

- (a) The amendments made to the approved architectural plans.
- (b) A vegetation buffer between the pool and foreshore and above the area affected by the drainage easement;
- (c) A reduction in impervious paving to increase deep soil landscaping on site by a further 46sqm (minimum);
- (d) A replacement canopy tree with a minimum pot size 75 litres.

The revised landscape plan shall be prepared by a landscape designer or landscape architect.

Note: A Landscape Designer is a person eligible for membership of the Australian Institute of Landscape Designers and Managers and a Landscape Architect is a person eligible for membership of the Australian Institute of Landscape Architects as a Registered Landscape Architect.

Certification to this effect shall be provided by an accredited certifier.

(7) Sydney Water (DA Only)

The approved plans must be processed through Sydney Water to determine whether the development will affect any Sydney Water asset's (sewer and water mains, stormwater drains and/or easements) and if any further requirements need to be met. An approval receipt will be issued by Sydney Water which is to be submitted to Council or the Principal Certifying Authority.

Please refer to the web site www.sydneywater.com.au for;

- Sydney Water Tap in – see Plumbing, building and developing and then Sydney Water Tap in; and
- Building over/adjacent to a Sydney Water Asset - see Plumbing, building and developing, building then Building Approvals or telephone 13 20 92.

(8) Dilapidation Report for Carriageway

Prior to the issue of any construction certificate or commencement of demolition or earthworks on site, the applicant shall submit for acceptance by the Principal Certifying Authority (PCA), with a copy forwarded to Council where Council is not the PCA, a full dilapidation report on the carriageway servicing the property.

(9) Detailed Stormwater Concept Plan

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

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

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

- a) An energy dissipating structure at the point of discharge is to be provided on a Detailed Stormwater Plan. Discharge from the site must be via a single discharge point. For more information on Kogarah City Council's policies for discharging stormwater directly into bays and reserves, the applicant should refer to Kogarah City Councils Water Management Policy Practice Note 1 "Site Drainage and Flood Management" particularly section 6.2 "Discharge to Natural Areas." The energy dissipating structure is to be completely within the property.

SECTION C – Prior to Commencement of Construction Conditions

The conditions that follow in this Section C of the Notice of Determination are specific to the proposed development and must be complied with prior to the commencement of construction on the site.

(10) Geotechnical Report

Excavation of the site is to extend only to that area required for building works depicted upon the approved plans. All excess excavated material shall be removed from the site. In this regard, all excavated waste materials shall be disposed of at an approved Waste Depot.

No rock breaking or other machinery for the excavation, drilling, cutting or removal of rock shall be used on the site prior to the acceptance by the principal certifying authority of the following documentation:

- (i) A report by a geotechnical engineer detailing the measures recommended in undertaking the works so as to prevent damage to any adjoining or nearby buildings.
- (ii) The type and size of machinery proposed.
- (iii) The routes of all trucks to convey material to and from the site.

(11) Sydney Water (DA & CC)

The approved plans must be processed through Sydney Water to determine whether the development will affect any Sydney Water asset's (sewer and water mains, stormwater drains and/or easements) and if any further requirements need to be met. An approval receipt will be issued by Sydney Water which is to be submitted to Council or the Principal Certifying Authority.

Please refer to the web site www.sydneywater.com.au for;

- Sydney Water Tap in – see Plumbing, building and developing and then Sydney Water Tap in; and

- Building over/adjacent to a Sydney Water Asset - see Plumbing, building and developing, building then Building Approvals or telephone 13 20 92.

(12) Certification of Detailed Plan

The detailed stormwater plan is to be certified by a Chartered Professional Engineer. A statement, that the stormwater system has been designed in accordance with Council's Water Management Policy and satisfies the provisions and objectives of that policy, must be included in the Stormwater Detailed Plan.

(13) Structural Engineer's Details

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

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

(14) Protection of Site – Hoarding

A hoarding or fence must be erected between the work site and the public place if:

- the work involved in the erection or demolition of a building is likely to cause obstruction or inconvenience to pedestrian or vehicular traffic in a public place; or
- if it involves the enclosure of a public place.

If necessary an awning is to be erected which is sufficient to prevent any substance from or in connection with the work from falling into a public place.

Any such hoarding, fence or awning is to be removed when the work has been completed.

If the work site is likely to be hazardous to persons in a public place, it must be kept lit between sunset and sunrise.

(15) Driveway

In respect to vehicular access to the proposed development the gutter crossing and driveway are to be reconstructed between the kerb and street alignment to Council's specifications.

In this regard a separate driveway application is to be lodged with Council for works outside the property boundary. Furthermore the design boundary level is to be received from Council prior to construction of the internal driveway.

(16) Council Infrastructure Inspection

Prior to the commencement of any works an authorised representative of the applicant is to organise and attend a meeting on site with Council's Infrastructure Compliance Co-ordinator to discuss protection of Council's infrastructure. To organise this meeting contact Council's Customer Service Centre on 9330 6400.

(17) Public Liability Insurance

All nominated contractors / applicants carrying out driveway and/or restoration works on Council property must carry public liability insurance with a minimum cover of twenty million dollars (\$20,000,000.00). In this regard, prior to commencement of works, the principal contractor is to lodge an “Application for the Construction of Work by Private Contractor” to Council, which includes submitting evidence of their current insurance. The principal contractor must ensure that sub-contractors are also adequately insured.

(18) Soil Erosion Controls

Prior to commencement of any site works, erosion and sediment controls are to be installed in accordance with Environmental Site Management Policy and any approved Soil & Water Management Plan and shall incorporate:

- Measures to prevent sediment and other debris escaping from the cleared or disturbed areas into drainage systems or waterways;
- Controls to prevent tracking of sand, soil, aggregates, etc, by vehicles onto adjoining roadways.

SECTION D – Construction and Operational Conditions

The conditions that follow in this Section D of the Notice of Determination are imposed to ensure the development is constructed and operates having regard to relevant legislation and does not unreasonably impact on the amenity of the locality or environment during the construction phase or the operation of the use.

(19) Inspections - New Dwelling

The following lists of inspections are the **MANDATORY CRITICAL STAGE INSPECTIONS** that **MUST** be carried out by the Principal Certifying Authority (PCA).

- (a) at the commencement of building works
- (b) after excavation for, and prior to the placement of, any footings, and
- (c) prior to pouring any in-situ reinforced concrete building element, and
- (d) prior to the covering of the framework for any floor, wall, roof or other building element, and
- (e) prior to covering waterproofing in any wet areas, and
- (f) prior to covering any stormwater drainage connections, and
- (g) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
- (h) in the case of a swimming pool, as soon as practicable after the barrier (if one is required under the Swimming Pools Act 1992 has been erected.

Certificates from your engineer or subcontractor are **NOT** acceptable in the first instance for the above inspections. Failure to have your PCA carry out these inspections could result in a delay or refusal to issue an Occupation Certificate.

In addition to the above, it is recommended that the following inspections be carried out for the subject development;

- ☐ Erosion Control

- ☐ Earthworks/Excavation
- ☐ Building setout
- ☐ Landscaping

(20) Storage of materials on Public Road

All building materials or waste containers must be stored within the confines of the site. The storage of such building materials, waste containers or equipment associated with the project upon the public roadway, including the pedestrian footway or unpaved verge, is prohibited.

(21) Use of Crane on Public Road

Prior approval must be obtained from Council a minimum of 24 hours before the use on any site of a crane, hoist or similar machinery that will be used to transfer materials across Council's footpath. This includes cranes that are situated on roadways, footpaths and road reserves.

Any application for approval must be accompanied by the following information:-

- Site sketch indicating the proposed location of the crane, pedestrian controls and traffic controls;
- A copy of current public liability insurance with minimum cover of twenty million dollars (\$20,000,000) indemnifying Council in the event of an incident;
- A copy of an RMS accredited traffic control plan;
- Proof that the local area command of the NSW Police have been advised of the proposal.

The use of a crane, hoist or similar machinery on any site without prior approval is prohibited.

(22) Building Height - Surveyors Certificate

The proposed building is not to be erected at a height greater than that indicated on the approved plan. A certificate from a Registered Surveyor verifying the correct Reduced Level of the ground floor slab and boundary clearances shall be submitted prior to inspection of the steel reinforcement.

(23) Excavation of Site

Excavation of the site is to extend only to that area required for building works depicted upon the approved plans. All excess excavated material shall be removed from the site. In this regard, all excavated waste materials shall be disposed of at an approved Waste Depot (details are available from Council).

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

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

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

(24) 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'*.

(25) Redundant Driveway

All existing vehicular crossings adjacent to the subject premises that have become redundant shall be removed and the footway and kerb and gutter reinstated at the developer/applicants expense.

(26) Work within Road Reserve

A Development Consent or any related Construction Certificate does not allow for the erection of a structure or to carry out work in, on or over a public road. Should a structure or work be required a separate approval under S138 of the Road Act 1993 must be granted by Council prior to the commencement of any works within the road reserve. Applications may be made at Council's Customer Service Centre.

(27) Damage within Road Reserve & Council Assets

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

(28) Public Utility & Telecommunication Assets

The owner shall bear the cost of any relocation or modification required to any Public Utility Authority assets including telecommunication lines & cables and restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site.

(29) Pollution Control

Silt curtains or silt booms are to be installed during the construction of the proposed development to prevent the escape of turbid plumes into the waterway. The silt curtains or silt booms are to be designed to accommodate tidal fluctuations and are to be inspected daily to ensure that they are operating effectively.

(30) Stormwater Drainage

All roof water and surface water from paved or concreted areas being disposed of to the street gutter by means of a sealed pipeline constructed in accordance with AS/NZS 3500.3.2. The line must pass through a silt arrestor pit, a standard design is available within Council's Water Management Policy.

(31) No Offensive Noise

To minimise the noise impact on the surrounding environment, the use of the premises, building services, equipment, machinery and ancillary fittings shall not give rise to

“offensive noise” as defined under the provisions of the Protection of the Environment Operations Act 1997.

(32) Hours of Construction

Construction may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday.

(33) Provision of Amenities

Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site or as specified by Workcover requirements .

- each toilet provided must be a standard flushing toilet and must be connected:
- to a public sewer; or
- if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council; or
- if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

The provision of toilet facilities must be completed before any other work is commenced.

(34) Basix Certificate Details – DA Only

Construction of building works given Development Consent must be carried out in accordance with a valid and current BASIX certificate and all required commitments must be satisfied.

(35) Air Conditioning / Offensive Noise

Air conditioning plant and equipment shall be installed and operated so as to not create an offensive noise as defined under the Protection of the Environment Operations Act 1997 and Protection of the Environment Operations (Noise Control) Regulation 2008.

(36) Swimming Pool/Spa shall be Fenced

The proposed swimming pool and/or spa shall be fenced and constructed in accordance with the Swimming Pools Act, 1992 and the Swimming Pools Regulation 2008. If required, you may confer with Council for assistance with respect to the location of pool fencing.

(37) Pool Filter/Pump no Offensive Noise

Pool plant and equipment shall be enclosed in a sound absorbing enclosure or installed within a building to minimise noise emissions and possible nuisance to nearby neighbours.

The pool plant and equipment shall not be operated during the following hours if noise emitted can be heard within a habitable room in any other residential premises or as

otherwise stated in the *Protection of the Environment Operations (Noise Control) Regulation 2008*:

- Before 8:00am or after 8:00pm on any Sunday and public holiday;
- Before 7:00am or after 8:00pm on any other day.

(38) Building Finishes

The building finishes are to be constructed in accordance with the colour board and perspective submitted with the Development Application and include the following:

External Wall (Masonry): Concrete or similar
 External Feature Wall (VM Zinc): Fish Scale Pattern or similar
 External Feature Wall (Trespa): Bleached Pine or similar
 External Feature Wall (Tile)
 Roof (Colorbond) Woodland Grey or similar
 Roof (Zinc) Dark colour
 Garage Door (Glazed): Obscure Glass

(39) Tree Removal

The trees identified in the table below may be removed:

Tree Species	Location on Site/Tree No	Work Required
Cypress Pine	18 Carlton Crescent/ Tree 1	Removal

All tree removals are to be carried out by a certified Tree Surgeon/Arborist to ensure that removal is undertaken in a safe manner and complies with the AS 4373-2007 - Pruning of Amenity Trees) and Tree Works Industry Code of Practice (Work Cover NSW 1.8.98).

No trees are to be removed on the site or neighbouring properties without the prior written approval of Council.

(40) Tree Replacement

One (1) indigenous canopy tree is to be planted within the subject site and not within 3 metres of any existing or proposed structures. The replacement tree/s should have a minimum pot size of 75 litres.

All replacement trees are to be planted, protected and maintained prior to the issue of the final occupation certificate.

(41) Natural Features

All natural landscape features including trees and other vegetation, natural rock outcrops, soil and watercourses shall remain undisturbed except where affected by necessary works detailed on approved plans;

(42) Reuse of natural rock / sandstone

Excavation of natural rock / sandstone (modify as required) shall be reused on site, being incorporated into the landscaping scheme without interruption to existing/proposed trees and natural rock features that are to be retained. Natural rock / sandstone retaining walls shall be designed by a qualified structural engineer.

(43) Part 7 Permit

The proponent must apply for and obtain a Part 7 permit for dredging and reclamation under the FM Act from DPI Fisheries for the reconstruction of part of the seawall at this site prior to any works on site. Permit application forms are available from DPI Fisheries website.

(44) Use of Environmental Safeguards

Environmental safeguards (silt curtains, booms etc) are to be used during construction to ensure that there is no escape of turbid plumes into the aquatic environment. Turbid plumes have the potential to smother aquatic vegetation and have a deleterious effect on benthic organisms.

SECTION E – Prior to Occupation or Subdivision Certificate Conditions

The conditions that follow in this Section E of the Notice of Determination relate to conditions that ensure that the development is completed in accordance with the requirements of the Development Consent prior to the issue of either an Occupation Certificate or a Subdivision Certificate.

(45) Stormwater Compliance Certificate

A Stormwater Compliance Certificate is to be obtained for the constructed on-site stormwater management systems in conjunction with the works-as-executed drawings and the final inspection. This Certificate is to be signed by an accredited hydraulic engineer (preferably be the original design consultant) and submitted to the Principal Certifying Authority. Copy of the standard Stormwater Compliance Certificate is shown in Council's Water Management Policy.

If the proposed works involve Council owned stormwater infrastructure (or infrastructure to be owned by Council), then the applicant should organise inspection with Council and pay Council the appropriate inspection fee. Inspection is to be carried out at the following specified stages:

- Prior to backfilling of pipelines trenches.
- Prior to backfilling of drainage connection to pipeline or channels.
- Prior to casting pits and other concrete structures including kerb and gutter, aprons, pathways, vehicular crossings, dish crossings and pathway steps.

(46) BASIX Completion Receipt

In accordance with clause 154C of the Environmental Planning and Assessment Regulation 2000, prior to issuing a final occupation certificate the certifying authority must apply to the Director-General for a BASIX completion receipt.

SECTION F – Prescribed Conditions

The following are prescribed conditions of development consent pursuant to s.80A(11) of the Environmental Planning and Assessment Act 1979 and cl.98 of the Environmental Planning and Assessment Regulation 2000.

(47) Compliance with the Building Code of Australia

The development must be carried out in accordance with the provisions of the Building Code of Australia.

(48) Insurance Requirements under Home Building Act 1989

The builder or person who does the residential building work must comply with the applicable requirements of Part 6 of the Home Building Act, 1989. This means that a contract of insurance must be in force in accordance with Part 6 of that Act before any building work authorised to be carried out by the consent commences.

It is the responsibility of the builder or person who is to do the work to satisfy Council that they have complied with the applicable requirements of Part 6 of the Home Building Act, 1989.

If Council is the Principal Certifying Authority it will not carry out any inspections until a copy of the insurance certificate is received.

(49) Erection of Signs

A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the work site is prohibited.

The sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

(50) Notification of Home Building Act 1989 Requirements

Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

- (a) in the case of work for which a principal contractor is required to be appointed:
 - (i) the name and licence number of the principal contractor, and
 - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
- (b) in the case of work to be done by an owner-builder:
 - (i) the name of the owner-builder, and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified above becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

(51) Shoring and Adequacy of Adjoining Property

If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (a) protect and support the adjoining premises from possible damage from the excavation, and
- (b) where necessary, underpin the adjoining premises to prevent any such damage.

The above condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

(52) Council Notification of Construction

The erection of a building which is the subject of a Development Consent must not be commenced until:

- a) Detailed plans and specifications of the building have been endorsed with a construction certificate by Council or an accredited certifier.
- b) the person having the benefit of the development consent has:
 - appointed a Principal Certifying Authority (PCA), and
 - notified Council (if Council is not the PCA) *in writing* of the appointment, and
 - given at least 2 days notice to Council of their intention to commence the erection of the building. The notice may be in writing or by phone.

SECTION G – Demolition Conditions

The following conditions are imposed to ensure the demolition associated with the proposed development is carried out having regard to relevant legislation and does not unreasonably impact on the amenity of the locality or environment.

(53) Demolition Conditions-Asbestos

- (a) Demolition of buildings where asbestos is determined to be present should only occur 7am – 5pm Monday to Saturdays, and must not occur on Sundays or Public Holidays, to ensure that the persons carrying out the work have access to WorkCover professionals if required.
- (b) All asbestos removal shall be undertaken in accordance with the requirements of WorkCover's 'How to Safely Remove Asbestos' Code of Practice and Council's Asbestos Policy.

- (c) Written notice must be provided to Georges River Council five (5) working days (excluding public holidays) prior to commencement of any works.

Written notice is to include the following details:

- Date the demolition will commence
- Name, address, contact details (including after hours) and licence number of the demolisher and asbestos removalist (if different)

Work must not commence prior to the nominated demolition date.

Note: it is the responsibility of the persons undertaking demolition work to obtain the relevant WorkCover licences and permits.

- (d) The owner is to notify all owners and occupiers of premises on either side, opposite and at the rear of the development site five (5) working days prior to demolition. Such notification is to be clearly written on A4 size paper stating the date the demolition will commence and is to be placed in the letterbox of every premises (including every residential flat or unit, if any). The demolition must not commence prior to the date and time stated in the notification.
- (e) A demolition or asbestos removal contractor licensed under the *Work Health and Safety Regulations 2011* must undertake removal of more than 10m² of bonded asbestos (or otherwise specified by WorkCover or relevant legislation).

Removal of friable asbestos material must only be undertaken by a contractor that holds a current AS1 Friable Asbestos Removal Licence.

- (f) Demolition sites that involve the removal of asbestos must display 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 on the site to the satisfaction of Council's officers. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos has been removed from the site to an approved waste facility.
- (g) All asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations (Waste) Regulation 2005. All receipts detailing method and location of disposal must be submitted to Council as evidence of correct disposal.
- (h) A Clearance Certificate or Statement, prepared by a suitably qualified occupational hygienist must be provided to Council upon completion of demolition and asbestos related works, which confirms that the relevant legislative requirements in relation to safe removal and disposal have been satisfied.
- (i) A Work Cover Licensed Demolisher is to be engaged to carry out any demolition works using mechanical equipment where the structure is over 4 metres in height or to carry out any manual demolition works on a structure over 10 metres in height.

- (j) The provision of temporary fences and footpath crossing pads prior to commencement of demolition operations. Further, no waste materials or bins are to be placed on Council's roadways or footpaths.
- (k) No waste materials are to be burnt on site.
- (l) No trees as defined by Council's Tree Preservation Order being removed or damaged on the site without the prior written approval of Council.
- (m) Compliance with the provisions of Australian Standard AS 2601-1991:"The Demolition of Structures", which requires notification of demolition to be submitted at least seven (7) days prior to demolition to the NSW Workcover Authority.
- (n) Effective erosion and sediment control measures are to be undertaken during the course of demolition and building works in accordance with Council's 'Environmental Site Management Policy'. Failure to implement appropriate measures may result in a \$750 Penalty Infringement Notice (individual) and/or \$1,500 (corporation) being issued and/or the incurring of a maximum penalty of \$250,000 (corporation) or \$120,000 (individual) through the Land and Environment Court.
- (o) Appropriate measures are to be implemented on site to control dust and other air borne matter and demolition material is to be stored and stacked in a manner so as to minimise the risk of damage or nuisance to neighbouring properties.
- (p) Council being notified upon completion of the demolition works so that an inspection can be made of the roadway and footpath.
- (q) All non-recyclable demolition material being disposed of at an approved waste disposal depot. Details as to the method and location of disposal of demolition materials (weight dockets, receipts, etc.) should be kept as evidence of approved method of disposal.
- (r) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (a) showing the name, address and telephone number of the principal certifying authority for the work, and
 - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (c) stating that unauthorised entry to the work site is prohibited.

The sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed

END CONDITIONS

NOTES/ADVICES

(i) 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.

(ii) 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.

(iii) 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.

(iv) Worksite Safety

It is usually the owner/applicant's responsibility to ensure that the development site is a safe working environment. This may be by the engagement of an appropriately competent principal contractor. There are various legislative and WorkCover requirements with respect to maintaining a safe work-site. Details of these requirements and legislation, as well as, guidance and advisory material, can be found on the WorkCover Website www.workcover.nsw.gov.au.

(v) Worksite Safety Scaffolding

Council is committed to worksite safety and requiring that all scaffolding is installed by competent and qualified professionals with the relative appropriate standards. The applicable Australian Standards for the scaffolding is AS/NZS1576 in respect of the design of the scaffolding and AS/NZS4576 with respect to the erection of the scaffolding. Also, you should ensure that those erecting scaffolding are appropriately qualified and have the appropriate qualifications to erect scaffolding. For further information regarding this please see www.workcover.nsw.gov.au.

(vi) Kid Safe NSW

Kidsafe NSW has produced Safer Homes for Children Design and Construction Guidelines for builders, renovators and home owners. The guidelines identify common hazards for children and recommended practical design applications to improve child safety for all areas of the home. Free copies of the Guidelines are available from Council's Customer Service Centre, or contact Kidsafe on (02) 9845 0890 or their website <http://www.kidsafensw.org/homesafety/index.htm> for more information.

(vii) Dial Before You Dig

Underground pipes and cables may exist in the area. In your own interest and for safety, telephone 1100 before excavation or erection of structures. Information on the location of underground pipes and cables can also be obtained by fax on 1300 652 077 or through the following website www.dialbeforeyoudig.com.au.

(viii) Demolition Waste

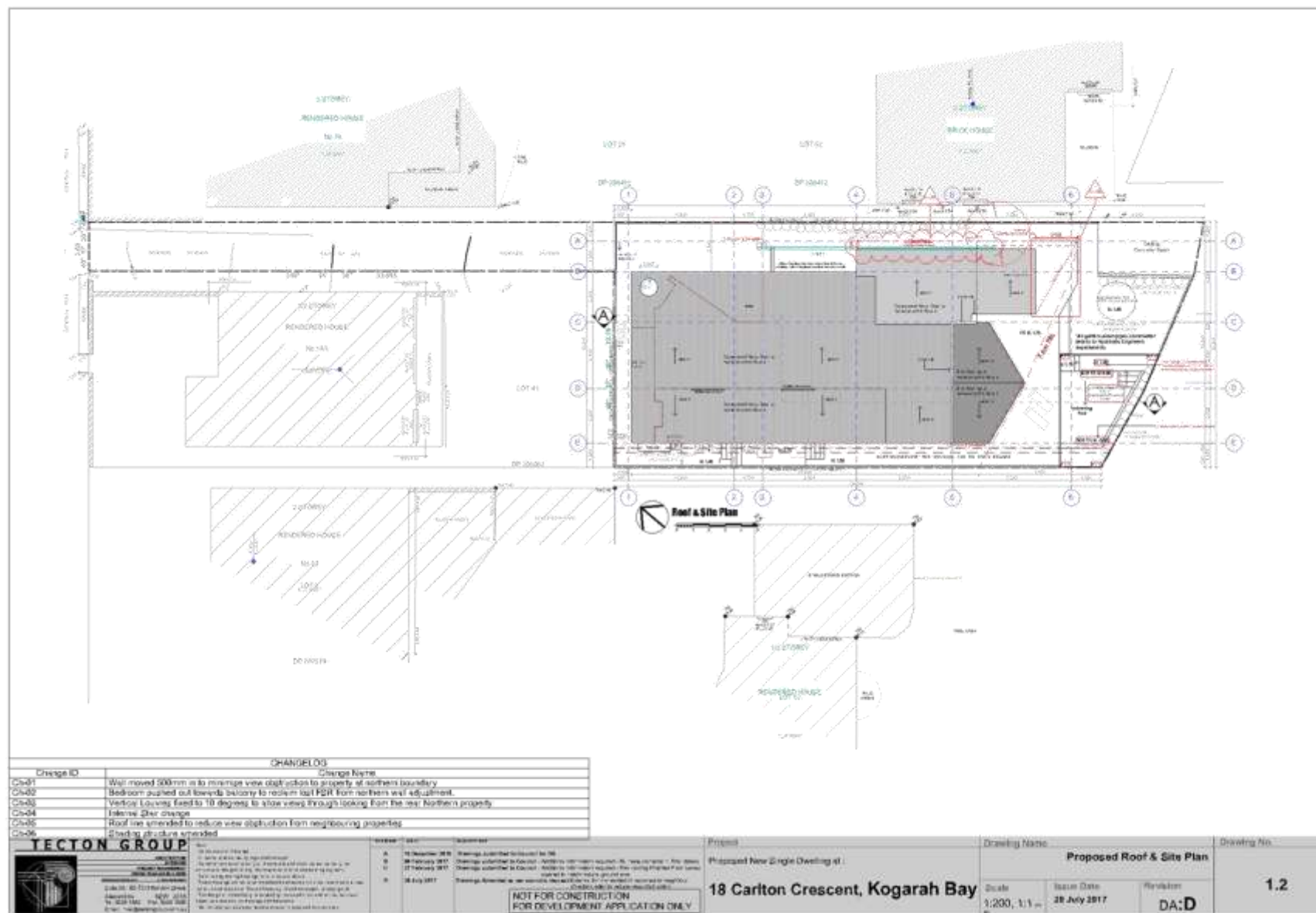
Sorting your construction and demolition waste will save you money. For pricing and disposal options for sorted loads of tiles, bricks, timber concrete or asphalt call Waste Service NSW on 1300 651 116.

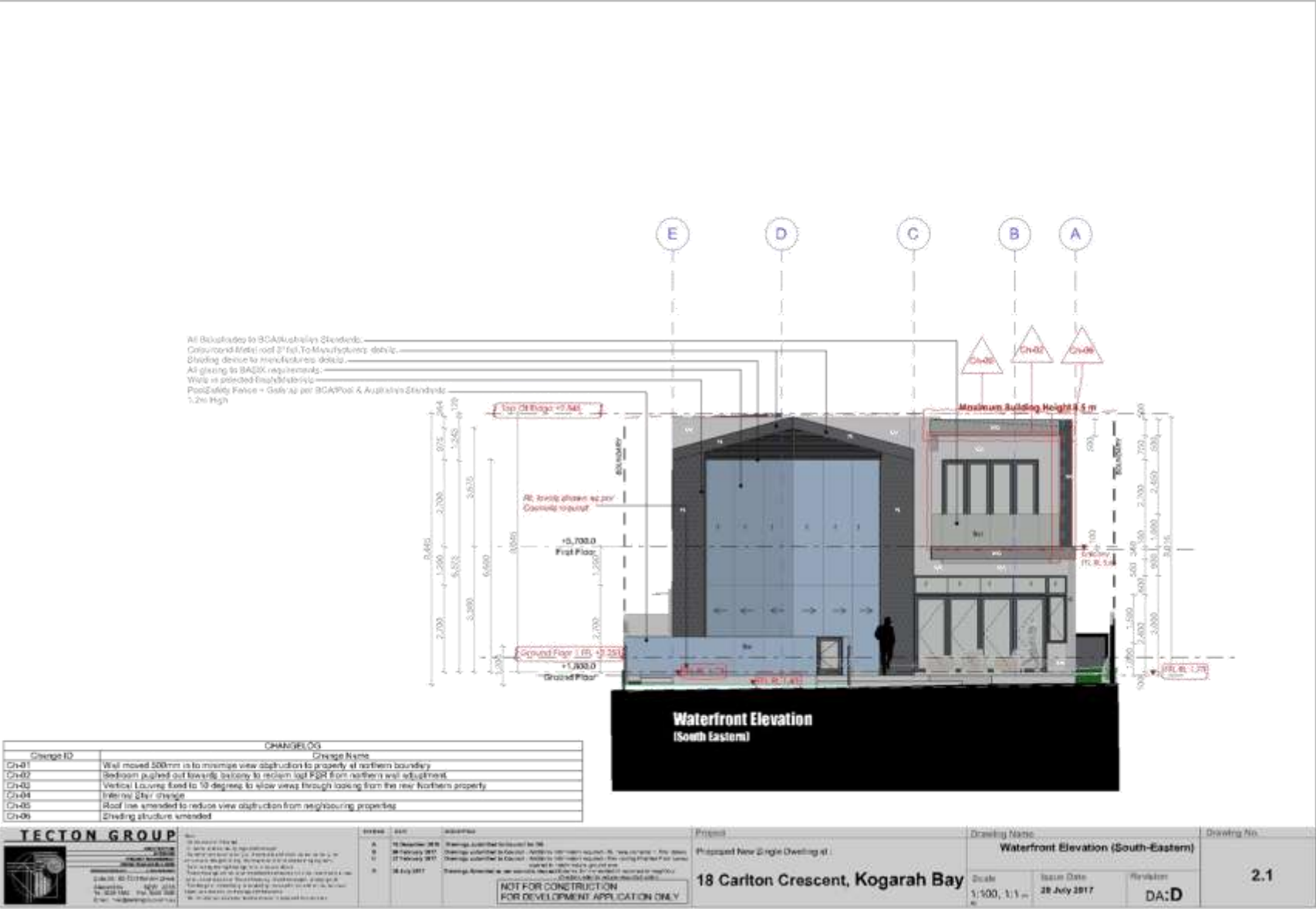
(ix) Property Address

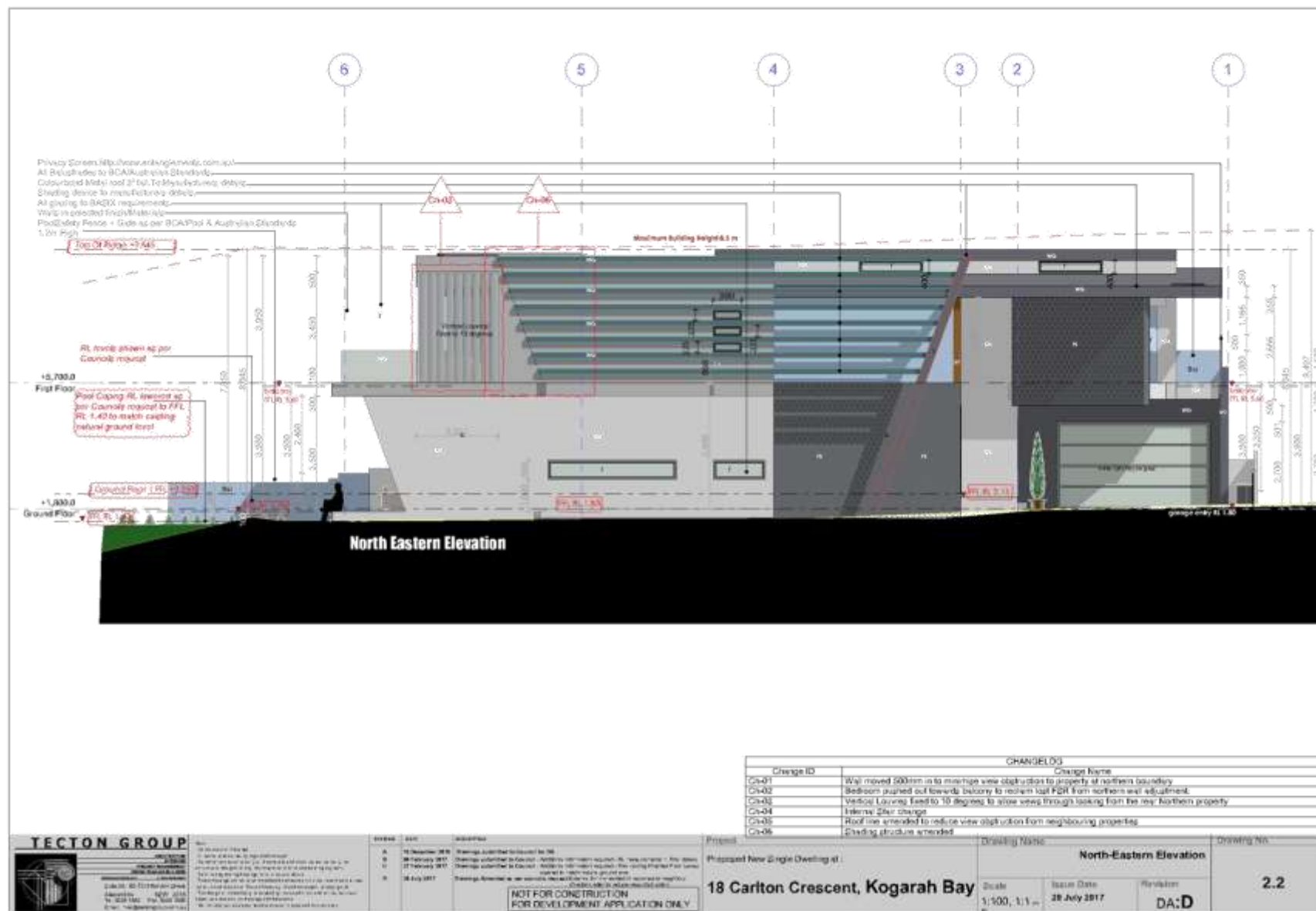
Property addresses shall be allocated by Council in accordance with the Addressing Standard AS/NZS 4819:2011.

ATTACHMENTS

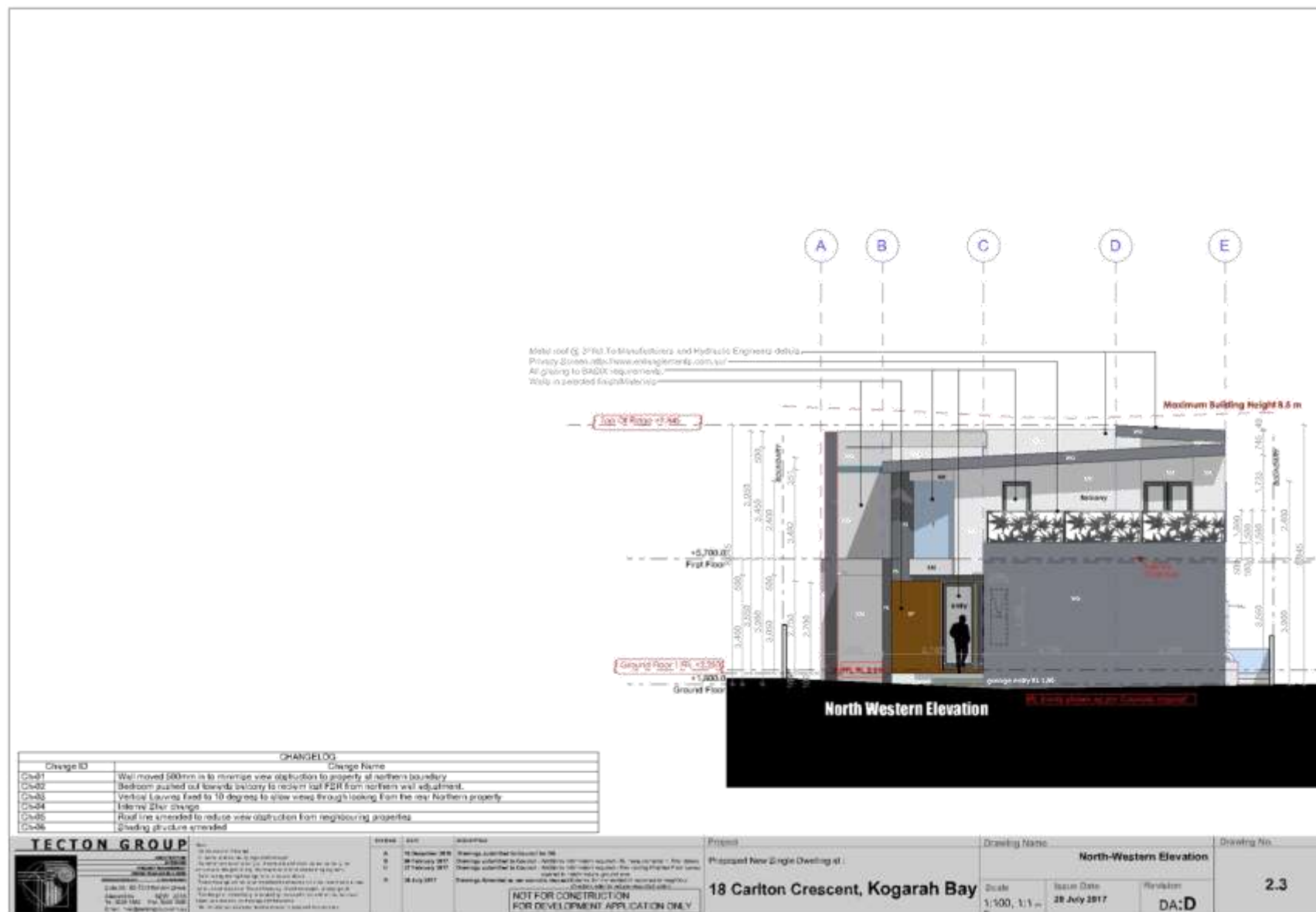
Attachment View 1	Proposed Roof and Site Plan-18 Carlton Cr Kogarah Bay
Attachment View 2	Waterfront South Eastern Elevation -18 Carlton Cr Kogarah Bay
Attachment View 3	North Eastern Elevation-18 Carlton Cr Kogarah Bay
Attachment View 4	South Western Elevation-18 Carlton Cr Kogarah Bay
Attachment View 5	North Western Elevation-18 Carlton Cr Kogarah Bay
Attachment View 6	Pool Details-18 Carlton Cr Kogarah Bay

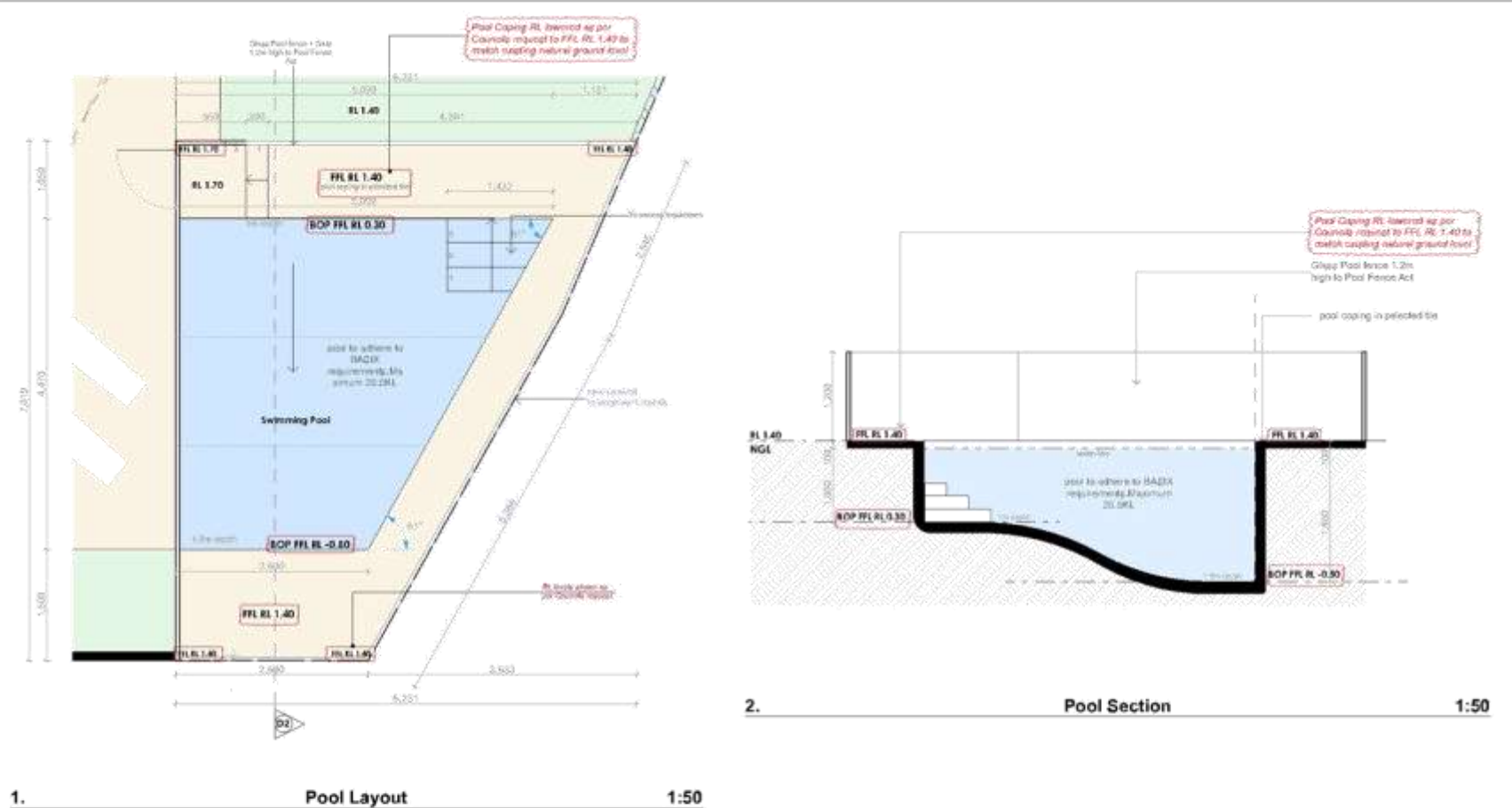












TECTON GROUP  18/19 The Arcade Kogarah NSW 2213 Tel: 02 933 1382 Fax: 02 933 1383 Email: info@tectongroup.com.au	REVISIONS A 18 September 2017 Drawings submitted to Council for DA B 28 February 2017 Drawings submitted to Council for DA C 17 February 2017 Drawings submitted to Council for DA D 28 July 2017 Drawings submitted to Council for DA	PROJECT Proposed New Single Dwelling at 18 Carlton Crescent, Kogarah Bay	Drawing Name Pool Details		Drawing No. 2.6
			Scale 1:50 (plan)	Issue Date 28 July 2017	
			NOT FOR CONSTRUCTION FOR DEVELOPMENT APPLICATION ONLY		

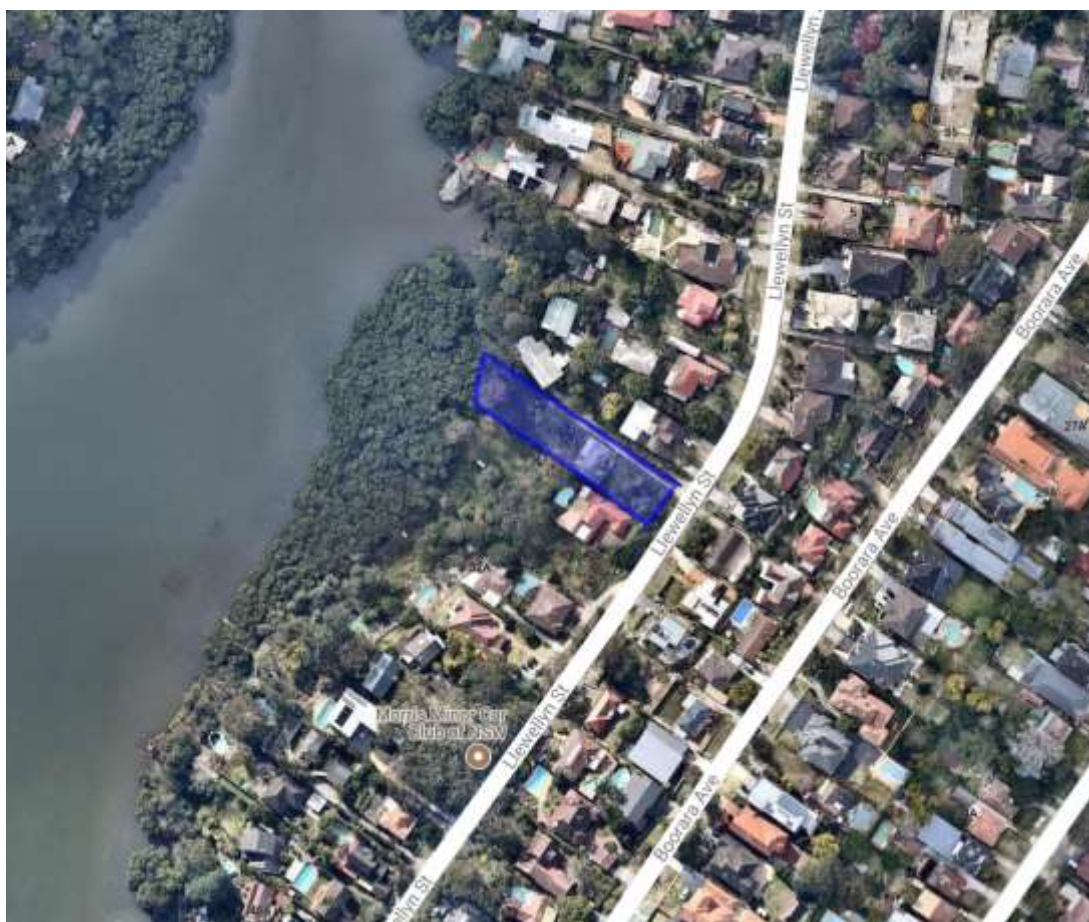
REPORT TO GEORGES RIVER COUNCIL

IHAP MEETING OF THURSDAY, 21 SEPTEMBER 2017

IHAP Report No	3.3	Application No	DA2016/0192
Site Address & Ward Locality	26 Llewellyn Street Oatley Peakhurst Ward		
Proposal	Boundary adjustment to approved subdivision and construction of attached dual occupancy on battleaxe lot		
Report Author/s	Senior Development Assessment Officer, Paula Bizimis		
Owners	Ms Lumb		
Applicant	Whinphil Pty Ltd		
Zoning	Zone R2 - Low Density Residential		
Date Of Lodgement	20/07/2016		
Submissions	Three (3)		
Cost of Works	\$1,405,550.00		
Reason for Referral to IHAP	Variations to Hurstville DCP 1 and submissions received		

Recommendation	That the application be approved in accordance with the conditions included in the report.
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Site Plan



Executive Summary

Proposal

1. The application seeks approval for a boundary adjustment of an approved subdivision and construction of a multi storey attached dual occupancy on the battleaxe lot.

Site and Locality

Site Frontage:	20.115m	Site Depth:	44.925m on shortest depth of battleaxe lot
Site Area:	1143.9sqm	Topography:	Slope to the rear of the site
Existing development:	Single storey dwelling house located approximately 25m from the Llewellyn St front boundary		
Special Features: (eg. Easements, trees, carriageways etc.)	Proposed dual occupancy on a battleaxe lot with slope to the rear of the site which adjoins the Georges River		

Zoning and Permissibility

2. The proposed development is permissible in the zone and complies with the development standards relating to dual occupancy development. The proposed development has been assessed against the requirements of the Hurstville Development Control Plan No 1 and seeks variation to the requirements relating to external wall height, floor height above finished ground level and excavation.

Submissions

3. The application was notified/advertised to nine (9) residents/owners in accordance with Council's requirements and three (3) submissions were received in reply. Amended plans were notified to residents who lodged a submission and in response two (2) submissions were received in reply (from the same residents as the original submissions). The issues raised in the submissions include, non-compliance with the requirements of DCP1, overshadowing, view loss, issues relating to stormwater and sewerage.

Conclusion

4. Having regard to the Heads of Consideration under Section 79C(1) of the Environmental Planning and Assessment Act 1979 and following a detailed assessment of the proposal Development Application No DA2016/0192 should be approved subject to conditions of consent.

Report in Full

Proposal

5. The application seeks approval for the boundary adjustment of an approved subdivision and construction of a multi storey attached dual occupancy on the battleaxe lot.

The applicant has amended the proposal from that originally lodged to address issues raised in the assessment of the application and in resident submissions. The amendments undertaken to the plans include:

- Reduction in the height of the development to maximum 7.08m for Building B (northern dwelling) and maximum 8.48m for Building A (southern dwelling)
- Reduction in the lower ground floor level so that access to the private open space area (rear yard) is at existing ground level or one step lower

- Reduction in the width of the balconies on the rear elevation (ground floor) and provision of privacy screens on the side elevations
- Provision of high sill windows to the side elevation on ground floor of both dwellings
- Provision of view diagrams identifying that the amended development will not restrict views to the waterway
- Provision of a Preliminary Acid Sulfate Soil Assessment
- Site plan identifying that existing trees will be retained.

Details of the development, as amended are as follows:

Lower ground floor

Building A

This level will contain a tv room, master bedroom with ensuite, three (3) bedrooms, bathroom, laundry, wc, stairs to the ground floor. A terrace is located on the rear elevation with access off the master bedroom and tv room.

Building B

This level will contain a media/rumpus room, two (2) bedrooms, bathroom, laundry, and stairs to the ground floor. A terrace is located on the rear elevation with access off the media room.

Ground floor plan

Building A

This level will contain the entry to the dwelling, double garage, study/office, storeroom, bathroom, living//dining room, kitchen, and stairs to the lower ground floor. A balcony is located on the rear elevation with access off the living room and dining room.

Building B

This level will contain the entry to the dwelling, double garage, under stair storage, bathroom, living//dining room, kitchen, and stairs to the lower ground floor and first floor. A balcony is located on the rear elevation with access off the living room and dining room.

First floor plan

Building B

The first floor of Building B will contain master bedroom with bathroom and walk-in-robe, bedroom, bathroom, stairs to the ground floor.

Boundary adjustment

The application includes a boundary adjustment of the subdivision approved under 01/DA-227. The boundary adjustment is proposed so that Lot 352 where the dual occupancy will be located, will have an area of 1143sqm (1031sqm excluding access handle). The boundary adjustment will result in the following lots:

	Frontage/width	Site area	Access handle
Lot 351 (front lot)	17.115m	641.8sqm	-
Lot 352 (battleaxe lot that will contain dual occupancy)	20.115m	1143.9sqm (1031.4sqm excluding access handle)	3m

The Site and Locality

6. The subject site is located on the north western side of Llewellyn Streey, Oatley, and is legally described as Lot 35, Section 29, DP 5510. The subject site has a frontage of

20.115m to Llewellyn Street and a rear boundary of 23.79m to the Georges River. The site is located within the foreshore scenic protection area and is subject to a foreshore building line 15m from the mean high water line.

Existing on the site is a single storey weatherboard clad dwelling house located approximately 25m from the Llewellyn St front boundary and will be located on proposed Lot 351. Vehicular access to the existing dwelling house is via a 3m wide driveway which runs along the north eastern boundary of the site.

The site has a fall of approximately 3.5m from Llewellyn St to the front of the existing dwelling house. The site slopes from the street frontage to the rear of the site (Georges River) but also has a cross slope from north to south. Proposed Lot 352 (the area of the proposed development) has a significant slope to the rear of the site of approximately 9m. There are a number of trees and shrubs on the site in front of the existing dwelling house and also to the rear of the site. The slope of the land and the existing vegetation on the front of the site obscures the view of the existing dwelling house from the street.

The subject site is connected to Sydney Water's reticulated water system and sewerage system and Energy Australia electricity grid. The subject site contains a stormwater pipe which runs along the south western boundary of the site from the front property boundary to approximately 40m where the pipe ends and the stormwater discharges towards the Georges River.

Adjoining the site on the northern boundary is 24 and 24A Llewellyn Street which is a battleaxe subdivision with a part one/part two storey dwelling located at the front lot (24 Llewellyn Street) and a two (2) storey at the rear lot (24A Llewellyn Street). The battleaxe lot is serviced by an access handle which is adjacent to the common boundary with the subject site. Adjoining the site on the southern boundary is 28 Llewellyn Street which contains a part one/part two storey dwelling which is obscured from the street due to the topography of the site.

This side of Llewellyn Street is characterised by one (1) and two (2) storey dwellings that are lower than the street. The opposite side of Llewellyn Street is characterised by dwellings which are two (2) and three (3) storeys in height. Llewellyn Street is also characterised by battleaxe allotments with dwellings at the front of the site and on the rear battleaxe allotments.



View of site from street (source: SEE)



Looking to the rear of the site (source: SEE)

Background

7. The subject site has been approved to be subdivided into two lots as follows:
- On 15 May 2001 Council approved Development Application No. 01/DA-227 for the subdivision of the existing lot into two lots. Lot 351 has a frontage to Llewellyn Street and an area of 1032sqm and retains the existing dwelling house. Lot 352 is a battelaxe lot at the rear of lot 351 with an area of 753sqm and a 3m wide access handle adjoining the northern boundary of lot 351.
 - The above development consent has been acted upon and the works completed. On 11 May 2004 Council advised the applicant that physical commencement of 2001/DA-227 had occurred.

HURSTVILLE LOCAL ENVIRONMENTAL PLAN 2012

Part 2 – Permitted or Prohibited Development

Clause 2.1 – Land Use Zones

8. The subject site is zoned R2 – Low Density Residential under the Hurstville Local Environmental Plan 2012 and the proposed development is permissible in the zone with the consent of Council. The proposed development complies with the zone objectives.



Part 4 – Principal Development Standards

9. The relevant clauses of the Hurstville Local Environmental Plan 2012 which apply to the proposed development are detailed below.

Clause	Standard	Assessment Under HELP 2012	Complies
1.2 – Aims of the Plan	In accordance with Clause 1.2 (2)	The development is consistent with the aims of the plan	Yes
1.4 - Definitions	“Dual occupancy”	The proposed development is defined as a dual occupancy	Yes
2.3 - Zone objectives and Land Use Table	Meets objectives of R2 Zone Development must be permissible with consent	Development meets objectives Is permissible development with consent	Yes
2.7 - Demolition	Demolition is permissible with consent	Demolition is not proposed with this application	N/A
4.1A – Minimum lot size for dual occupancies and multi dwelling housing	Dual occupancy – 630sqm if land identified as “G” on lot size map; 1000sqm if land identified as “K” on lot size map	Land is identified as “G” on the lot size map which requires 1000sqm of site area. Dual occupancy = 1031.4sqm (excluding access handle)	Yes
4.1B – Exception to minimum sizes for	Subdivision may be granted if there is a	Subdivision is not proposed with this	N/A

dual occupancies	dual occupancy and after the subdivision there will only be 1 dwelling per lot	application	
4.3 – Height of Buildings	9m as identified on Height of Buildings Map	8.48m maximum	Yes
4.4 – Floor Space Ratio	0.6:1 as identified on Floor Space Ratio Map	0.4:1	Yes
4.5 – Calculation of floor space ratio and site area	FSR and site area calculated in accordance with Cl.4.5	In accordance with Cl. 4.5	Yes
5.9 – Preservation of Trees or Vegetation	Trees to be removed are specified in DCP No.1	The trees located on the subject site will be retained. Some shrubs located within the building footprint will be removed.	Yes
6.1 – Acid Sulfate Soils*	Acid Sulfate Soils Management Plan must be prepared	The subject site is identified as being within Class 5 of the Acid Sulfate Soil (ASS) Map. The applicant has submitted a Preliminary ASS assessment prepared by EMM Consulting (dated 5 April 2017). The report concludes that the excavation proposed for the development is unlikely to disturb ASS and recommends treatment of the soil at the construction stage.	Yes
6.3 – Limited development on foreshore area (foreshore area means the land between the foreshore building line and the mean high water mark of the nearest natural waterbody)	Only extension, alteration, or rebuilding of existing buildings; if site features make it appropriate; boatshed, pools or other recreational facilities	No development in the foreshore area	N/A
	Matters to which Council must be satisfied	The proposed development satisfies these requirements	Yes
6.4 – Foreshore Scenic Protection Area (FSPA)	Objectives of clause	The proposed development is consistent with the objectives of clause 6.4	Yes

	<p>Matters for consideration:</p> <p>Impact on topography and vegetation, visual impact; environmental heritage; maintenance of dominance of landscape over built form</p>	<p>The proposed development has been assessed against the matters for consideration and is considered acceptable. The visual impact of the development is acceptable. This is discussed further in the report. The proposed design and external materials and finishes are acceptable. Trees located on the site will be retained.</p>	
6.7 – Essential Services	<p>The following services that are essential for the development shall be available or that adequate arrangements must be made available when required:</p> <ul style="list-style-type: none"> -Supply of water, electricity and disposal and management of sewerage -Stormwater drainage or on-site conservation -Suitable vehicular access 	<ul style="list-style-type: none"> -Adequate facilities for the supply of water and for the removal of sewage available to this land -Stormwater can drain from the site. Council's development Engineer has provided conditions of consent to be attached to any consent granted. -Access handle from Llewellyn St to be used (standard conditions for the submission of separate vehicular crossing application and driveway design) 	Yes

*Works within 500m of adjacent Class 1, 2, 3 or 4 land that is below 5m Australian Height Datum and by which the watertable is likely to be lowered below 1m Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.

STATE POLICIES

Environmental Planning and Assessment Act 1979

10. Compliance with the relevant state environmental planning policies is detailed in the table below.

State Environmental Planning Policy	Complies
Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment	Yes
State Environmental Planning Policy 55 – Remediation of Land	Yes
State Environmental Planning Policy (Building Sustainability Index BASIX) 2004	Yes

DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

11. There are no draft planning instruments that are applicable to this site.

DEVELOPMENT CONTROL PLANS

12. The proposed development is subject to the provisions of the Hurstville Development Control Plan No 1 (DCP). The following comments are made with respect to the proposal satisfying the objectives and controls contained within the DCP.

Development Control Plan - Compliance Table

13. The following tables outline the proposals compliance with the primary controls contained within the applicable DCP.

Development Control Plan No 1 - LGA Wide – Section 3.1 Vehicle Access, Parking and Manoeuvring

14. The extent to which the proposed development complies with the car parking provisions is outlined in the table below.

Development	Requirements	Proposed	Complies
3.1.4.2(a) – Layout	AS2890.1 – Minimum dimensions for 2 car spaces	Two car spaces provided for each dwelling. Dimensions are appropriate.	Yes
3.1.2.1(4) – Ramps, transitions and driveways	AS2890.1 – Maximum driveway gradient = 1 in 4 (25%) Minimum headroom at a grade change (driveway and underside of the front balcony) = 2.2m	Compliance with the relevant Australian Standard is achieved. Ramp grade section submitted which complies.	Yes

Development Control Plan No 1 - LGA Wide – Section 3.4 Crime Prevention through Environmental Design

15. The extent to which the proposal complies with the requirements of this section of DCP1 is outlined in the table below.

CPTED	Requirement	Proposed	Complies
3.4.1.1 – Fencing	Front fence: preferred height of 1m	No fencing proposed	N/A
3.4.1.4 – Entrances	Clearly visible and not confusing	Entrance is clearly visible	Yes
3.4.1.5 – Site and building layout	-Provide surveillance opportunities	Dwellings comply with these requirements	Yes

	-Dwelling addresses street -Habitable rooms are directed towards the front of the building	where appropriate	
3.4.1.6 – Landscaping	Avoid medium height vegetation with concentrated top to bottom foliage	Landscape plan prepared by landscape architect required as a condition of consent.	Yes
3.4.1.8 – Building identification	Dwellings to be clearly numbered	Yes, can be provided	Yes

Development Control Plan No 1- LGA Wide – Section 3.7 Stormwater

16. The development can drain to the street via gravity. Appropriate conditions of consent have been attached to the recommendation, should consent be granted.

Stormwater Assessment	
Existing Stormwater System	On site disposal
Proposed Stormwater System	Gravity to Gungah Bay
Stormwater objectives for development type met?	Yes
Slope to rear (measured centreline of site)	Yes
Gravity to street (from property boundary to street kerb)?	No, gravity to Gungah Bay
Discharge into same catchment?	Yes
Easement required?	No

Development Control Plan No 1 - LGA Wide – Section 3.5 Landscaping

17. There are several trees located on the site which will be retained. Some shrubs located within the building footprint have to be removed to accommodate the development, however these are not significant. The applicant will be required to submit a landscape plan prepared by a landscape architect as a condition of any consent granted.

Development Control Plan No 1 - LGA Wide – Section 4.3 Dual Occupancy

18. The proposed development complies with the requirements of Section 4.3 as follows.

Section 4.3 Dual Occupancy	Design solution	Proposed	Complies
Site Area & Frontage	1000sqm within FSPA 15m width for attached dual occupancy 15m for corner sites, that has the address of the existing house	Site area = 1031.4sqm (excluding access handle) Width = 20.115m FSR = 0.4: 1	Yes
PC14 Landscaped Areas (min. width 2m in any direction) Private Open	25% of Site Area Is provided at ground level Has a minimum 4m x 5m Not steeper than 1 in 20 Directly accessible from a	29% The development complies with other requirements	Yes

Spaces	<p>main living area May include a covered patio area</p> <p>Impervious surfaces at the front are limited to the provision of a driveway and pathway to the dwelling</p> <p>Buildings and structures have a minimum clearance of 3m from tree trunks</p>		
PC2 Building Height	<p>Not on a battleaxe site, maximum wall height 6.8m</p> <p>Where on a battleaxe site maximum building height is 6.7m and 1 storey</p> <p>Maximum cut and fill 600mm (see PC8)</p> <p>Floor levels are a maximum of 1m above the finished ground level</p> <p>Minimum floor to ceiling height 2.4m Maximum 3.6m (not including habitable roof space)</p> <p>Flat roofs, max parapet height is 450mm from uppermost ceiling to the highest point of the parapet</p>	<p>3m – 8.48m (1-2 storeys)</p> <p>>600mm</p> <p>1.31m maximum</p> <p>2.7m minimum</p> <p><450mm</p>	No (1)
PC3 Setback Controls	<p>Front setback to primary street: 5.5m to main face of dwelling OR 4.5m to main face of dwelling where on a corner site & 5.5m to garage</p> <p>Where the first floor at the street frontage has been setback for a balcony, the balcony must provide a 300mm eave overhang to the ground floor</p> <p>State & regional roads may require a greater setback, so vehicles can enter & exit in a</p>	<p>These controls do not relate to battleaxe lots. The setback requirements for battleaxe lots are below.</p>	N/A

	forward direction		
	Minimum setback to a secondary street is 2m		
Side Boundary Setbacks:	FSPA = 1.5m for all setbacks for a battleaxe lot	Dwelling A = 1.5m to garage and 8m to dwelling from “front” boundary, and 1.8m for side setback to all levels. Dwelling B = 16m from “front” boundary and 1.5m for side setback to all levels.	Yes
Rear Setback:	Ground floor level – 7m First floor level – 9m Council may consider lesser setback distances for irregular shaped lots provided that the minimum width and area requirements are met and that performance criteria can be achieved	Dwelling A = 15m minimum for all levels Dwelling B = 15m minimum for all levels	Yes
Battleaxe lots and dual street frontage lots	Outside of the FSPA 900mm to all boundaries except the rear setback In the FSPA 1.5m to all boundaries except the rear Minimum rear setback is 4m to the rear boundary for a battleaxe lot Minimum 4m from the rear wall of the front dwelling to the boundary of the battleaxe lot Dual street or rear lane access min 7m is required from the rear wall of each dwelling to the newly created property boundary	N/A Minimum 1.5m for all boundaries 15m minimum for all levels N/A N/A	Yes
Corner site setbacks	Min 2m from the wall of each dwelling to the secondary street Min 1.2m from the side wall	N/A N/A	

	<p>of the dwelling fronting the secondary street to the boundary of the adjoining dwelling fronting that street</p> <p>Min 3.5m from the rear wall of the dwelling fronting the primary street to the proposed internal allotment boundary</p> <p>Except where in the FSPA, attached garages are allowed on the shared allotment boundary.</p>	N/A	
PC4 Solar access	<p>At least 3 hours of sunlight on the windows of main living areas and adjoining principal private open space of adjacent dwelling between 9.00am & 3.00pm on 21 June</p> <p>Development complies with the <i>Energy Efficiency</i> section in Appendix 1 of the DCP & BASIX</p> <p>Dwelling is sited so that the northern façade of the dwelling will receive the maximum amount of sunshine in winter</p> <p>Buildings are encouraged to minimise exposure to direct summer sun with window shading devices or planting deciduous trees</p>	<p>The development complies with these requirements.</p> <p>The subject site primarily has an east-west elevation and overshadowing from the adjoining development at 24A Llewellyn St and the development itself is inevitable. As such the norther façade of the dwellings is overshadowed for the majority of the day between 91m and 3pm on 21 June. The northern elevation of both dwellings has been amended to reduce the number windows or provide high sill window to mitigate privacy impacts to adjoining developments. A living area (and balcony) to both dwellings is located on the lower ground floor and (upper) ground floor on the rear (west) elevation and will receive sun to the balcony from approximately 1pm on 21 June. This is considered to be acceptable given the orientation of the site and that sunlight will be available to part of both floors during the day. The rear open space area of both dwellings will be in</p>	Yes

		sun for most of the day on 21 June.	
PC5 Visual Privacy	<p>Windows & balconies of main living areas are directed toward the front & rear of the site</p> <p>Windows & balconies of habitable rooms do not directly overlook windows, balconies & open space of adjacent dwellings through</p> <ol style="list-style-type: none"> Fixed external timber battens Splaying of windows Staggering the location of windows Using level changes Increase sill heights using glazing , opaque glass or glass blocks Avoid elevated decks or balconies Increase side boundary setbacks 	The development has been amended from that originally submitted to address potential privacy impacts. Windows have been provided as high sill windows where possible and balconies have been reduced in size.	Yes
PC6 Noise	<p>Noise generators such as plant & machinery including air conditioning units & pool pumps are located away from windows or other openings of habitable rooms, screened to reduce noise or acoustically enclosed</p> <p>For sites close to a busy road or railway line, comply with <i>SEPP (infrastructure) & Rail Corridors and Busy Roads-Interim Guideline</i></p>	<p>Location of air-conditioning units is away from adjoining boundaries.</p> <p>N/A</p>	Yes
PC7 Car Parking & Access	<p>Each dwelling is to provide 1 garage & 1 driveway space</p> <p>Driveways are a min width of 3m and max 6m</p> <p>Driveways are a minimum distance of 1.5m from side boundaries, with the exception of a battleaxe lot</p> <p>Hard stand car spaces within the front setback do not have</p>	<p>Each dwelling has a double garage which is the appropriate option for a battleaxe lot.</p> <p>The access handle to be used as driveway.</p> <p>Ramp grades are appropriate.</p>	Yes

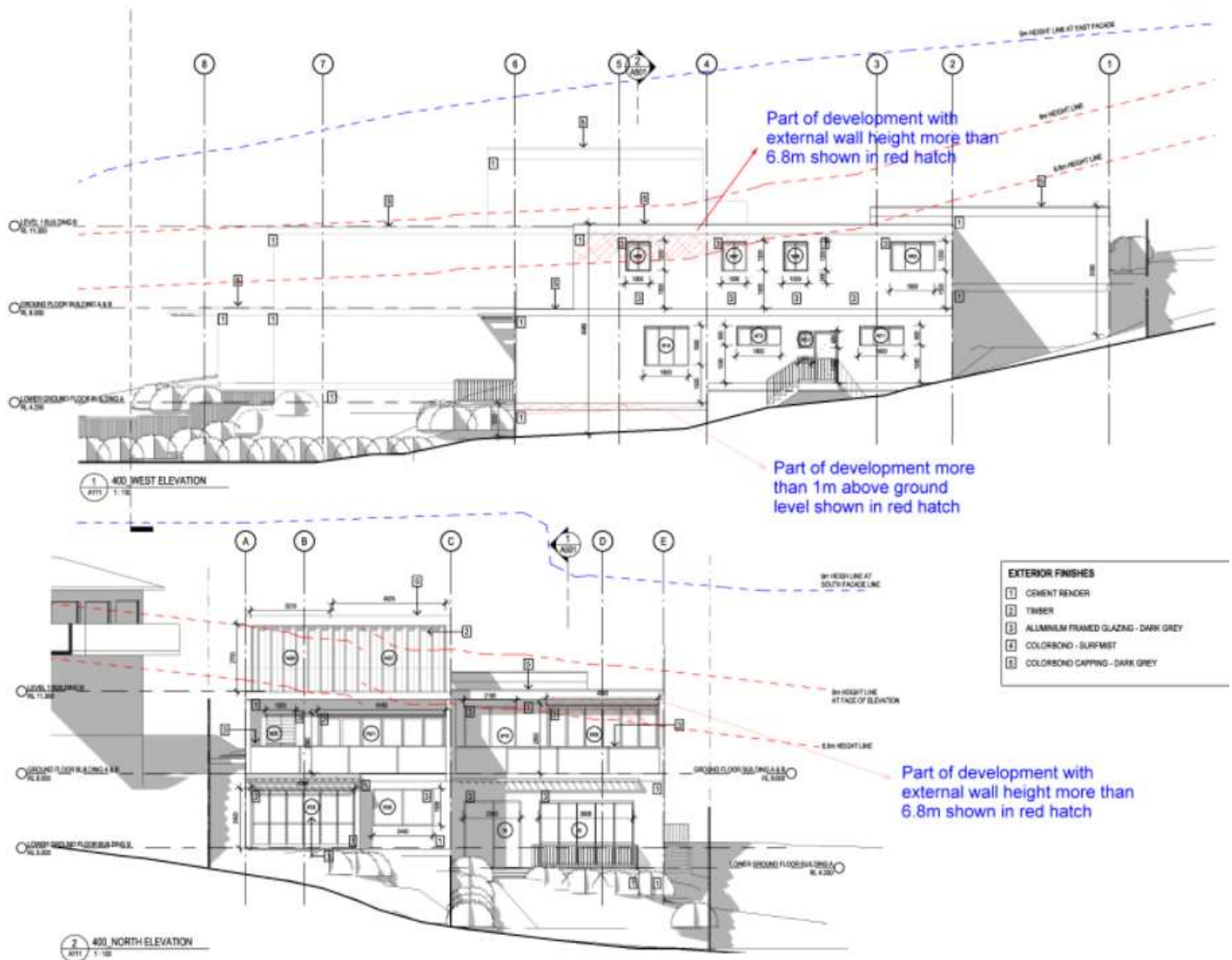
	<p>a slope/grade greater than 1:10</p> <p>Attached dwellings share the same gutter crossing</p> <p>Internal driveway grades in accordance with AS2890.1-2004</p> <p>For corner allotments, the layback is to be a minimum distance of 6m from the tangent point between the kerb line and the start of the curved kerb line clear of the intersection of the two roads</p>		
PC9 Streetscape character	<p>Dwellings to address all street frontages</p> <p>Windows to all street facing elevations</p> <p>Asymmetrical design to provide each dwelling with an individual identity when viewed from the street</p> <p>Incorporate at least 2 design features</p> <ul style="list-style-type: none"> a. Entry feature b. Awnings, louvers, shutters or other features over windows c. Balcony or window box treatment to any first floor element d. Recessed or projection of prominent architectural elements to visibly break up the façade and avoid blank walls <p>Each dwelling entrance is clearly identifiable from the street</p> <p>Maximum roof pitch 35 degrees</p> <p>Highly contrasting colour</p>	<p>Not relevant as development is located on a battleaxe allotment, however the development provides appropriate articulation.</p>	Yes

	schemes is not permitted		
PC10 Subdivision	Attached dual occupancy, the dividing wall between must be of masonry construction and at least 200mm thick	Dividing wall is >200mm	Yes
PC15 Stormwater	Stormwater management is in accordance with the provisions contained in Section 4.4 Dwelling Houses on Standard Lots (PC.11.)	Gravity to Gungah Bay as per conditions of consent provided by Council's Development Engineer.	Yes
PC11 Balconies	Max depth for rear balcony on the first floor is 2m and incorporates fin walls or privacy screens to minimise overlooking Partly recessed balconies are preferred at rear	Rear balconies on ground floor (elevated) are maximum 2m deep with privacy screens on either side. Balconies are not recessed but ground floor sits behind lower ground floor and has a greater setback to the rear boundary.	
PC16 Site utilities	Electricity and phone lines must be underground, except where direct connection to a pole is available Each dwelling must provide space for the storage of garbage bins (min 3m x 1m) and not be visible from the street 6m ³ per dwelling for general storage Mail box must be provided in accordance with AS4353 Outdoor clothes drying must be provided and screened from the street	Development complies with these requirements.	Yes

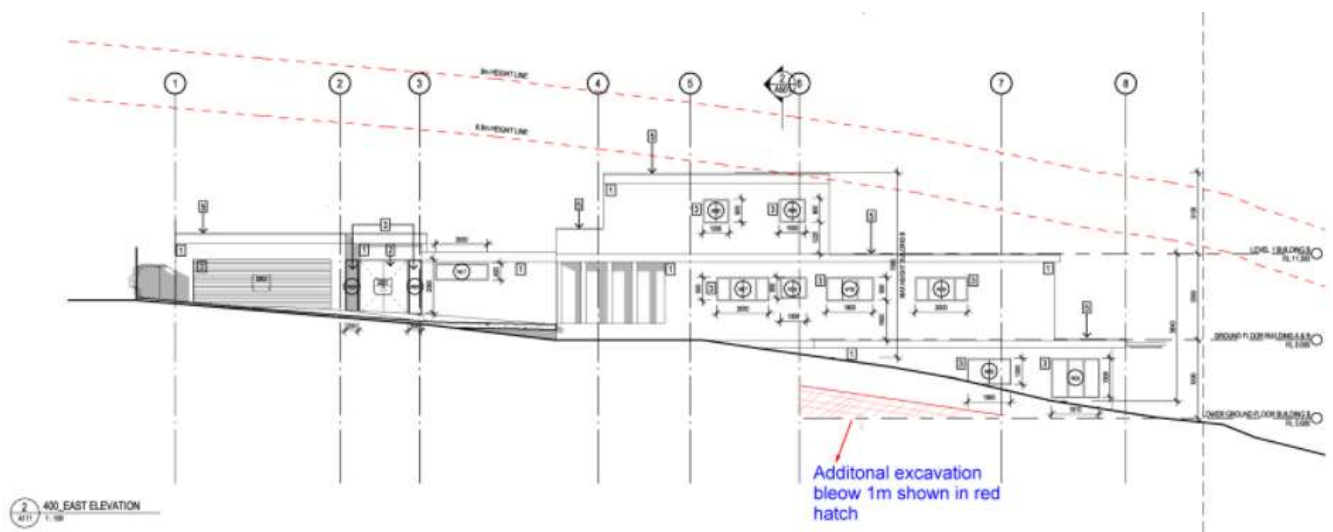
(1) Building Height

19. DCP1 identifies that the maximum height on a battleaxe lot is 6.7m and one (1) storey. The proposed dual occupancy is for an attached "side by side" development on an existing battleaxe lot. The DCP1 includes "design solutions" to be adopted for dual occupancy developments. Option 3 which relates to an attached "side by side" dual occupancy is identified as being for "all sites". In this regard it is considered that a dual occupancy can be considered on the existing battleaxe lot. As such the requirements permit a two (2) storey development with an external wall height of 6.8m.

The proposed development complies with the external wall height of 6.8m except for a portion of the west elevation of Building A at the rear of the building which has a height of approximately 8.1m. This portion of Building A also has a floor level that is maximum 1.3m above the finished ground level. In addition to this the excavation to the site exceeds 1m for a portion of the eastern elevation of Building B for the lower ground floor where the excavation proposed is maximum 2.5m. This is shown in the diagrams below.



Plans showing extent of variation shown hatched in red



Plans showing extent of variation shown hatched in red

The applicant has submitted the following statement in support of the variations proposed:

“The proposed development exceeds the 6.8m maximum ceiling height along parts of the southern elevation. This non-compliance is generally created by the slope of the land and in particular the large rock face through the middle of the site. The departure from the wall height control does not generate any detrimental impacts on adjoining properties in relation to loss of privacy and solar access. The following comments are also made:

- *The scale and bulk of the proposed development is similar to other developments Council has approved in the surrounding area*
- *The proposal will not result in any adverse impacts on the streetscape or from the Georges River*
- *The development is considered to be sympathetic to its surrounds and the variation is only as a result of the steep contours of the site*
- *The proposal will not result in any unreasonable overshadowing and/or loss of privacy to the adjoining land*
- *The proposal complies with all of the other Council requirements and will not have an adverse impact on the adjoining properties; and*
- *It is considered that the proposed development would not have any differing impacts on the amenity of adjoining properties even if compliance with the 6.8m maximum wall height was achieved.*

The proposed development has now been redesigned to ensure that it is located as close to the existing ground level as possible. As a result the lower ground floor of Dwelling A has been reduced from RL5.9m to RL4.2 while the lower ground floor of Dwelling B has been reduced from RL5.9m to RL5.0. Dwelling A now has a maximum height above existing ground level of 1.31m in the south western corner. While it is acknowledged that this is above the requirement of 1m it is considered that it is a minor encroachment and extremely difficult to comply with this requirement when taking into account the site constraints as follows:

- *The design of the dual occupancy has had to take into account the site constraints especially the slope of the site from front to rear as well as the cross slope of the site from north to south. This is particularly evident at the south western corner*
- *The area of the encroachments are only located on the rear and side parts of Dwelling A with the main encroachment being at the rear south western corner. The encroachments are considered to be acceptable when taking into account the site constraints, impact on adjoining properties and the development overall*
- *The encroachments will not have an adverse impact on privacy*
- *The encroachments will not result in any unreasonable overshadowing or loss of sunlight to the adjoining properties; and*
- *The proposal will not result in any adverse impacts on the streetscape or from the Georges River.*

It is considered that the variation is reasonable in the circumstances.”

Comment: The proposed development seeks a variation to the requirements of DCP1 relating to external wall height, floor height above finished ground level and excavation as detailed in the table above. The variations are considered acceptable for the following reasons:

- To respond to the steep topography of the site the dwellings have been designed over two levels for Building A and three levels for Building B. This achieves a functional internal layout of a reasonable size, with appropriate access between each level. Although the dwellings have been designed with numerous levels, the proposed development still maintains a height of two storeys. Due to the topography of the site the wall height of 6.8m cannot be reasonably achieved to the development. The area of noncompliance relates to part of the south western elevation at the rear of Building A. The additional wall height is not readily visible and results in no additional impacts to adjoining developments.
- The proposed development includes excavation of up to 2.5m which is located behind the rear elevation of the lower ground floor of Building B. The floor level of the lower ground floor is at ground level where there is access to the private open space area. The excavation is required to level the ground and provide a floor level which can then be extended over the slope of the site. The excavation to the lower ground floor of Building B allows for a continuous level from the rumpus room to the rear elevation of the dwelling and to the private open space which is located on the existing ground level. It is noted that the ground level on the perimeter of the site will remain as existing. As such it is considered that the excavation to the site is reasonable and necessary to achieve a consistent floor level.
- The design principles identified in DCP1 have been achieved with the proposed development in that each dwelling has a functional internal layout and increased amenity. The design of the development does not result in additional impacts to adjoining developments in terms of solar access and privacy as side setbacks comply with the requirements. Balconies have been provided with privacy screens and windows located on the side elevation of the dwellings are provided as high sill or with translucent glazing where possible to further reduce any privacy impacts.
- The floor space ratio of the development is 0.4:1 which demonstrates that the development is not an overdevelopment of the site, but rather has been designed to address the specific constraints of the site. This has necessitated a variation to the requirements of DCP1.

Development Control Plan No 1 - LGA Wide - Appendix 1 - Section 7 Waste Management

20. A waste management plan has been submitted with the application that is consistent with the provisions of DCP 1.

Development Control Plan No 1 - LGA Wide - Appendix 1 - Section 8 Energy Efficiency

21. The proposal has achieved a BASIX Certificate and therefore complies with the objectives of Section 3.5 of DCP1.

In terms of overshadowing the proposed development complies with the solar access requirements of DCP1 in that adjoining developments will receive at least 3 hours solar access to the principal private open space area between 9am and 3pm on June 21. The windows on the side elevation of the adjoining developments will not be overshadowed by the proposed development between 9am and 3pm on June 21.

Development Control Plan No 1 - LGA Wide - Appendix 1 - Section 9 Preservation of Trees and Vegetation

22. This has been discussed in the report above under the heading Section 3.5 Landscaping.

Section 94 Contributions

23. The proposed development requires payment of \$20,000.00 of Section 94 contributions based on the provision of an additional dwelling on the subject site. The contribution amount is based on the following.

Contribution Type	Contribution Amount
Open Space	\$2,478.00
Community facilities	\$17,522.00
Total Contributions	\$20,000.00

Prescribed Matters

24. Not applicable.

Environmental, Social and Economic Impacts***Natural Environment***

25. The proposed development is unlikely to result in adverse impacts to the natural environment. The existing trees located on the site will be retained with some shrubs located within the building footprint being removed. These shrubs are not significant to the site. A landscape plan prepared by a qualified landscape architect will be required as a condition of any consent granted. The proposed excavation to the site is limited to an area below part of the lower ground floor level of Building B. This excavation is required to provide a consistent floor level which extends to the existing ground level where the private open space area will be accessed from the dwelling.

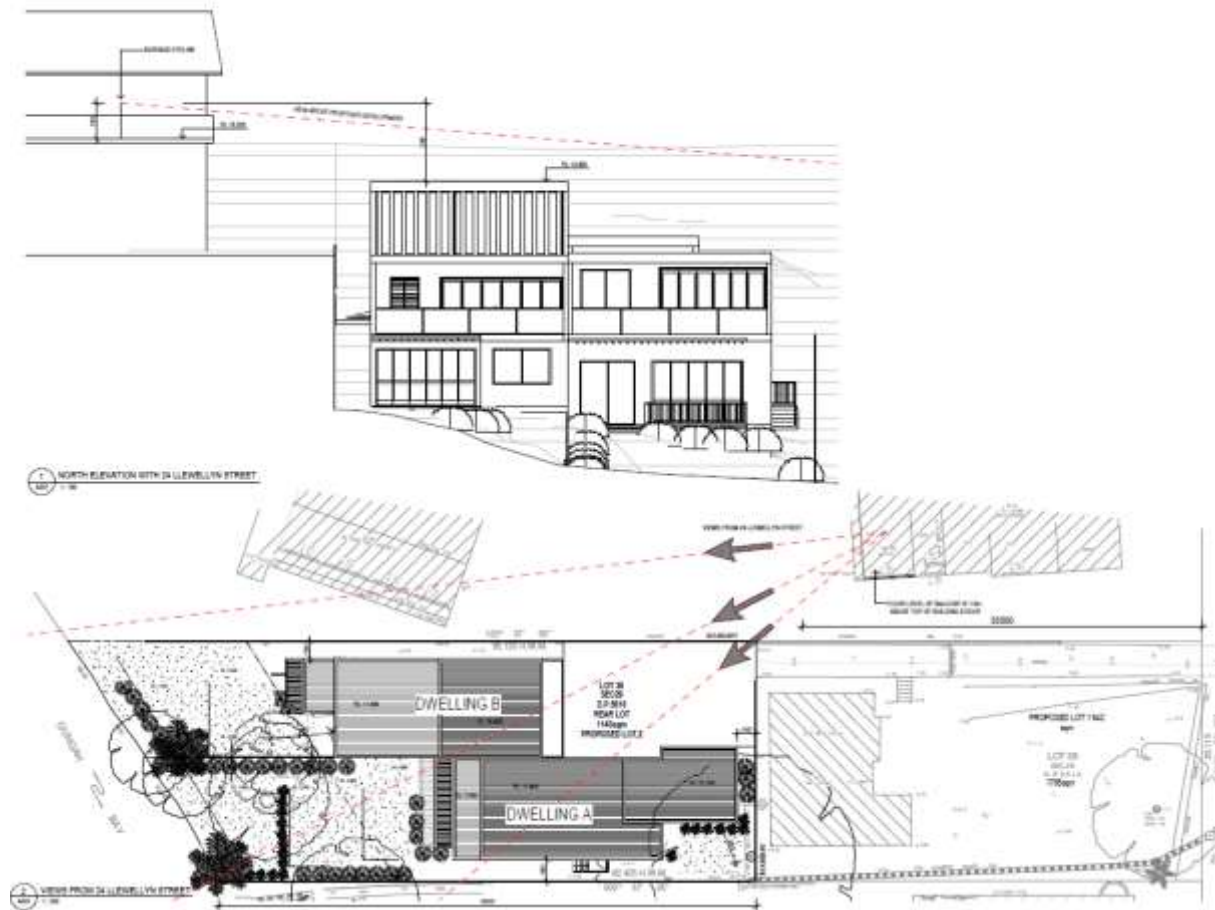
Built Environment

26. The proposed development is unlikely to result in adverse impacts to the built environment. The proposed development complies with the relevant requirements except in the external wall height, floor height above finished ground level, and excavation. These variations are discussed in the report above and are a result of the steep topography of the site and relate to a small portion of the development.

Loss of views

27. In considering the impact on the built environment the potential view loss as a result of the development has to be considered. The potential view loss relates to the views gained from 24 Llewellyn Street which has a frontage to Llewellyn St and adjoins the northern boundary of the subject site. The views gained from the dwelling are to the Georges River from the ground floor private open space area and the first floor living area and balcony which are located on the rear elevation.

The applicant has amended the plans from that originally submitted so that the dual occupancy is lower in height. This has resulted in the floor level of the balcony and living area of 24 Llewellyn Street being 1.8m higher than the topmost part of the roof of the proposed development.



View diagram submitted with application



View of Georges River from balcony of 24 Llewellyn St across 26 Llewellyn St

The lower height of the development has allowed views to be maintained from the balcony and living area of 24 Llewellyn Street. The adjoining neighbour is satisfied with the views gained from this area. What is in contention is that to gain views you have to be standing on the balcony and views will be lost from the ground floor open space area at the rear of the site. To assess this, the planning principles which relate to view loss are addressed below:

Planning Principles

28. The current planning principle on view loss adopted by the NSW Land and Environment Court requires the following to be taken into consideration in assessing view loss:

“Step 1 - The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.”

Comment: The view gained from 24 Llewellyn Street is a view of the Georges River from the ground floor open space area, and balcony and living area from the first floor rear elevation. The views are gained of the Georges River are from the top of trees and at an angle through the vacant site at 26 Llewellyn Street and some views are gained over the existing development located at 24A Llewellyn Street (which is a battleaxe lot located adjoining the Georges River). Whilst the view is not what would be considered to be “iconic”, it is a water view with surrounding area.

“Step 2 - The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.”

Comment: The balcony has a floor level which is 1.8m higher than the topmost part of the roof of the proposed development. As such the view gained at an angle over 26 Llewellyn Street from the balcony and living room windows will be maintained including from the balcony in a sitting or standing position. The view gained from the rear ground floor open space area through 26 Llewellyn Street will be lost except for the views maintained through the side setback area between 24 Llewellyn Street and 24A Llewellyn Street. It is noted that there is no boundary fence between these sites and 26 Llewellyn Street other than a retailing wall and chain wire fence. Should a solid boundary fence be provided, the view gained from the rear ground floor open space area of 24 Llewellyn Street through 26 Llewellyn Street will be lost in any event.

“Step 3 - The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it

includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.”

Comment: The proposed development will result in view loss from the rear ground floor private open space area of 24 Llewellyn Street which is gained at an angle through 26 Llewellyn Street. This view would be lost with the provision of a common boundary fence between the two sites. The view gained from the first floor balcony and living area on the rear elevation of 24 Llewellyn Street will be retained. This is considered to be the most significant of views from the dwelling as there is a clear view of the water over the trees. The view from the ground floor private open space area is obscured by vegetation. In this regard it is considered that the view loss is acceptable.

“Step 4 - The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.”

Comment: The proposed development complies with the requirements of Development Control Plan No 1 in terms of height, floor space ratio and setbacks. The external wall height of the development exceeds the 6.8m requirement but this relates to a corner of the development which does not adjoin 24 Llewellyn Street but rather the rear open space of 28 Llewellyn Street. Compliance with this requirement would not result in a perceivable difference to the view gained from the first floor balcony and living room of 24 Llewellyn Street. It is considered that any development on the subject site including a dwelling house would not have a significantly different height or bulk from that proposed such that there would be no impact on the view to the waterway from the ground floor.

Social Impact

29. The proposed development has no apparent adverse social impact.

Economic Impact

30. The proposed development has no apparent adverse economic impact.

Suitability of the site

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

Submissions

32. The application was notified/advertised to nine (9) residents/owners in accordance with Council's requirements and three (3) submissions were received in reply. When the amended plans were submitted, the residents who lodged submissions to the application were notified and given the opportunity to provide comments. Two (2) submissions were received in reply (from the same residents as the original submissions). The issues raised in the submissions are summarised as follows with the response received from the applicant and Development Assessment Officer (DAO) provided.

Height

33. The height of the development does not comply with the requirements of the Hurstville Local Environmental Plan 2012 and the Hurstville Development Control Plan No 1. Amended elevations don't show overall heights or overall RL's to show dimensions of height. Do the RL's on roof plan reflect the height of the parapets? There is no spot RL's on roof plan to ascertain maximum heights.

Applicant comment: Adequate information has been provided on the plans showing all the RL's and Council has not requested any additional information in relation to this. There are no parapets proposed. RL's have been provided on the roof plan which does show the maximum heights. The proposed development complies with the height requirements under Hurstville LEP 2012 as a result of the amended plans. In relation to Hurstville DCP1 the majority of the development complies with the maximum external wall height of 6.8m. The proposed development does however exceed the 6.8 metre maximum ceiling height along parts of the rear southern and western elevations. This non-compliance is generally created by the slope of the land and in particular the large rock face through the middle of the site. The departure from the wall height control does not generate any detrimental impacts on adjoining properties. It is considered that when taking into account the site constraints and that there are no significant adverse impacts relating to overshadowing, privacy and view loss that the non-compliance is acceptable in this case.

DAO comment: The plans show the RLs for the roof and each level of the development. The variation to the height of the development has been discussed in the report above.

View loss

34. The view diagram has been based on a standing position however this is our family outdoor patio and lounge room and our sitting views will be obliterated. Loss of views and amenity from the back yard has not been addressed only the view from our upper balcony. From preliminary advice received from our surveyor the non-compliance of the roof height restrictions contained in Council DCP will impact on our amenity and view from our backyard. There will be some view losses by the development however a development consistent with the DCP in relation to height and bulk will minimise these view losses and the unacceptable impact on the amenity of our property and adjoining neighbours.

Applicant comment: It has been clearly shown that there will no unreasonable view loss as a result of the proposed development. There is already existing vegetation along the waterfront that restricts the views and views will still be maintained over the proposed development. While it is not stated which eight (8) families would be affected by the proposed development and how this was determined it is clear from the levels and information provided in support of the application that this will not be the case. When viewed from Llewellyn Street the proposed development is lower than the existing single storey dwelling on the site. Due to the amount of vegetation along the waterfront the proposed development will also be well screened from the Georges River. The levels of the proposed development and its stepped design and siting has ensured that there will be no unreasonable visual impact.

DAO comment: View loss has been discussed in the report above.

Privacy impacts

35. The proposed development will result in privacy impacts from the development and the proposed garages.

Applicant comment: It has been demonstrated that the development will not result in any unreasonable impacts on the adjoining properties and it is considered that it should be approved as a result. Amended plans have been submitted to address privacy concerns. As a result it is considered that there will be no significant adverse impacts in relation to privacy on adjoining developments.

DAO comment: The development has been amended from that originally submitted to amend the windows on the side elevations and reduce the depth of balconies on the rear elevation. These changes were made to reduce privacy impacts on adjoining developments. Any potential overlooking from the development is considered to be minimal and acceptable.

Stormwater disposal and flooding

36. The stormwater disposal from the proposed development and potential flooding is inadequate and the issues which applied to the redevelopment of the front lot for a dual occupancy are relevant. Both the Hurstville LGA Overland Flood Study and the PMF (Probable Maximum Flood) Map (attached) show that the western rear end of 26 Llewellyn Street is affected by overland flow as well as showing a PMF level of 4.5m. The Lower Ground Floor of Building A now shows a more Reduced Level of 4.2m. This study does indicate that the proposed subdivision is totally unsuitable for any development, let alone an attached dual occupancy.

Applicant comment: The stormwater disposal for the proposed development is adequate and has no impact in relation to the front of the site or any potential flooding.

DAO comment: Council's Development Engineer has examined the application and raised no objection subject to conditions of consent being attached to any consent granted. The proposed development can be drained in accordance with the requirements of DCP1.

Acid sulfate assessment

37. We acknowledge that an acid sulphate soils assessment has been prepared for the proposed development. We question the *Recommendations for Site Management* in the light of Council's Flood Study indicating PMF (Possible Maximum Flood) of 4.5m on the site. The subject site is identified as Acid Sulphate Soils Class 5 and as stated in the LEP, development consent is required for works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres AHD. The lower levels for both dwellings are at RLs 5.0m and 4.2m and will require footings that will extend below RL 2.2m. The report states in Paragraph 2 that the lowest level of excavation will be about 2.2m AHD. However the lowest corner of Building A is at approx. RL 1.8m and the footings there would be below this level. Therefore controls will be required for soil excavated below 2.54m.

Applicant comment: The lowest point of Building A is approx. RL 2.8m not 1.8m. In any case the report outlines a number of site management controls that need to be followed depending on the level of excavation.

DAO comment: The Preliminary Acid Sulfate Soil Assessment has been prepared by an appropriately qualified consultant who has undertaken preliminary assessment of the site and the proposed development in terms of impact on acid sulfates. This is appropriate for the assessment stage of the development application. The recommendations of the assessment are to be adopted in the development should consent be granted.

Non-compliance with DCP 1

38. The non-compliances with the relevant requirements will set a precedent for other developments. DCP requires battleaxe sites to be one (1) storey the proposed development shows that it is three (3) storeys in parts. The setbacks of the development have to be confirmed as they appear to be less than that required. The Statement of Environmental Effects submitted with the application does not correctly identify the non-compliances.

Applicant comment: All of the setbacks comply with Council's requirements. Any issues relating to non compliances are site specific and considered on their merits and will not result in any precedents being set.

DAO comment: The development's compliance with the provisions of the relevant requirements are discussed in the report above.

Traffic

39. The additional dwellings will result in traffic impacts on the street. Llewellyn Street has a high crest between the proposed development and Mimosa Street. There is potential for a serious accident in this area as Llewellyn Street is a long and narrow road (parking permitted on both sides and one driving lane) and some vehicles travel very quickly. Residents would like Council to review this situation and determine how to overcome this danger.

Applicant comment: The proposed development is for a dual occupancy which will not adversely impact on local traffic. The dwellings provide adequate car parking in accordance with Council's requirements and will not result in any significant traffic impacts on the street.

DAO comment: The proposed development provides two car spaces per dwelling and a turning area which allows vehicles to enter and exit the site in a forward direction. The additional vehicles movements as a result of the development are not considered to significantly impact the traffic movements in the street. The residents can request Council's Traffic section to consider any hazardous traffic spots as a separate matter to this application.

Shadow diagrams

40. The plans and shadow diagrams do not accurately show the adjoining developments. Vertical wall shadow diagrams of the northern and western elevations of both proposed dwellings should be required to show the effects of overshadowing on both proposed dwellings due to the dramatic changes in level from 24a to the proposed dwellings. The nominal shading shown on the elevations and perspectives appear to be diagrammatic and not related to any specific time or date.

Applicant comment: The shadow diagrams are in accordance with the DCP and show the specific dates and times for each. The diagrams show that the proposed development allows for the adjacent properties/dwellings to still receive the required amount of sunlight. It is also considered that the proposed development will receive an appropriate amount of solar access.

DAO comment: The solar access to the adjoining developments has been discussed in the report.

Cut and fill

41. The proposed cut and fill to the site does not comply with the relevant requirements. The total rock escarpments would be excavated and totally destroyed and covered by the proposed attached dual occupancies. This site is not suitable for an attached dual occupancy due to the steep nature of the site, the required excavation of natural rock outcrops and proposal for building over inundated land. This proposal would have detrimental environmental consequences as the natural state of the site would be considerably altered.

Applicant comment: While there will be excavation required to be carried out this is no different to other developed sites in the area that have had similar site constraints. There are numerous examples of developments in the locality that have been built on similar sites with similar issues. Dual occupancy development is permitted under the zoning and is considered an appropriate form of development in this case. As a result of several amended plans that have been lodged to address concerns raised by submissions and Council there are now some areas that will require greater excavation. This is mainly due to the fact that Council has requested that the proposed development be reduced in height. It is considered that this is an acceptable solution in the circumstances especially considering the site constraints.

DAO comment: The proposed development includes excavation of the site which has been discussed in the report. The excavation is required as a result of the topography of the site and is characteristic of most developments on the waterfront and with steep topography. The provision of a dual occupancy of the site does not necessarily result in significantly different excavation from that required for a single dwelling. The provision of two dwellings on the site does not require one uniform floor level to be adopted throughout the development which has minimised excavation due to different floor levels being adopted for each dwelling.

Foreshore building line

42. The proposed development has to be clarified in relation to the foreshore building line. The applicant has failed to demonstrate in his application under Section 6.5 DCP 1 "Additional Controls for Development in the Foreshore" how the new development does not result in excessive excavation and how it will protect any natural rock formations. The subject land is currently covered in weeds and mulch which does not allow the natural rock formation to be shown. Part of the site in this location is of natural rock where part of the building is planned to be erected.

Applicant comment: This section applies to land within the foreshore area. There is no development proposed on this area other than landscaping works. The foreshore building line has been taken directly from the survey and is considered to be correct.

DAO comment: No development is proposed in the foreshore area as defined by the Hurstville Local Environment Plan. The foreshore area which is identified as being 15m from the mean high water mark is identified in the survey plan submitted with the application and the plans for the development. The foreshore area will contain landscaping only.

Foreshore scenic protection area

43. The boundary adjustment would be to allow for the dual occupancy development at the rear battleaxe lot, whereas the previous subdivision sought to provide a dual occupancy proposal in the front of the property and this was refused. However this current proposal would be in conflict with Hurstville Council's Local Environmental Plan, Cl. 19B, 4 - Foreshore Scenic Protection Area where it states that 'The Council must not grant

consent to the carrying out of any development on land to which the clause applies unless it has considered the following:

- a) *The appearance of the proposed development from both the waterway and adjacent foreshore areas.*
- b) *The likely impact of the proposed development on views from the adjoining properties*
- c) *The likely effect of the proposed development on the natural topography, natural rock formations, canopy vegetation or any other significant vegetation.*

This proposed subdivision for the dual occupancy proposal would completely destroy the natural topography. To demonstrate this, an overlay of the proposed dual occupancy plan onto the Surveyor's site plan shows that all the rock ledges would be covered or excavated for the proposed development. Natural rock formations are now mostly hidden, being overgrown with weeds. Beautiful native trees that once dotted the site have now been destroyed and site levels have been obscured or altered.

Applicant comment: When viewed from Llewellyn Street the proposed development is lower than the existing single storey dwelling on the site. Due to the amount of vegetation along the waterfront the proposed development will also be well screened from the Georges River. The levels of the proposed development together with its stepped design and siting has ensured that there will be no unreasonable visual impact.

DAO comment: The proposed development is considered to be acceptable in terms of its response to the objectives of the foreshore scenic protection area. Some excavation will be required to the site to provide an appropriate floor level to the dwellings however this is consistent with similar excavation proposed for developments where there is a steep topography. The existing trees on the site will be retained and this will preserve the landscape setting relating to the foreshore scenic protection area. The proposed development provides 29% of the site area as deep soil landscaped area which exceeds the minimum requirements of DCP1. The view of the development from the waterway will be obscured due to the existing vegetation located at the rear of the site and adjoining the foreshore. The proposed development is not considered to be significantly different from other developments adjoining the foreshore in terms of bulk and scale, provision of balconies and being multi storey.

Sewerage disposal

44. There are existing issues with sewerage and they have to be addressed in the application.

Applicant comment: This is a Sydney Water issue. The development will need to address any Sydney Water requirements in relation to the sewer and subject to such requirements being met the proposed development is considered to be acceptable in this regard.

DAO comment: Any development consent granted for the development will be subject to conditions of consent that require a Notice of Requirements and section 73 Certificate to be obtained from Sydney Water. These conditions are imposed as a requirement of Sydney water to ensure that appropriate sewerage and other facilities are provided in accordance with the requirements of Sydney Water.

Emergency access and facilities

45. The proposed development will dependent on the current battle axe driveway to provide access to two (2) additional dwellings and the applicant has failed to address under the guidelines of the Fire and Rescue NSW if the driveway currently constructed can support

fire appliances weighing up to 15 tons. Does the current driveway width allow for an unobstructed width of 4 metres? The applicant has failed to address the distance from the main water supply and fall of the land if the current water pressure is sufficient for the fire brigade in case of a fire or will extra water boosters need to be installed to provide the required water pressure.

Applicant comment: It is not considered that this is a requirement for a development of this nature. This is not required for a development of this nature.

DAO comment: The proposed development will be accessed from a 3m wide access handle which has been approved as part of the subdivision of the site under 01/DA-0227. Under the provisions of DCP1 a battleaxe lot is to have an access handle minimum 3m wide which is provided to this site. Notwithstanding this, the subject site is similar to other battleaxe lots which have a 3m wide access handle from the street.

Attached dual occupancy not permitted

46. Hurstville Council's Development Control Plan dated 12 June, 2014, Section 4, Specific Controls for Residential Development, 4.2 Dual Occupancy Housing, and 4.2.14 Building Envelope Graphics that show eight dual occupancy options. The first four options show all attached dual occupancy options with varying housing types. The next three options show options for detached dual occupancy for different street configurations. The last option 8 shows a battleaxe block subdivision with two detached dwellings with the front dwelling being of one or two storeys and the rear lot with maximum external wall height of 3.6m and maximum ridge height of 6.7m, indicating a single storey dwelling. There is no option shown that would allow for an attached dual occupancy on a battleaxe block.

Applicant comment: This has been addressed as part of our submission and also through discussions with Council.

DAO comment: This has been discussed in the report. Option 3 of the Building Envelope Graphics of DCP1 which is for an attached dual occupancy development relates to "all sites" whereas Option 8 relates to a detached dual occupancy on a battleaxe lot. The proposed development is for an attached dual occupancy and it is considered that Option 3 can be applied to the subject site.

Mediation/Public Meeting

47. A formal mediation or public meeting has not been conducted for the development application however the development assessment officer met with resident objectors on site, viewed their properties, and discussed their concerns.

Public Interest

48. The proposed development is of a scale and character that does not conflict with the public interest.

Consultation – Internal and External Referrals

Internal Referrals

Development Engineer

49. Council's Development Engineer has examined the application and raised no objection subject to conditions of consent being attached to any consent granted.

External Referrals:

No external referrals were required for this application.

Conclusion

50. The application has been assessed having regard to the Heads of Consideration under Section 79C of the Environmental Planning and Assessment Act 1979, the provisions of the relative State Environmental Planning Policies, Local Environmental Plans and Development Control Plans.

The development has been assessed against the requirements of the relevant planning instruments and development control plan and complies except in the external wall height, height of floor level above ground level, and excavation. The variations are a result of the steep topography of the site and relate to a small portion of the development only. The variations are considered acceptable as discussed in the report.

Three (3) submissions were received to the application in reply to resident notification of the application and two submissions were received in response to amended plans. The issues raised in the submissions have been discussed in the report.

Accordingly the application is recommended for approval subject to conditions of consent.

DETERMINATION

51. THAT pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act, 1979, as amended, the Council, grants development consent to Development Application No DA2016/0192 for a boundary adjustment to the approved subdivision under Development Consent No 01/DA-227 and construction of an attached dual occupancy development on Lot 35, DP 5510 (proposed lot 352) and known as 26 Llewellyn Street Oatley subject to the attached conditions:

The Development Application described above has been determined by the granting of a Deferred Commencement Consent subject to the conditions specified in this notice.

This Development Application is a Deferred Commencement Consent under Section 80(3) of the Environmental Planning and Assessment Act (as amended) 1979. Strict compliance is required with **all conditions appearing in Schedule 1** within **twelve (12) months from the Determination Date of this consent**. Upon confirmation in writing from Georges River Council that the Schedule 1 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**.

Schedule 1

- A. DEF1001 - **Deferred Commencement – Registration of subdivision/boundary adjustment** - The person with the benefit of the consent must register the subdivision/boundary adjustment shown on the plan identified in the table below.

Reference No.	Date	Description	Revision	Prepared by
10218-16	7 Jun 04	Draft plan of subdivision of Lot 35 Sec. 29 in DP 5510	-	J P Bates and Inwood Registered Surveyors

The consent is not to operate until evidence of registration of the subdivision and any associated easements.

Documentary evidence as requested or the above information must be submitted within 12 months of the granting of this deferred commencement consent. Commencement of the approval cannot commence until written approval of the submitted information has been given by Council.

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

Schedule 2

DEVELOPMENT CONSENT is granted to the Development Application described above, subject to the conditions in Schedules A, B and C.

Consent Operation - This consent operates from the date of determination set out in this notice and will lapse five (5) years after that date, unless development has commenced within that time, pursuant to the provisions of the Sections 83, and 95 of the Act.

Right of Review – If you are dissatisfied with this decision, you may request a review of the determination under Section 82A of the Environmental Planning and Assessment Act 1979. A request for review and the decision by Council of that request must be made within six (6) months of the date of this Notice of Determination and be accompanied by the relevant fee. You must ensure that an application for review of determination gives Council a reasonable period in which to review its decision having regard to the relevant issues and complexity of the application (Section 82A is not applicable to Integrated or Designated Development).

Right of Appeal – Alternatively, Section 97 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the NSW Land and Environment Court within six (6) months of the determination date on this notice.

Schedule A – Site Specific Conditions

GENERAL CONDITIONS

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

1. **GEN1001 - Approved Plans** - The development must be implemented in accordance with the approved plans and supporting documentation listed below which have been endorsed by Council's approved stamp, except where marked up on the plans and/or amended by conditions of this consent:

Reference No.	Date	Description	Revision	Prepared by
Project No 0011, Drawing No A000	1 May 17	Cover sheet	C	JT
A111	1 May 17	Site plan – Landscaping - Stormwater	C	JT
A201	1 May 17	Ground floor	C	JT
A201	1 May 17	Lower ground floor	C	JT
A203	1 May 17	Level 1	B	JT

A401	1 May 17	South and east elevations	D	JT
A402	1 May 17	West and north elevations	D	JT
A501	1 May 17	Section AA and section BB	C	JT
16089-14, sheet 1 of 1	17 Sep 16	Plan showing selected Detail and Levels	-	J P Bates and Inwood Registered Surveyors
10218-16	7 Jun 04	Draft plan of subdivision of Lot 35 Sec. 29 in DP 5510	-	J P Bates and Inwood Registered Surveyors
A910	1 May 17	Waste management plan	C	JT
-	5 Apr 17	Preliminary Acid Sulfate Soil Assessment	-	EMM

2. **GEN1002 - Fees to be paid to Council** - The fees listed in the table below must be paid in accordance with the conditions of this consent and Council's adopted Fees and Charges applicable **at the time of payment**.

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

Please contact Council prior to the payment of Section 94 Contributions to determine whether the amounts have been indexed from that indicated below in this consent and the form of payment that will be accepted by Council.

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

- (a) Fees to be paid:

Fee types, bonds and contributions

Fee Type
Long Service Levy (to Long Service Corporation)
Builders Damage Deposit
Inspection Fee for Refund of Damage Deposit
S94 Residential (Community Facilities)
S94 Residential (Open Space, Recreation, Public Domain)

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

PCA Services Fee	\$2,428.47
Construction Certificate Application Fee	\$2,428.47
Construction Certificate Imaging Fee	\$243.10

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.

3. GEN1003 - Section 94 Contributions - Residential Development (Community Facilities and Open Space, Recreation, Public Domain)

a. Amount of Contribution

Pursuant to *Section 94 of the Environmental Planning and Assessment Act, 1979* (as amended) and *Hurstville Section 94 Development Contributions Plan 2012* the following contributions towards the cost of providing facilities shall be paid to Council:

Contribution Category	Amount
Community Facilities	\$2,748.00
Open Space, Recreation and Public Domain Facilities	\$17,522.00
Total:	\$20,000.00

This condition and 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.

b. Indexing

The above contributions will be adjusted at the time of payment to reflect changes in the Consumer Price Index (All Groups Index) for Sydney, in accordance with the provisions of the *Hurstville Section 94 Development Contributions Plan 2012*.

c. Timing and Method of Payment

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

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

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

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

A copy of the *Hurstville Section 94 Development Contributions Plan 2012* may be inspected or a copy purchased at Council's offices (Civic Centre, MacMahon Street, Hurstville NSW 2220) or viewed on Council's website www.georgesriver.nsw.gov.au.

4. GEN1014 - Long Service Levy - Submit evidence of payment of the Building and Construction Industry Long Service Leave Levy to the Principal Certifying Authority. Note this amount is based on the cost quoted in the Development Application, and same may increase with any variation to estimated cost which arises with the Construction Certificate application. To find out the amount payable go to www.lspc.nsw.gov.au or call 131441. Evidence of the payment of this levy must be submitted with the Construction Certificate application.

5. **GEN1015 - Damage Deposit - Minor Works** - In order to insure against damage to Council property the following is required:
- (a) Payment to Council of a damage deposit for the cost of making good any damage caused to any Council property as a result of the development: **\$1,900.00**.
 - (b) Payment to Council of a non-refundable inspection fee to enable assessment of any damage and repairs where required: **\$150.00**.
 - (c) At the completion of work Council will inspect the public works, and the damage deposit will be refunded in full upon completion of work where no damage occurs. Otherwise the amount will be either forfeited or partly refunded according to the amount of damage.
 - (d) Prior to the commencement of work a photographic record of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal, shall be submitted to Council
 - (e) Payments pursuant to this condition are required to be made to Council before the issue of the Construction Certificate.
 - (f) Fees and charges above are subject to change and are as set out in the version of Council's Schedule of Fees and Charges or as required by other Government Authorities, applicable at the time of payment.

SEPARATE APPROVALS UNDER OTHER LEGISLATION

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

6. **APR2000 - Development Assessment - Torrens Title Subdivision of a Dual Occupancy Development** - A separate development application is required to be lodged with Georges River Council for the Torrens Title Subdivision. This development application can only be lodged and determined after an Occupation Certificate has been issued for the Dual Occupancy development.
7. **DEV7.2 - Engineering - Section 138 Roads Act and Section 68 Local Government Act 1993** - Unless otherwise specified by a condition of this consent, this Development Consent does not give any approval to undertake works on public infrastructure.

A separate approval is required to be lodged and approved under Section 138 of the Roads Act 1993 and/or Section 68 of the Local Government Act 1993 for *any* of the following activities carried out in, on or over a public road (including the footpath):

- (a) Placing or storing materials or equipment;
- (b) Placing or storing waste containers or skip bins;
- (c) Erecting a structure or carrying out work
- (d) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
- (e) Pumping concrete from a public road;
- (f) Pumping water from the site into the public road;
- (g) Constructing a vehicular crossing or footpath;

- (h) Establishing a “works zone”;
- (i) Digging up or disturbing the surface of a public road (e.g. Opening the road for the purpose of connections to utility providers);
- (j) Stormwater and ancillary works in the road reserve; and
- (k) Stormwater and ancillary to public infrastructure on private land

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

The relevant Application Forms for these activities can be downloaded from Georges River Council's website at: www.georgesriver.nsw.gov.au

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

8. **DEV7.3 - Engineering - Vehicular Crossing - Minor Development** - Constructing a vehicular crossing and/or footpath requires a separate approval under Section 138 of the Roads Act 1993 prior to the issue of the Construction Certificate.

To apply for approval, complete the Driveway Crossing on Council Road Reserve Application Form which can be downloaded from Georges River Council's Website: www.georgesriver.nsw.gov.au

Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Section P1 and P2, in Council's adopted Fees and Charges for the administrative and inspection charges associated with Vehicular Crossing applications.

Please note, that 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 Specification for Vehicular Crossings and Associated Works prior to the issue of the Occupation Certificate.

9. **DEV7.5 - Engineering - Road Opening Permit** - A Road Opening Permit must be obtained from Council, in the case of local or regional roads, or from the Roads and Maritime Services, in the case of State roads, for every opening of a public road reserve to access services including sewer, stormwater drains, water mains, gas mains, and telecommunications before the commencement of work in the road.

REQUIREMENTS OF OTHER GOVERNMENT AGENCIES

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

10. **GOV1008 - Sydney Water - Section 73 Certificate** - A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Coordinator. Please refer to the Plumbing, Building and Developing section of Sydney Water's website to locate a Water Servicing Coordinator in your area. Visit: www.sydneywater.com.au

A "Notice of Requirements" will advise of water and sewer infrastructure to be built and

charges to be paid. Please make early contact with the Coordinator, as it can take some time to build water/sewer pipes and this may impact on other services and building, driveway or landscape design.

The “Notice of Requirements” must be submitted prior to the commencement of work.

11. GOV1009 - **Sydney Water - Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the Sydney Water Act must be submitted to the Principal Certifying Authority prior to the issue of the Occupation/Subdivision or Strata Certificate.

PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

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

12. CC3018 - **Development Engineering - Stormwater Overland Flow** - Provision is to be made for the management of all possible stormwater overland flow in a 1:100yr ARI storm event from:
 - i. Llewellyn Street passing along the Right of Carriageway beside the north-western property boundary, as identified in Jones Nicholson Pty Ltd Consulting Engineers *Overland Flow Report for 26 Llewellyn St., Oatley* dated 14 March 2013 (Ref. AW-CRPT20130241), and
 - ii. Properties to the north west of the subject development site.

A design which provides for a stormwater escape route shall be submitted. This design is to include any openings in existing or proposed fencing on the site, and recommendations on the avoidance of raised landscaping etc. to best manage overland flow.

Evidence from an appropriately qualified person that this design requirement has been met and certification given that overland flow meets the guidelines of the *"Floodplain Development Manual the management of flood liable land, 2005*, shall **accompany the application for the Construction Certificate**.

13. CC2001 - **Development Assessment - Erosion and Sedimentation Control** - Erosion and sediment controls must be provided to ensure:
 - (a) Compliance with the approved Erosion and Sediment Control Plan
 - (b) Removal or disturbance of vegetation and top soil is confined to within 3m of the approved building area (no trees to be removed without approval)
 - (c) all clean water run-off is diverted around cleared or exposed areas
 - (d) silt fences, stabilised entry/exit points or other devices are installed to prevent sediment from entering drainage systems or waterways
 - (e) all erosion and sediment controls are fully maintained for the duration of demolition, excavation and/or development works
 - (f) controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadway
 - (g) all disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar
 - (h) Compliance with Managing Urban Stormwater - Soils and Construction (Blue Book) produced by Landcom 2004.

These measures are to be implemented before the commencement of work (including demolition and excavation) and must remain until the issue of the Occupation Certificate.

14. **CC2003 - Development Assessment - Construction Site Management Plan - Major Development** - A Site Management Plan must be submitted with the application for the Construction Certificate, and must include the following measures:

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

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

15. **CC2004 - Development Assessment - Design Change** - The following design changes are required and are to be incorporated into the plans to be lodged **with the Construction Certificate application**.

(a) The submitted concept hydraulic plan shall be amended to:

- i. Provide rainwater tank exemption requirements of SEPP (Exempt and Complying Development Codes) 2008.
- ii. Intercept stormwater runoff from the 'shared driveway' paving adjoining the garages to the two houses and overland flow that may enter/pass that area.

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

16. **CC2008 - Development Assessment - Landscape Plan** - A detailed landscape plan, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted prior to the issue of the Construction Certificate. The plan must include:

- (i) Location of existing and proposed structures on the site including existing trees (if applicable);
- (ii) Details of earthworks including mounding and retaining walls and planter boxes (if applicable);
- (iii) Location, numbers and type of plant species;
- (iv) Details of planting procedure and maintenance;
- (v) Details of drainage and watering systems.

17. **CC2011 - Development Assessment - BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No. 579756S and 733023S dated 19 July 2016, approved with the Development Consent No DA2016/0192, must be implemented on the plans lodged with the application for the Construction Certificate.

18. **CC3001 - Development Engineering - Stormwater System**

Reference No.	Date	Description	Revision	Prepared by
Project No. 0011 Drawing. No. A111	11/5/16	Site Plan - Landscaping - Stormwater	A	Not Identified

The above submitted stormwater plan has been assessed as a concept plan only and no detailed assessment of the design has been undertaken.

- (a) All stormwater shall drain by gravity to Gungah Bay waterway utilising 'best practice' stormwater treatment measures:
- to maximise on-site pollutant retention and removal, and
 - minimise stormwater discharge rates and prevent localised erosion.

All roof and pavement runoff is to be collected in a system of pipes and pits (all fully contained within the development site) in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2003 (as amended) and directed to the waterway at the rear of the property with discharge:

- via a silt/litter arrestor pit with Maximesh type screen;
- through a spreader/dissipater at a controlled velocity not exceeding 2m/s, and
- away from neighbouring private property via a single outlet per house.

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

19. **CC3004 - Development Engineering - Stormwater Drainage Plans (By Engineer Referral Only)**

Reference No.	Date	Description	Revision	Prepared by
Project No. 0011, Drawing. No. A111	11/5/16	Site Plan - Landscaping - Stormwater	A	Not identified

The above submitted stormwater plan has been assessed as a concept plan only and no detailed assessment of the design has been undertaken.

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

20. **CC3005 - Development Engineering - On Site Detention** - The submitted stormwater plan has been assessed as a concept plan only and no detailed assessment of the design has been undertaken.

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

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

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

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

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

Full details shall accompany the application for **the Construction Certificate**.

- 21. **CC5002 - Trees - Tree Protection and Retention** - The following trees shall be retained and protected:

- (a) All trees located on the subject site as shown on the approved site plan.

All trees to be retained shall be protected and maintained during demolition, excavation and construction of the site. The tree protection measures must be undertaken in accordance *AS4970-2009 Protection of trees on development sites*. Details of the tree protection measures to be implemented must be provided with the application for a Construction Certificate by a suitably qualified Arborist (AQF Level 4 or above in Arboriculture) and must be retained thorough all stages of construction.

- 22. **CC6004 - Engineering - Traffic Management - Compliance with AS2890** - All driveways, access ramps, vehicular crossings and car parking spaces shall be **designed and** constructed in accordance with the current version of Australian Standards, AS 2890.1 (for car parking facilities) and AS 2890.2 (for commercial vehicle facilities).

- 23. **CC7004 - Building - Structural details** - Structural plans, specifications and design statement prepared and endorsed by a suitably qualified practising structural engineer who holds the applicable Certificate of Accreditation as required under the Building Professionals Act 2005 shall be submitted along with the Construction Certificate application to the Certifying Authority for any of the following, as required by the building design:

- (a) piers
- (b) footings
- (c) slabs
- (d) columns
- (e) structural steel
- (f) reinforced building elements

- (g) swimming pool design
- (h) retaining walls
- (i) stabilising works
- (j) structural framework

24. **CC8001 - Waste - Waste Management Plan** - A Waste Management Plan incorporating all requirements in respect of the provision of waste storage facilities, removal of all materials from the site that are the result of site, clearing, extraction, and, or demolition works and the designated Waste Management Facility shall be submitted to the Principal Certifying Authority and copy provided to the Manager - Environmental Services, Georges River Council prior to the issue of any Construction Certificate.

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

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

25. **PREC2001 - Building regulation - Site sign - Soil and Erosion Control Measures** - Prior to the commencement of works (including demolition and excavation), the durable site sign issued by Georges River Council in conjunction with this consent must be erected in a prominent location on site. The site sign warns of the penalties which apply to pollution, storing materials on road or footpath and breaches of the conditions relating to erosion and sediment controls. The sign must remain in a prominent location on site up until the completion of all site and building works.
26. **PREC2002 - Development Assessment - Demolition and Asbestos** - The demolition work shall comply with the provisions of Australian Standard AS2601:2011 - Demolition of Structures, NSW Work Health and Safety Act 2011 and the NSW Work Health and Safety Regulation 2011. The work plans required by AS2601-2001 shall be accompanied by a written statement by a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the safety statement shall be submitted to the Principal Certifying Authority prior to the commencement of works.

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

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

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

27. **PREC2008 - Development Assessment - Demolition Notification Requirements** - The following notification requirements apply to this consent:
- a) The developer /builder must notify adjoining residents five (5) working days prior to demolition. Such notification is to be a clearly written note giving the date demolition will commence, contact details of the developer/builder, licensed asbestos demolisher and the appropriate regulatory authority. Notification is to be placed in the letterbox of

every premises (including every residential flat or unit, if any) either side and immediately at the rear of the demolition site.

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

28. **PREC6001 - Engineering - Dial before your dig** - The applicant shall contact “Dial Before You Dig on 1100” to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from “Dial Before You Dig” shall be forwarded to Council’s Engineers for their records.

29. **PREC7001 - Building - Registered Surveyor’s Report - During Development Work** - A report must be submitted to the Principal Certifying Authority at each of the following applicable stages of construction:

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

Work must not proceed beyond each stage until the Principal Certifying Authority is

satisfied that the height and location of the building is proceeding in accordance with the approved plans.

DURING WORK

These conditions have been imposed to ensure that there is minimal impact on the adjoining development and surrounding locality during the construction phase of the development.

30. **CON3001 - 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 Gungah Bay waterway.
31. **CON2001 - Development Assessment - Hours of construction, demolition and building related work** - Any work activity or activity associated with the development consent that requires the use of any tools (including hand tools) or any power operated plant and machinery that creates noise on or adjacent to the site shall not be performed, or permitted to be performed, except between the hours of 7.00 am to 5.00 pm, Monday to Saturday inclusive. No work or ancillary activity shall be permitted to be performed on any Sunday, Good Friday, Christmas Day or any Public Holiday. A penalty infringement notice may be issued for any offence.

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

32. **CON2002 - Development Assessment - Ground levels and retaining walls** - The ground levels of the site shall not be excavated, raised or filled, or retaining walls constructed on the allotment boundary, except where indicated on approved plans or approved separately by Council.
33. **CON5001 - Trees - Tree Removal on Private Land** - The trees identified as 'to be removed/pruned' on the approved plans or by conditions of this consent shall be removed in accordance with AS4373 -2007 Pruning of Amenity Trees and the Trees Work Industry Code of Practice (WorkCover NSW, 1998).
34. **CON6002 - Engineering - Obstruction of Road or Footpath** - The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste or skip bins, or any other matter is not permitted unless separately approved by Council under Section 138 of the Roads Act and/or under Section 68 of the Local Government Act 1993. Penalty Infringement Notices may be issued for any offences and severe penalties apply.
35. **CON8001 - Waste - Waste Management Facility** - All materials removed from the site as a result of demolition, site clearing, site preparation and, or excavation shall be disposed of at a suitable Waste Management Facility. No vegetation, article, building material, waste or the like shall be ignited or burnt whatsoever or in association with the work on site. Copies of all receipts for the disposal, or processing of all such materials shall be submitted to the Principal Certifying Authority and a copy provided to the Manager Environmental Services, Georges River Council.

PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

These conditions have been imposed to ensure that all works have been completed in accordance with the Development Consent prior to the issue of the Occupation Certificate.

36. **OCC3012 - Development Engineering - Works as Executed and Certification of Stormwater works** - Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards.

A works-as-executed drainage plan and certification must be forwarded to the Principal Certifying Authority and Georges River Council, from a suitably qualified and experienced Hydraulic Consultant/Engineer.

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

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

- (a) The location, pipe and pit invert and surface levels to Australian Height Datum, and the diameter, gradient and material (i.e. PVC, RC etc) of all stormwater infrastructure.
- (b) Compliance with conditions of development consent relating to stormwater;
- (c) Contours indicating the direction in which water will flow over land should the capacity of the underground drainage system be exceeded in a storm event exceeding design limits.

37. **OCC2004 - Development Assessment - BASIX Compliance Certificate** - A Compliance Certificate must be provided to the Principal Certifying Authority regarding the implementation of all energy efficiency measures as detailed in the BASIX Certificate No. 579756S and 733023S dated 19 July 2016, and in the plans approved with the Development Consent/ Construction Certificate, before issue of the Occupation Certificate.

38. **OCC2005 - Development Assessment - Completion of Landscape Works** - All landscape works must be completed before the issue of the Final Occupation Certificate.

39. **OCC6001 - Engineering - Vehicular crossing - Minor development** - The vehicular crossing and/or footpath works shall be constructed by a private contractor at the expense of the beneficiary of this consent, 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 beneficiary of this consent and in accordance with Council's Specification for Vehicular Crossings and Associated Works.

Please 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.**

ONGOING CONDITIONS

These conditions have been imposed to ensure that the use or operation of the development does not adversely impact on the amenity of the neighbourhood or environment.

40. **ONG2003 - Development Assessment - Maintenance of Landscaping** - All trees and plants forming part of the landscaping must be maintained on an ongoing basis. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilizing, pest and disease control and any other operations required to maintain healthy trees, plants and turfed areas.
41. **ONG3006 - Development Engineering - Ongoing maintenance of the on-site detention system** - The Owner(s) must in accordance with this condition and any positive covenant:
- (a) Permit stormwater to be temporarily detained by the system;
 - (b) Keep the system clean and free of silt rubbish and debris;
 - (c) Maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner and in doing so complete the same within the time and in the manner reasonably specified in written notice issued by the Council;
 - (d) Carry out the matters referred to in paragraphs (b) and (c) at the Owners expense;
 - (e) Not make any alterations to the system or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly;
 - (f) Permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant;
 - (g) Comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time reasonably stated in the notice;
 - (h) Where the Owner fails to comply with the Owner's obligations under this covenant, permit the Council or its agents at all times and on reasonable notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations;
 - (i) Indemnify the Council against all claims or actions and costs arising from those claims or actions which Council may suffer or incur in respect of the system and caused by an act or omission by the Owners in respect of the Owner's obligations under this condition.
42. **ONG4018 - Health - Amenity of the neighbourhood** - The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, dust, waste water, waste products, grit, oil or other harmful products.

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

ADVICE

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

43. **ADV2002 - Development Assessment - Site Safety Fencing** - Site fencing must be erected in accordance with WorkCover Guidelines, to exclude public access to the site throughout the demolition and/or construction work, except in the case of alterations to an occupied dwelling. The fencing must be erected before the commencement of any work and maintained throughout any demolition and construction work.

For more information visit www.workcover.nsw.gov.au

44. **ADV2009 - Development Assessment - Security deposit administration & compliance fee** - Under Section 97(5) of the Local Government Act 1993, a security deposit (or part) if repaid to the person who provided it is to be repaid with any interest accrued on the deposit (or part) as a consequence of its investment.

Council must cover administration and other costs incurred in the investment of these monies. The current charge is \$50.00 plus 2% of the bond amount per annum.

Interest rate applied to bonds is set at Council's business banking facility rate as at 1 July each year. Council will accept a bank guarantee in lieu of a deposit.

All interest earned on security deposits will be used to offset the Security Deposit Administration and Compliance fee. Where interest earned on a deposit is not sufficient to meet the fee, it will be accepted in full satisfaction of the fee.

Schedule B – Prescribed Conditions

Prescribed conditions are those which are mandated under Division 8A of the *Environmental Planning and Assessment Regulation 2000* and given weight by Section 80A (11) of the *Environmental Planning and Assessment Act 1979*.

Detailed below is a **summary** of all the prescribed conditions which apply to development in New South Wales. Please refer to the full details of the prescribed conditions as in force, at www.legislation.nsw.gov.au.

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

45. **PRES1001 - Clause 97A – BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
46. **PRES1002 - Clause 98 – Building Code of Australia & Home Building Act 1989** - Requires all building work to be carried out in accordance with the Building Code of Australia. In the case of residential building work to which the Home Building Act 1989 relates, there is a requirement for a contract of insurance to be in force before any work commences.

47. **PRES1003 - Clause 98A – Erection of Signs** - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the Principal Certifying Authority and the Principal Contractor.
48. **PRES1004 - Clause 98B – Home Building Act 1989** - If the development involves residential building work under the Home Building Act 1989, no work is permitted to commence unless certain details are provided in writing to Council. The name and licence/permit number of the Principal Contractor or Owner Builder and the name of the Insurer by which work is insured under Part 6 of the Home Building Act 1989.
49. **PRES1007 - Clause 98E – Protection & support of adjoining premises** - If the development involves excavation that extends below the level of the base of the footings of a building on adjoining land, this prescribed condition requires the person who benefits from the development consent to protect and support the adjoining premises and where necessary underpin the adjoining premises to prevent any damage.

Schedule C – Operational & Statutory Conditions

These conditions comprise the operational and statutory conditions which must be satisfied under the Environmental Planning and Assessment Act 1979 and the Environmental Planning & Assessment Regulation 2000. Please refer to the full details of the Act and Regulations as in force, at www.legislation.nsw.gov.au.

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

50. **OPER1001 - Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued by the consent authority, the Council (if the Council is not the consent authority) or an accredited certifier.

An application form for a **Construction Certificate** is attached for your convenience.

51. **OPER1002 - Appointment of a Principal Certifying Authority** - The erection of a building must not commence until the beneficiary of the development consent has:

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

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

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

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

52. OPER1003 - **Notification of Critical Stage Inspections** - No later than two (2) days before the building work commences, the PCA must notify:
- (a) the consent authority and the Council (if not the consent authority) of his or her appointment; and
 - (b) the beneficiary of the development consent of the critical stage inspections and other inspections that are to be carried out with respect to the building work.
53. OPER1004 - **Notice of Commencement** - The beneficiary of the development consent must give at least two (2) days notice to the Council and the PCA of their intention to commence the erection of a building.

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

54. OPER1007 - **Critical Stage Inspections** - The last critical stage inspection must be undertaken by the Principal Certifying Authority. The critical stage inspections required to be carried out vary according to Building Class under the Building Code of Australia and are listed in Clause 162A of the Environmental Planning and Assessment Regulation 2000.
55. OPER1008 - **Notice to be given prior to critical stage inspections** - The principal contractor for a building site, or the owner-builder, must notify the principal certifying authority at least 48 hours before each required inspection needs to be carried out.

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

56. OPER1009 - **Occupation Certificate** - A person must not commence occupation or use of the whole or any part of a new building unless an Occupation Certificate has been issued in relation to the building or part.

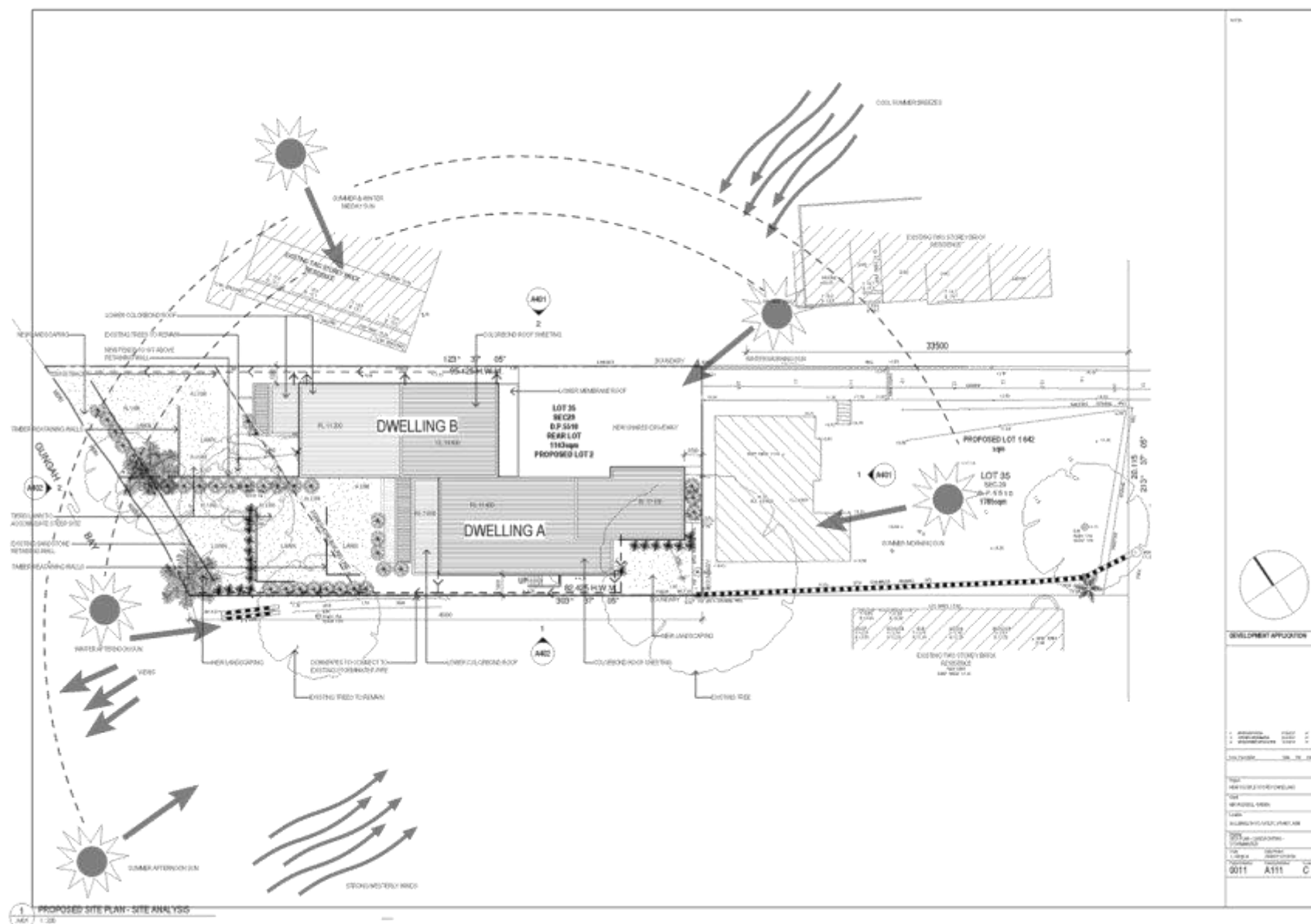
Only the Principal Certifying Authority appointed for the building work can issue the Occupation Certificate.

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

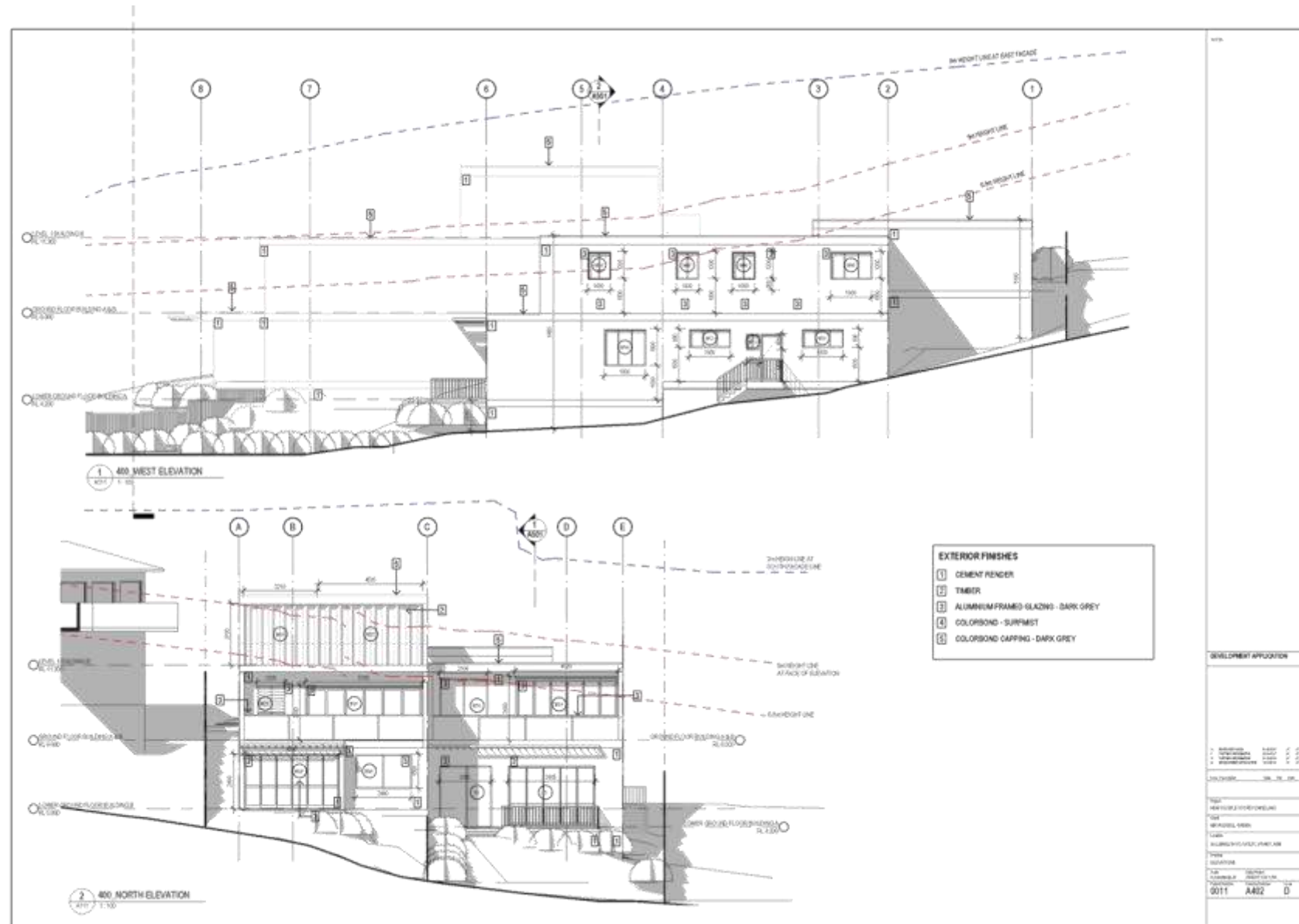
If you need more information, please contact the Senior Development Assessment Officer, below on 9330-6400 during normal office hours.

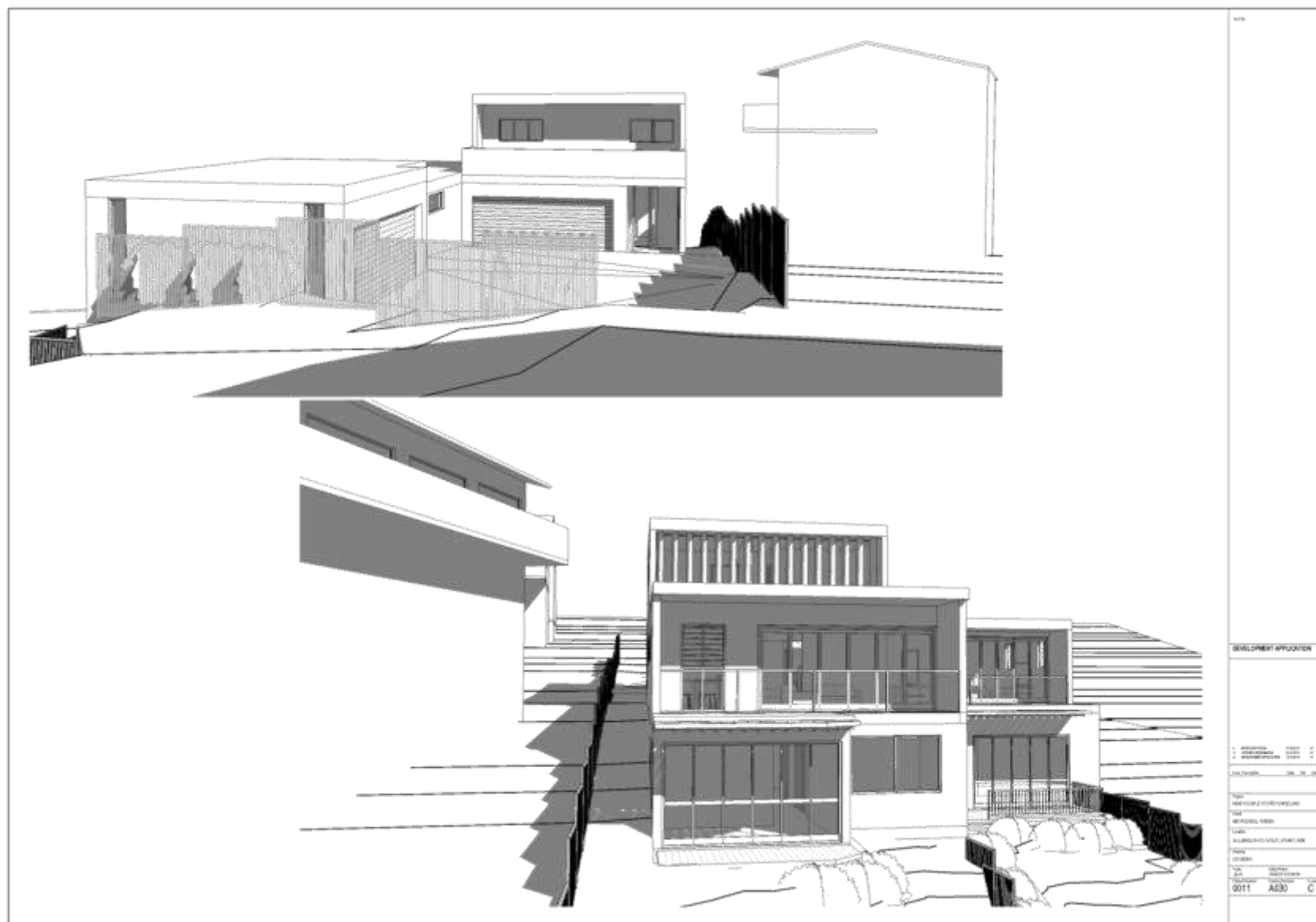
ATTACHMENTS

- | | |
|----------------------------------|--|
| Attachment View1 | Site Plan - 26 Llewellyn St Oatley |
| Attachment View2 | South and East Elevations - 26 Llewellyn St Oatley |
| Attachment View3 | West and North Elevations - 26 Llewellyn St Oatley |
| Attachment View4 | 3D Views - 26 Llewellyn St Oatley |









REPORT TO GEORGES RIVER COUNCIL

IHAP MEETING OF THURSDAY, 21 SEPTEMBER 2017

IHAP Report No	3.4	Application No	PP2017/0001
Site Address & Ward Locality	84D Roberts Avenue Mortdale Mortdale Ward		
Proposal	Planning Proposal to permit the uses of retail premises, bulky goods premises and child care centres by way of a Schedule 1 amendment to the Hurstville Local Environmental Plan 2012		
Report Author/s	Strategic Planner, Anne Qin and Manager Strategic Planning, Catherine McMahon		
Owners	Romanous Developments Pty Ltd		
Applicant	Romanous Construction Pty Ltd		
Zoning	Zone IN2 Light Industrial under the Hurstville Local Environmental Plan 2012		
Date Of Lodgement	12/04/2017		
Submissions	N/A		
Cost of Works	N/A		
Reason for Referral to IHAP	To seek endorsement to present the Planning Proposal report to Council		

Recommendation	<ol style="list-style-type: none"> 1. THAT the Georges River IHAP recommends to Council that the Planning Proposal to amend Hurstville Local Environmental Plan 2012 by way of a Schedule 1 amendment to permit the uses of retail premises, bulky goods premises and child care centres, in relation to 84D Roberts Avenue (Lot 21 DP 542051), be forwarded to the delegate of the Greater Sydney Commission for a Gateway Determination under Section 56 of the Environmental Planning and Assessment Act 1979. 2. THAT a report to Council be prepared to advise of the IHAP recommendations.
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Figure 1 – Aerial of 84D Roberts Avenue, Mortdale



Executive Summary

1. The Planning Proposal seeks to permit the uses of retail premises, bulky goods premises and child care centres on the site 84D Roberts Avenue, Mortdale (Lot 21 DP 542051) by way of a **Schedule 1** amendment to the Hurstville Local Environmental Plan 2012 ("HLEP 2012").
2. The Planning Proposal is made in relation to a single allotment located at 84D Roberts Avenue, Mortdale which is formally identified as Lot 21 in DP 542051, outlined above in **Figure 1**.
3. The subject site is zoned IN2 Light Industrial under the HLEP 2012, which prohibits the uses of retail premises, bulky goods premises and child care centres in the Land Use Table.
4. The objective of the Planning Proposal is to formalise and legitimise existing use provisions as permitted land uses on the subject site under the HLEP 2012.
5. The subject site contains one existing development, a shopping centre known as Mortdale Plaza, which was approved by the former Hurstville City Council in 2009 under the Hurstville Local Environmental Plan 1994 ("HLEP 1994").

6. The development consent (08/DA-411) permits a “three storey mixed use development comprising supermarket, bulky goods retail, gymnasium and office with basement parking”.
7. Since the existing development was approved prior to the enforcement of HLEP 2012, all approved uses including supermarket and bulky goods retail are identified to possess existing use rights which enable their operation on the site despite being prohibited by the HLEP 2012.
8. This report considers the Planning Proposal in regards to **Division 10 Existing uses of Part 4 Development assessment** of the Environmental Planning and Assessment Act 1979 and deems the uses of retail premises and bulky goods premises to be permissible on the subject site.
9. This report also considers the Planning Proposal in light of the recent Standard Instrument (Local Environmental Plans) Amendment Order (No 2) 2016 made by the NSW Government which proposes to amend all Local Environmental Plans to permit centre-based child care in all R2 Low Density Residential and IN2 Light Industrial zones, allowing child care centres in more locations closer to homes and workplaces. As such, child care centres are deemed to be a permissible land use on the subject site.
10. The proposal is considered to be consistent with the objectives and actions of a number of state, regional and local strategic plans, and in this regard has strategic merit.
11. The applicant has stated that all proposed land uses are to use spaces within the existing structure on site. As such, there are no identified environmental constraints that render the site unsuitable for the proposed land uses.
12. Council is of the opinion that this is an isolated case of permitting retail / non-industrial land use in an industrial zone and no precedent will be established as the Planning Proposal is supported on the basis of existing use rights. The existing development and its retail uses are identified by the draft Georges River Employment Lands Study as a key contributor to the strengths of the Peakhurst Industrial Precinct.
13. Subsequently, this report recommends that the Georges River IHAP support the requested amendment to the HLEP 2012 **Schedule 1 Additional permitted use** and that the Planning Proposal be forwarded to the delegate of the Greater Sydney Commission for a Gateway Determination under Section 56 of the Environmental Planning and Assessment Act 1979.
14. The proposal does not seek development uplift, and is only concerned with land use permissibility. As such, Council has not applied the Voluntary Planning Agreement (“VPA”) Policy (adopted 1 August 2016) to the Planning Proposal.

Report in Full

1. INTRODUCTION

15. Urbis submitted a Planning Proposal request (PP2017/0001) on behalf of Romanous Construction on 12 April 2017 seeking the amendment of the Hurstville Local Environmental Plan 2012 (“HLEP 2012”) in relation to the street address at 84D Roberts Avenue, Mortdale.
16. The applicant has stated that the objective of the Planning Proposal is to enable the current use on the site for retail premises, and additional uses of child care centres and bulky goods premises to be permissible with consent under the HLEP 2012.
17. This Planning Proposal seeks to permit the uses of retail premises, bulky goods premises and child care centres on the site by way of a **Schedule 1 Additional permitted uses** amendment to the HLEP 2012.
18. The Planning Proposal intends to allow for the continuation of existing uses on the site pursuant the 2009 development consent, so that the existing employment within the shopping centre is protected and the centre remains economically viable. Refer to **Section 4.1** for the history of the development approval and permissible uses on the site.
19. The proposed **Schedule 1** amendment will prescribe specific land uses to enable retail and bulky goods premises. This will replace the current provision of existing use rights on the site and restrict the permitted land use to the Standard Instrument land use terms of retail premises and bulky goods premises.
20. Additionally, a child care centre is intended to be located within the existing structure on the site to provide a community service that is increasing in demand.

2. SITE DESCRIPTION

2.1 Overview of the Site

21. The site is known as 84D Roberts Avenue, Mortdale and is legally described as Lot 21 DP 542051. The site is in an irregular battle-axe configuration accessed by the access way on Roberts Avenue (refer **Figure 2** below).

Figure 2 – Site Cadastre

(Source: Urbis Report)



22. The site is irregular in shape with an area of approximately 1.121 hectares and has the following boundaries:
- Roberts Avenue frontage of approx. 15.25m
 - Shared side boundary with No. 84 of approx. 45.71m
 - Shared boundary with rear of No. 84 of approx. 16.47m
 - Eastern side boundary of approx. 92.8m
 - Rear boundary of approx. 131.06m
 - Western side boundary of approx. 58.61m
 - Shared boundary with rear of No. 86 of approx. 99.83m
 - Shared side boundary with No. 86 of approx. 37.93m
23. The site contains one existing development at the eastern boundary, a shopping centre known as Mortdale Plaza, shown in **Figure 3** below. The shopping centre currently contains the following tenancies as listed in **Table 1** below.

Figure 3 – The site as viewed from Roberts Avenue (Source: Urbis Report)

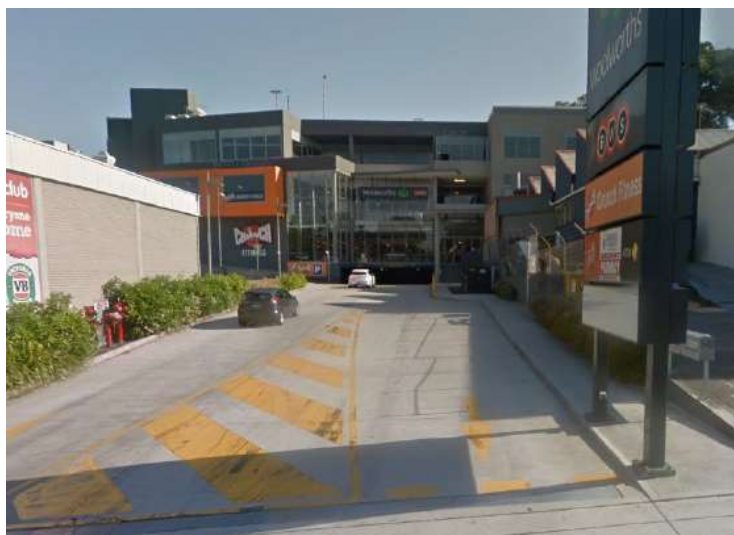


Table 1 – Current Tenancies and Land Use Type

Shop Name	Shop Type	Standard Instrument Definition	HLEP 2012 Land Use
Woolworths	Supermarket	Shop (a type of retail premise)	Prohibited
Diana Sadig	Pharmacy	Shop (a type of retail premise)	Prohibited
The Brasserie Club	Café	Food and drink premise (a type of retail premise)	Prohibited
BSW Liquor	Liquor Shop	Shop (a type of retail premise)	Prohibited
Crunch	Fitness Club / Gymnasium	Recreation facility (indoor)	Permitted with consent

24. Within the western section of the site is an unbuilt upon area that surrounds a watercourse which cuts through this area, shown in **Figure 4** below.

Figure 4 – Aerial view of site (Source: Nearmap)

25. The ground surface of the site generally slopes down from the eastern side towards the western side with an average difference of approx. 2m in height. There is a localised portion of change in topography at the watercourse in the western portion of the site as the existing watercourse is approx. 5m lower than the rest of the site.
26. Roberts Avenue is a two way road with one lane of traffic for each direction. It also features street parking on both sides. It is used by both local residents and workers at the Peakhurst Industrial Precinct.

2.2 Surrounding Land

27. The site is located at the interface of light industrial, residential and recreational land uses. Land immediately surrounding the site to the north, east, and west is characterised by light industrial uses, known as the Peakhurst Industrial Precinct. Further to the east, south, and west of the site are single dwelling houses.
28. The primary interfaces of the site are described below in **Table 2**. The surrounding context is shown below in **Figures 5 to 8**.

Table 2 – Surrounding Land Uses

Aspect	Land Uses
North	Light industrial warehouses are located to the north of the site.
East	Light industrial warehouses are located immediately to the east of the site. A series of single dwelling houses begin approximately 200m east of the site.
South	Immediately to the south-west of the site is St George Masonic Club (86 Roberts Avenue). The site is bound to the south by Roberts Avenue. Beyond Roberts Avenue is a series of single dwelling houses and Hurstville Golf Club.

West	Land immediately to the west of the site is landscaped. Beyond this are light industrial warehouses.
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Figure 5 – St George Masonic Club as viewed from Roberts Avenue

(Source: Urbis Report)



Figure 6 – Light industrial land uses as viewed from Roberts Avenue

(Source: Urbis Report)



Figure 7 – Hurstville Golf Club as viewed from Roberts Avenue

(Source: Urbis Report)



Figure 8 – Low density residential dwellings as viewed from Roberts Avenue
(Source: Urbis Report)



3. PLANNING STRATEGIES, POLICIES AND CONTROLS

3.1 Existing Planning Controls

29. The site is currently zoned IN2 Light Industrial under the HLEP 2012 (refer to **Figure 9** below). The allotments immediately adjoining the site are zoned IN2 Light Industrial. Surrounding lots are zoned IN2 Light Industrial, R2 Low Density Residential, and RE1 Public Recreation. Refer to **Table 3** below for the HLEP 2012 Land Use Table for Zone IN2 Light Industrial.

Figure 9 – Land Zoning Map (Source: Urbis Report)



Table 3 – Zone IN2 Land Use Controls (HLEP 2012)

Zone IN2 Light Industrial

1 Objectives of zone

- To provide a wide range of light industrial, warehouse and related land uses.
- To encourage employment opportunities and to support the viability of centres.
- To minimise any adverse effect of industry on other land uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To support and protect industrial land for industrial uses.
- To enable industrial development which does not pollute or adversely affect adjoining land, air or water.
- To ensure industrial development creates areas that are pleasant to work in, safe and efficient in terms of transportation, land utilisation and service distribution.

2 Permitted without consent

Home occupations

3 Permitted with consent

Depots; Garden centres; Hardware and building supplies; Industrial training facilities; Kiosks; Landscaping material supplies; Light industries; Neighbourhood shops; Places of public worship; Plant nurseries; Roads; Take away food and drink premises; Timber yards; Vehicle sales or hire premises; Warehouse or distribution centres; Water recycling facilities; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Biosolids treatment facilities; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Child care centres; Commercial premises; Community facilities; Correctional centres; Crematoria; Eco-tourist facilities; Educational establishments; Entertainment facilities; Environmental facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Function centres; Health services facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Information and education facilities; Industries; Jetties; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Passenger transport facilities; Public administration buildings; Recreation areas; Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Residential accommodation; Respite day care centres; Rural industries; Sewage treatment plants; Tourist and visitor accommodation; Water recreation structures; Water supply systems; Wholesale supplies

4. APPLICANT'S PLANNING PROPOSAL REQUEST

4.1 Background

30. In 2009 under Development Application 08/DA-411, the former Hurstville City Council approved the development of the site for a "three storey mixed use development comprising supermarket, bulky goods retail, gymnasium and office with basement parking".
31. The Development Application sought to replace the existing structures on the eastern portion of the site, which generally had comprised of a depot and service yard for motor mechanics and a temporary office building.
32. At the time of the development approval, the site was located within Zone No 4 (Light Industrial Zone) under the Hurstville Local Environmental Plan 1994 ("HLEP 1994").
33. The Land Use Table of Zone No 4 specified that any land use which was not listed as a prohibited use would be permitted with development consent. As such, the proposed uses of bulky goods retail and gymnasium were considered to be permissible developments as they were not listed as prohibited uses in the zone.
34. A number of land uses were listed as "Prohibited" in the Light Industrial Zone, for example, boarding houses, caravan parks, dwellings, residential flat buildings, etc.
35. Office premises and shops were also included within the list of prohibited land uses. However, HLEP 1994 specifies that office premises and shops may be permitted if Council deems the uses to be appropriate to the industrial zone:

***Prohibited** ... office premises and shops (other than those ordinarily incidental or subsidiary to industry, or which are primarily intended to serve persons occupied or employed in uses otherwise permitted in this zone, or which by virtue of their nature, the services provided, or the products produced, distributed or sold are, in the opinion of the council, appropriately located in an industrial zone);*

36. Council's assessment of the suitability of shops and commercial premises in the Light Industrial Zone was subject to **Clause 16(1)** of the HLEP 1994. The clause (as below) identifies a number of considerations Council must be satisfied of prior to granting consent for developments containing commercial purposes or shops (other than bulky goods salesrooms or showrooms which were already permitted with consent in the zone).

16 Development in industrial zones

(1) The council may grant consent to the carrying out of development on and within Zone No 4 for the purpose of shops (other than bulky goods salesrooms or showrooms) or for commercial purposes only where it is satisfied that:

(a) where the proposed development may otherwise have been carried out within a business centre in the locality, suitable land for the development is not available in that business centre, and

(b) the proposed development is of a type appropriate to an industrial zone, or to the general character of existing structures or uses within the industrial zone.

37. Supermarkets were identified as a form of “shop” and were therefore not permitted in the Light Industrial Zone under the HLEP 1994. However, the application was assessed using the **Clause 16(1)** mechanism of the HLEP 1994 and the proposed supermarket development was considered to be appropriately located in the industrial zone as it will service the needs of the local workforce.
38. Furthermore, the proposed “office premise” land use was also deemed to be permissible as it is ancillary in function to the other permitted uses in the Light Industrial Zone, in line with the Land Use Table as noted above in **paragraph 35**.
39. Subsequently, the proposed development comprising of a supermarket, bulky goods retail, gymnasium and office with basement parking was approved in 2009 using the **Clause 16(1)** mechanism of the HLEP 1994.
40. In the preparation of the HLEP 2012 by the former Hurstville City Council, a series of ‘discussion papers’ relating to specific land use zones across the former Hurstville local government area were prepared.
41. The Commercial and Industrial Land Discussion Paper proposed the direct conversion of the planning controls for Zone No 4 (Light Industrial Zone) to IN2 Light Industrial under the new Standard Instrument LEP.
42. The flexibility of **Clause 16(1)** of the HLEP 1994 in enabling retail uses in Light Industrial zones was acknowledged in the discussion paper. The adopted HLEP 2012 has translated the intent of this clause into the ‘neighbourhood shops’ land use, which is permitted with consent in the IN2 Light Industrial land use table.
43. As a supermarket is considered to be a large format retail use, the more appropriate land use term in the Standard Instrument LEP is ‘retail premise’, which is currently prohibited in the IN2 Light Industrial zone under the HLEP 2012.

44. In light of the 2009 development consent, the existing development benefits from existing use rights as per **Division 10 Existing uses** of **Part 4 Development assessment** of the Environmental Planning and Assessment Act 1979.
45. However, the approved supermarket and bulky goods retail uses are not identified as Standard Instrument land use terms. This means that they cannot be distinctively identified in the HLEP 2012 and need to be substituted by similar terms, which creates a level of ambiguity in the permissible land uses on the site based on existing use rights.
46. By translating the existing land uses of supermarket and bulky goods retail to 'retail premises' and 'bulky goods premises' respectively through the Planning Proposal request, permissible land uses will become defined and restricted under HLEP 2012. The permissible land uses on the subject site will no longer be open to interpretations as it would otherwise remain under the application of existing use rights.

4.2 Summary of Planning Proposal Request

47. Urbis submitted a Planning Proposal request (PP2017/0001) on behalf of Romanous Construction on 12 April 2017 seeking the amendment of the Hurstville Local Environmental Plan 2012 ("HLEP 2012") in relation to the street address at 84D Roberts Avenue, Mortdale (refer to **Figure 1** above).
48. The Planning Proposal seeks to:
 - Amend **Schedule 1 Additional Permitted Uses** of the HLEP 2012 to insert a clause with specific reference to the subject site as follows:

Use of certain land at 84D Roberts Avenue, Mortdale

(1) This clause applies to land at 84D Roberts Avenue, Mortdale being Lot 21, DP 542051.

(2) The uses of retail premises, bulky goods premises, and child care centres are permitted with development consent.

49. In summary, the proposal seeks to permit the uses of retail premises, bulky goods premises and child care centres on the site by way of a **Schedule 1** amendment to the HLEP 2012.
50. The proposed amendment to the HLEP 2012 does not propose any changes to built form provisions and is concerning land use only.

5. ASSESSMENT OF THE PLANNING PROPOSAL

5.1 Strategic Planning Context

51. Consideration of the Planning Proposal request in relation to the current regional or sub-regional plans and strategies A Plan for Growing Sydney (Metropolitan Strategy) and the draft South District Plan is provided below.

A Plan for Growing Sydney (Metropolitan Strategy)

52. A Plan for Growing Sydney was adopted in December 2014. The plan positively encourages well designed, higher density development within walking distance of public

transport infrastructure with a key focus on urban renewal in appropriate areas. The applicant has provided their assessment of the Planning Proposal against the relevant Actions of the plan as below:

53. **Goal 1:** *A competitive economy with world-class services and transport*

Direction 1.11: Deliver infrastructure

Action 1.11.3: Undertake long-term planning for social infrastructure to support growing communities

The proposal will enable the provision of a child care centre in a prominent location near residents. With the expected increase in demand for child care facilities across Sydney, the proposal provides an approach to incorporate this important facility into an existing accessible building.

54. **Goal 2:** *A city of housing choice, with homes that meet our needs and lifestyles*

Direction 2.1: Accelerate housing supply across Sydney

Action 2.1.1: Accelerate housing supply and local housing choices

The proposal seeks to amend the existing planning controls to facilitate the continuation of the shopping centre. This option as opposed to relocating the shopping centre will ensure that residential allotments will not be removed from the market, consequently reducing the market supply of dwellings. In doing this the proposal will not adversely impact on the acceleration of housing supply or local housing choices.

55. **Goal 3:** *A great place to live with communities that are strong, healthy and well connected*

Direction 3.1: Revitalise existing suburbs

Action 3.1.1: Support urban renewal by directing local infrastructure to centres where there is growth

The NSW Government has identified that the provision of social infrastructure such as child care centres will make a significant contribution to making vibrant local centres. Permitting the use of a child care centre on the site will contribute to further vibrancy to this local shopping centre.

56. The Georges River local government area is located within the South Subregion. The applicant has provided their assessment of the Planning Proposal against the relevant Priorities of the South Subregion as below:

57. **Priority:** Accelerate housing supply, choice and affordability and build great places to live.

The proposal will enhance the liveability of the Mortdale area by protecting access to essential services. The proposed provisions will give confidence to the landowner and operator of surrounding properties and businesses to continue to invest and improve the operations into the future. This investment will contribute towards making Mortdale a great place to live.

58. **Priority:** Retain a commercial core in Hurstville, as required, for long-term employment growth; and provide capacity for additional mixed-use development in Hurstville including offices, retail, services and housing.

Whilst the site is not in the Hurstville core, it is in the wider locality and will contribute to employment in the area. The objectives associated with mixed-use development are achieved with this proposal as it ensures that local services, employment and housing are near one another.

Draft South District Plan

59. The draft South District Plan proposes a 20-year vision by setting out aspirations and proposals for the South District. The applicant has provided their assessment of the Planning Proposal against the following relevant Priorities of the district plan as below:

60. ***Vision: A Productive City***

Productivity Priority 1: Manage growth and change in strategic and district centres and, as relevant, local centres

The proposal protects the existing economic activity produced by the shopping centre. This will have positive effects on and will support both the local centre and the wider strategic centre of Hurstville.

61. ***Vision: A Productive City***

3.8 Accessing a greater number of jobs and services within 30 minutes

The proposal seeks to allow for the continuation of the retail premises on the site and allow for the additional use of a child care centre and bulky goods premises. This in turn supports the '30 minute' city concept, as it provides local employment and important local services close to residents.

62. ***Vision: A Liveable City***

4.8 Respond to people's need for services

The proposal seeks to allow for the use of a child care centre on the site. With the expected increase in demand for child care facilities within the South District, the proposal provides an approach to incorporate this important facility into an existing accessible building.

5.2 Council's Local Strategic Plans

63. Consideration of the Planning Proposal request in relation to the current Hurstville Community Strategic Plan 2025 and the draft Georges River Employment Lands Study is provided below.

Hurstville Community Strategic Plan 2025

64. The former Hurstville City Council has endorsed the Hurstville Community Strategic Plan 2025 as the overarching strategy for Council's objectives and operations. The applicant has provided their assessment of the Planning Proposal against the following relevant issues of the City Plan as below:

65. ***Building and maintaining community facilities and services.***

The proposal will allow for the provision of a child care centre within the existing plaza. This is essential to meet the community's growing needs for child care centres and in

doing so will assist in satisfying the objective of this strategic plan in permitting the provision of more community facilities.

66. *Supporting and attracting local businesses and encouraging local employment.*

The proposal will protect existing local employment opportunities within the shopping plaza, whilst expanding the variety of these opportunities.

Draft Georges River Employment Lands Study

67. The draft Georges River Employment Lands Study (“ELS”) was recently publicly exhibited until 31 May 2017. The ELS provides Council with a strategic direction for employment lands across the Georges River local government area to ensure that sufficient land is zoned to accommodate future employment growth.

68. The site (known as Mortdale Plaza) is located within the Peakhurst Industrial Precinct. The provision of a large supermarket on the site is identified by the ELS as one of the strengths of the precinct through the amenity it provides to the area.

69. The applicant justifies that the proposal is consistent with the desired character of the precinct (refer below):

In the Peakhurst Industrial Precinct Factsheet (refer **Attachment 1**), the Mortdale Plaza is noted as providing a range of retail uses and a supermarket. The ELS supports the retention of Mortdale Plaza and its uses, and does not indicate that the site should cater to another use, including industrial.

The site, despite currently being zoned IN2 Light Industrial, plays a vital role in the precinct with its existing land uses. This document clearly indicates that the Mortdale Plaza and its current uses should be retained as they strengthen the precinct and support the surrounding industrial uses. This Planning Proposal will protect the existing uses, which in turn will protect the amenity of this industrial precinct.

5.3 State and Regional Statutory Framework

70. The consistency of the Planning Proposal with the relevant State Environmental Planning Policies (SEPPs) is addressed below:

State Environmental Planning Policy No. 55 – Remediation of Land

71. SEPP 55 aims to promote the remediation of contaminated land for the purpose of reducing risk and harm to human health or any other aspects of the environment.

72. The existing development has received approval in 2009 under the development consent 08/DA-411, indicating that the site is unlikely to be subject to further contamination.

73. This Planning Proposal is for the purpose of permitting land uses only and is consistent with this SEPP.

5.4 S117 Ministerial Directions

74. Ministerial Directions under Section 117 of the Environmental Planning and Assessment Act 1979 set out a range of matters to be considered when prepared an amendment to a Local Environmental Plan.
75. The Planning Proposal is consistent with all relevant ministerial directions as assessed by the applicant in **Table 4** below:

Table 4 – Compliance of the Planning Proposal with relevant S117 Directions

S117 Direction	Assessment
1.1 Business and Industrial Zones	<p>This proposal protects the employment that stems from the existing shopping centre, as well as expanding the variety of employment opportunities by permitting the use of a child care centre.</p> <p>This proposal will result in the site continuing to be used for purposes that are not industrial, but will not result in the reduction of available industrial land. The existing uses were considered appropriate in the approval of 08/DA-411 and will not adversely affect local employment opportunities.</p>
3.5 Development Near Licensed Aerodromes	This proposal does not include a change to the existing built form. It is to permit uses only.
6.1 Approval and Referral Requirements	This proposal does not include provisions for referrals or concurrences of future development applications.
6.2 Reserving Land for Public Purposes	This proposal does not affect land for public purposes.
7.1 Implementation of A Plan for Growing Sydney	The proposal is consistent with the objectives of A Plan For Growing Sydney, as assessed in Section 5.1 above.

5.5 Existing Use Rights

76. Under **Division 10 Existing uses** of **Part 4 Development assessment** of the Environmental Planning and Assessment Act 1979, existing use is defined as the use of a building, work or land for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use.
77. In accordance with the above definition, the existing development on the site is deemed to possess existing use rights in that the uses of “supermarket, bulky goods retail, gymnasium and office with basement parking” were approved in 2009 prior to the commencement of the HLEP 2012.
78. The Planning Proposal request to permit the prohibited land uses of retail and bulky goods premises will not establish a precedent for the expansion of retail and non-industrial uses in an industrial zone.

- 79. There will be no reduction to the availability of existing industrial land. The proposal seeks to enable the continued usage of existing non-industrial purposes, which is isolated to the subject site through existing use rights.
- 80. The existing retail uses are supported by the draft Georges River Employment Lands Study, which does not indicate that the site should cater to another use, including industrial, as the provision of a large supermarket offers amenity to the area. As such, existing employment will be protected.
- 81. The proposed **Schedule 1** amendment to HLEP 2012 to enable retail premises and bulky goods premises will legitimise these current uses on the site and remove the ambiguity associated with the existing use rights of 'supermarket' and 'bulky goods retail' as these terms are not Standard Instrument terms defined in the HLEP 2012.
- 82. No additional retail purposes are proposed on the site.

6 VOLUNTARY PLANNING AGREEMENT

- 83. The Voluntary Planning Agreement ("VPA") Policy was adopted on 1 August 2016 and sets out Council's objectives in relation to the use of planning agreements. The Policy has been consistently applied to planning proposals and development applications alike since its adoption.
- 84. Clause 5.3 of the Policy states that where either a Planning Proposal is proposed, or development consent is sought, which will result in an exceedance of development standards, resulting in an inherent increase in value of the land or development, the concept of land value capture may be used to assess the appropriate contribution.
- 85. The proposal does not seek development uplift, and is only concerned with land use permissibility. As such, Council has not applied the VPA Policy to the Planning Proposal.

7 SUMMARY OF ASSESSMENT / CONCLUSION

- 86. As identified in the draft Georges River ELS, the subject site provides amenity to the area through the availability of retail services. The requested **Schedule 1** amendment to the HLEP 2012 allows for the continuation of existing retail premises on site.
- 87. The existing development, Mortdale Plaza, was approved by the former Hurstville Council in 2009 for the uses of a supermarket, bulky goods retail, gymnasium and offices. As such, retail premises and bulky goods premises are considered as existing uses under **Division 10 Existing uses** of **Part 4 Development assessment** of the Environmental Planning and Assessment Act 1979 as these were approved prior to the adoption of the HLEP 2012.
- 88. It is considered that a precedent is unlikely to be established as the proposed uses of retail premises and bulk goods premises are only supported due to existing use rights.
- 89. The NSW Government released the draft Standard Instrument (Local Environmental Plans) Amendment Order (No 2) 2016 earlier this year which proposes to amend all

Local Environmental Plans to permit centre-based child care in all R2 Low Density Residential and IN2 Light Industrial zones.

90. The Planning Proposal request to permit child care centres on the subject site is aligned with the intent of the Standard Instrument Amendment Order (No 2) 2016.
91. In summary, the Planning Proposal request to permit the uses of retail premises, bulky goods premises and child care centres by way of a **Schedule 1** amendment to the HLEP 2012 is supported in relation to the site at 84D Roberts Avenue, Mortdale (legally described as Lot 21 DP 542051).

8 COMMUNITY CONSULTATION

92. Should the Planning Proposal be supported it will be forwarded to the NSW Department of Planning and Environment (“DPE”) requesting a Gateway Determination.
93. If a Gateway Determination (Approval) is issued, and subject to its conditions, it is anticipated that the Planning Proposal will be exhibited for a period of 28 days in accordance with the provisions of the *Environmental Planning and Assessment Act, 1979* and *Regulation, 2000* and any requirements of the Gateway Determination.
94. Exhibition material, including explanatory information, land to which the Planning Proposal applies, description of the objectives and intended outcomes, copy of the Planning Proposal and relevant maps will be available for viewing during the exhibition period on Council’s website and hard copies available at Council offices and libraries.
95. Notification of the public exhibition will be through:
 - Newspaper advertisement in The St George and Sutherland Shire Leader,
 - Exhibition notice on Council’s website,
 - Notices in Council offices and libraries,
 - Letters to State and Commonwealth Government agencies identified in the Gateway Determination (if required),
 - Letters to adjoining landowners (if required, in accordance with Council’s Notification Procedures).
96. The anticipated project timeline for completion of the Planning Proposal is shown below:

Task	Anticipated Timeframe
Lodgement of Planning Proposal request	12 April 2017
Report to Georges River IHAP on Planning Proposal	21 September 2017 (this report)
Report to Council on Planning Proposal	9 October 2017
Anticipated commencement date (date of Gateway determination)	December 2017
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)	January 2018
Commencement and completion dates for	February/March 2018

community consultation period	
Dates for public hearing (if required)	N/A
Timeframe for consideration of submissions	March 2018
Reporting to Georges River IHAP on community consultation	March 2018
Reporting to Council on community consultation and finalisation	April 2018
Submission to the Department to finalise the LEP	April 2018
Anticipated date for notification.	April 2018

97. It is noted that the project timeline will be assessed by the DPE and may be amended by the Gateway Determination.

9 NEXT STEPS

98. The Planning Proposal will be considered at a future Georges River Council meeting (“the relevant planning authority”) for consideration, including the IHAP recommendations. If the Planning Proposal is endorsed by Council it will be forwarded to the delegate of the Greater Sydney Commission for a Gateway Determination under Section 56 of the Environmental Planning and Assessment Act 1979.
99. If Council resolves not to support the Planning Proposal, the Applicant has the opportunity to request a pre-Gateway Review by the Planning Panels under the delegation of the Greater Sydney Commission. An applicant has 40 days from the date of notification of Council’s decision to request a review.

ATTACHMENTS

Attachment Peakhurst Industrial Precinct Factsheet (draft Georges River Employment Lands
[View](#)¹ Study)

GEORGES RIVER COUNCIL

FACT SHEET

DRAFT EMPLOYMENT LANDS STUDY

INTRODUCTION

The following provides an overview of the information provided for the **Peakhurst Industrial Precinct**.

More detailed information is provided within the draft Employment Lands Study, which is currently on exhibition. It should be noted that as this is a draft Study, the recommendations presented by the consultants are only "draft" and may be subject to change.

PEAKHURST INDUSTRIAL PRECINCT

The Peakhurst Industrial Precinct is the largest industrial zoned area in Georges River comprising approximately 56 hectares.

The draft Employment Lands Study estimates that the Peakhurst Industrial Area provides employment for approximately 2,553 people within the 341,185m² of gross floor area.

The Precinct includes a broad mix of industrial land uses and a number of other land uses including community uses, bulky goods retailing and the recent addition of Mortdale Plaza, which includes a range of retail uses and a supermarket.

The built form of the area reflects the current and historic 'industrial' zoning and the height maximum of 10m and FSR of 1:1. There is no apparent residential within the Precinct, however, there is significant residential interface along the south eastern section of the precinct.

The draft Study identified the incompatibility of residential land uses and low-medium demand for office and retail development in the Precinct.



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KOGARAH CIVIC CENTRE
2 Belgrave Street, Kogarah

Postal address: PO Box 205, Hurstville NSW 1481

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The **strengths** of the Precinct include:

- Proximity to the M5 Motorway and Airport
- Diverse mix of businesses providing important services and employment opportunities for local residents
- Ancillary services (for employees/businesses) nearby
- Large supermarket, providing amenity to the area

The **opportunities** for the Area include:

- Market the Peakhurst Industrial Area as one of the main service industry and service trade location within Georges River
- Gradual redevelopment of under-utilised sites / potential amalgamation of sites to create larger industrial development opportunities
- Consider options to reduce parking congestion / improve access to employees and customers

DRAFT RECOMMENDATIONS

The draft Study makes the following draft recommendations for the **Peakhurst Industrial Precinct**:

- *Retain the IN2 Light Industrial zone*
- *Increase the minimum subdivision requirement to 1000m²*
- *Increase the height of buildings from 10m to 13m*
- *Retain the existing FSR of 1:1*
- *Consider the incorporation of a DCP provision to address the residential zone interface to mitigate potential adverse impacts of development where it shares a boundary with residential land uses. Such provisions may include, but not be limited to setbacks, landscaping and heights adjacent to residential boundaries.*



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HAVE YOUR SAY

You can access the draft Employment Lands Study and associated documentation online at <http://www.georgesriver.nsw.gov.au/Council/Have-Your-Say/Public-Exhibitions> and in person at:

Georges River Council
Hurstville Service Centre
Corner MacMahon and Dora Streets, Hurstville
Open: 8.30am - 5.00pm, Monday to Friday

Kogarah Library and Service Centre
Kogarah Town Square, Belgrave Street
Open: 8.30am - 5.00pm, Monday to Friday

Hurstville and Kogarah Public Libraries, during library hours

Submissions must be made in writing and clearly marked "Draft Employment Lands Study". Council will acknowledge receipt of all submissions.

Please ensure that a return email or postal address is included in any submission. Submissions should be received by **5pm on Wednesday 31 May 2017**.

You can choose to make your submission in any of the following ways:

- Email your submission to mail@georgesriver.nsw.gov.au
- Post your submission to:
General Manager
Georges River Council
PO Box 205
Hurstville NSW 1481
Ref: Draft Employment Lands Study

For more information contact Council's Strategic Planning Team on 9330 6400

GIFTS AND DONATIONS

You must disclose if you have made a reportable political donation within the past two (2) years. A disclosure can be made by completing a *Political Donations and Gifts Disclosure Statement*. This form can be found on Council's website. This form should be completed and attached to your submission



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REPORT TO GEORGES RIVER COUNCIL

IHAP MEETING OF THURSDAY, 21 SEPTEMBER 2017

IHAP Report No	3.5	Application No	PP17/42
Site Address & Ward Locality	73 Vista Street Sans Souci Kogarah Bay Ward		
Proposal	The Planning Proposal seeks to amend the Kogarah Local Environmental Plan 2012 Land Use Zone, Foreshore Building Line development controls and insert an additional permitted use for Seniors Housing by way of Schedule 1 with increased maximum permissible building height and floor space ratio specifically relating to 73 Vista Street, Sans Souci.		
Report Author/s	Strategic Planner, Anne Qin		
Owners	Nanevski Developments		
Applicant	Nanevski Developments		
Zoning	R2 Low Density Residential & W2 Recreational Waterways under Kogarah Local Environmental Plan 2012		
Date Of Lodgement	15/03/2017		
Submissions	N/A		
Cost of Works	N/A		
Reason for Referral to IHAP	To seek endorsement for the refusal of the Planning Proposal		

Recommendation	<p>1. That the Georges River IHAP recommends to the Council that the Planning Proposal to amend Kogarah Local Environmental Plan 2012 (“Kogarah LEP 2012”) in relation to Lots 1 DP320605, Lot 1 DP1115986, Lot 392 DP752056 and Lot 489 DP752056 known as No 73 Vista Street, Sans Souci to:</p> <ul style="list-style-type: none"> • Rezone Lot 392, DP752056 and Lot 489, DP752056 from W2 Recreational Waterways to R2 Low Density Residential; and • Amend the Foreshore Building Line to realign from the new boundary line of the R2 Low Density Residential zone, at a depth of 7.6m from Mean High Water; and • Amend Schedule 1 Additional Permitted Uses to include a provision that allows for additional building height from 9m to 12.45m – 18.9m and floor space ratio from 0.28:1 to 2.35:1 where the development is for the purpose of Seniors Housing. <p>not be supported for the following reasons:</p> <ul style="list-style-type: none"> a) The height and density proposed on the subject site is inconsistent with the Seniors Housing SEPP, Clause 6.8 of Kogarah LEP 2012, the former Kogarah Council’s
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	<p>endorsed Housing Strategy and the objectives of the R2 Low Density Residential zone in the recently gazetted Kogarah LEP 2012 (Amendment No 2); and</p> <p>b) The proposed development resulting from the Planning Proposal is inappropriate in terms of built form, scale and density and will be out of context with the character of the immediate locality when viewed both from Vista Street and the Georges River foreshore; and</p> <p>c) There is inadequate justification provided in the documentation submitted with the Planning Proposal to support the increased height and density on the subject site; and</p> <p>d) The outcomes of the Planning Proposal do not have strategic merit and the development, as proposed is inconsistent with the Strategic Merit Test as outlined in the NSW Department of Planning's <i>Rezoning Reviews</i> (August 2016); and</p> <p>e) The Department of Planning does not support the use of prescriptive Schedule 1 Amendments such as that proposed in the Planning Proposal.</p> <p>2. That for the reasons outlined in (1) above, the Council will not forward the Planning Proposal to the delegate of the Greater Sydney Commission for a Gateway Determination under Section 55 and 56 of the Environmental Planning & Assessment Act 1979.</p> <p>3. That Council be advised of the IHAP's recommendation.</p>
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Figure 1 – Aerial Plan & SIX Maps Allotment Plan



Executive Summary

1. JBA Urban Planning Consultants submitted a Planning Proposal request (PP17/42) on behalf of Naneski Developments Pty Ltd on 15 March 2017 seeking the amendment of the Kogarah Local Environmental Plan 2012 (“KLEP 2012”) in relation to the street address at 73 Vista Street, Sans Souci including the following allotments:
 - a) Lot 1, DP320605
 - b) Lot 1, DP1115986
 - c) Lot 392, DP752056
 - d) Lot 489, DP752056
 - e) Lot 1, DP181450
2. With respect to the allotment known as Lot 1, DP 181450 (75 Vista Street, Sans Souci) the applicant was advised that this parcel of land is in the ownership of Georges River Council and should not form part of the Planning Proposal.
3. The applicant in correspondence to Council advised that the inclusion of the allotment was an error and as such Lot 1, DP 181450 does not form part of the Planning Proposal.
4. The Planning Proposal seeks to:
 - a) Rezone Lot 392, DP752056 and part of Lot 489, DP752056 from W2 Recreational Waterways to R2 Low Density Residential; and
 - b) Amend the Foreshore Building Line to realign from the new boundary line of the R2 Low Density Residential zone, at a depth of 7.6m from Mean High Water; and
 - c) Amend **Schedule 1 Additional Permitted Uses** to include a provision that allows for additional building height from 9m to 12.45m – 18.9m and floor space ratio from 0.28:1 to 2.35:1 where the development is for the purpose of Seniors Housing.
5. The Planning Proposal was submitted prior to the gazettal of KLEP 2012 Amendment No. 2 (known as the New City Plan, gazetted on 26 May 2017). At that time the foreshore area was zoned E4 Environmental Living. In preparing the New City Plan, these areas were rezoned to R2 Low Density Residential. As such, all E4 zoned areas identified within the Planning Proposal should be regarded as R2 Low Density Residential for the purpose of this report in line with the KLEP 2012 (Amendment No 2).
6. This Planning Proposal is accompanied by an Indicative Scheme prepared by Marchese Partners demonstrating the proposed built form. An amended Indicative Scheme was presented and has been considered by the St George Design Review Panel (“DRP”) on 6 July 2017.

7. The amended Indicative Scheme (refer to **Attachment 1**) significantly exceeds the existing KLEP 2012 building height and floor space ratio (“FSR”) controls and comprises the following:
 - a) Height increase from 9m to 12.45m – 18.9m
 - b) FSR increase from 0.28:1 to approx. 2.35:1
 - c) 48 seniors living units as per breakdown below:
 - i. 17 one bedroom units
 - ii. 21 two bedroom units
 - iii. 10 three bedroom units
 - d) 100 car parking spaces
 - e) 2 levels of basement
 - f) 4 storey building form at streetscape
 - g) 6 storey building form at rear waterway (due to existing topography through cut and fill)
 - h) Outdoor terrace at rooftop level
8. The Design Review Panel (DRP) considered the Planning Proposal, including the Visual Impact Assessment (refer to **Attachment 2**) which was requested by Council officers and provided by the applicant on 11 May 2017.
9. The DRP did not support the Planning Proposal. The proposal is considered to be out of context with the surrounding built environment and the character of the R2 Low Density Residential zone. A copy of the DRP minutes is contained in **Attachment 3**.
10. Council’s officer also sought advice from the NSW Department of Planning and Environment (“DPE”) in regards to the proposed KLEP 2012 **Schedule 1** amendments.
11. The DPE provided the response that prescriptive **Schedule 1** amendments, such as the one proposed, are not generally encouraged and instead a spot rezoning Planning Proposal would be an appropriate alternative mechanism. They have also advised that there is potential that such an amendment would not be supported at a legal drafting stage. Refer to **Attachment 4** for the DPE response dated 15 March 2017.
12. On two separate occasions dated 17 March 2017 and 27 July 2017 (refer to **Attachments 5 & 6**), Council had advised the applicant that the Planning Proposal in its current form cannot be supported due to reasons as noted above. The applicant was presented with options to withdraw the Planning Proposal or that a report will be prepared and forwarded to Council’s IHAP for consideration with a recommendation for refusal.
13. On both occasions, the applicant had chosen to progress the Planning Proposal despite being presented with the option for withdrawal.
14. For the reasons listed above, this report recommends that the Planning Proposal at 73 Vista Street, Sans Souci not be supported.

Report in Full

INTRODUCTION

15. JBA Urban Planning Consultants submitted a Planning Proposal request (PP17/42) on behalf of Naneski Developments Pty Ltd on 15 March 2017 seeking the amendment of the Kogarah Local Environmental Plan 2012 (“KLEP 2012”) in relation to the street address at 73 Vista Street, Sans Souci.
16. The Planning Proposal seeks to rezone the part of the site zoned W2 Recreational Waterways to R2 Low Density Residential under the KLEP 2012, and subsequently amend the Foreshore Building Line (“FBL”) to realign from the new boundary of the R2 zone at a depth of 7.6m from the Mean High Water Mark.
17. The Planning Proposal also seeks to amend **Schedule 1 Additional permitted use** of the KLEP 2012 to include a provision that allows for additional height and FSR on the subject site where the development is for the purposes of Seniors Housing.
18. An Indicative Scheme for a Seniors Housing development was submitted to Council and the proposal was considered at the St George Design Review Panel (“DRP”) on 6 July 2017.
19. The DRP did not support the Planning Proposal as it was considered to be completely out of context with the surrounding built environment and the character of the R2 Low Density Residential zone.
20. Council’s officer also sought advice from the NSW Department of Planning and Environment (“DPE”) in regards to the proposed KLEP 2012 **Schedule 1** amendments.
21. In the preliminary advice provided by the DPE, prescriptive **Schedule 1** amendments such as the one proposed are not generally encouraged.

SITE DESCRIPTION

2.1 Overview of the Site

22. The subject site is known as 73 Vista Street, Sans Souci and includes four (4) lots, as shown in **Figure 2** and legally described as per **Table 1**.

Table 1 – Legal Site Description

Lot / DP	KLEP 2012 Land Use Zone
Lot 1 DP 320605	R2 – Low Density Residential
Lot 1 DP 1115986	R2 – Low Density Residential
Lot 392 DP 752056	W2 – Recreational Waterways
Lot 489 DP 752056	W2 – Recreational Waterways

Figure 2 – Subject site at 73 Vista Street, Sans Souci (as outlined in red)



23. The site has a total area of approximately 2,091m² and the following boundaries:
 - Vista Street frontage of approx. 34.75m
 - Rear boundary adjoining Kogarah Bay of approx. 45m
 - Side boundary adjoining No. 71 (eastern segment) of approx. 48.24m
 - Side boundary adjoining No. 71 (western side) of approx. 14.33m
 - Side boundary adjoining Anderson Park (eastern segment) of approx. 7.53m
 - Side boundary adjoining Anderson Park (western segment) of approx. 32.46m
24. The ground surface of the site slopes down from street frontage to the rear boundary with the highest point located the north eastern boundary corner (RL 8.76), and the lowest at the south western boundary corner (RL -0.47) with a total difference of 9.23m in height.
25. The site is currently occupied by a two storey brick residential dwelling and small brick shed, which are located within the R2 zoned portion of the site. A large shed and garage and associated wet dock are located predominantly within the site's W2 zoned portion (refer to **Figure 1** above).

26. Due to the slope of the land, the site appears as a single storey dwelling house when viewed from the street. A jetty extends into the Georges River waterway from the site's western boundary.
27. Views of the site are shown in **Figures 3-6**.

Figure 3 – View of existing street frontage – brick dwelling



Figure 4 – View of large shed from Vista Street



Figure 5 – Rear view of existing dwelling and small shed to the left



Figure 6 – View of Kogarah Bay at rear boundary



2.2 Surrounding Land

28. The development surrounding the site generally comprises buildings of a similar scale to the subject site, being low density residential dwellings of one to two storeys in height. The site has water frontage to Kogarah Bay.
29. Development to the north of the site consists of low density residential development with the majority of residential dwellings along the western side of Vista Street having pools and jetties extending into the waterways. Further north of the site is the Botany Bay Yacht Club which provides both slipping and hardstand facilities, including a main pontoon and moorings which can accommodate a total of three (3) yachts.
30. Development to the south of the site consists of an allotment zoned RE1 Public Recreation (Anderson Park) which has frontage to Kogarah Bay. Adjoining the public

reserve to the south is the St George Motor Boat Club which accommodates the following:

- Club facilities including reception venues;
 - At-grade car parking facilities provided for both members and guests accessible from Wellington Street; and
 - A floating marina which provides over 130 berths with both short and long term leases available.
31. East of the sites development is low density residential dwellings of one to two storeys, interspersed with more recently developed dual occupancy developments continued further eastward to Rocky Point Road.
32. Views of the surrounding land are shown in **Figures 7-10** below.

Figure 7 – Stairway down to Anderson Park from Vista Street



Figure 8 – Pathway from Anderson Park leading to the St George Motor Boat Club



Figure 9 – View of Vista Street streetscape 01



Figure 10 – View of Vista Street streetscape 02



33. Vista Street is a quiet residential street mainly used by the residents. There are street parking available on both sides of the street.
34. The site only serviced by bus transport facilities as the closest train station is at Kogarah Town Centre, which is located approx. 5km away.
35. The site has limited access to public transport. Bus transport facilities are available on Wellington Street and Nelson Street at approximately 350m away (refer **Figure 11**) but both bus stops offer the same bus routes numbers 303 and X03. These bus route services are available every half hour during peak periods and hourly during off peak periods.

Figure 11 – Distance to public transport from site (source: JBA Planning Proposal)

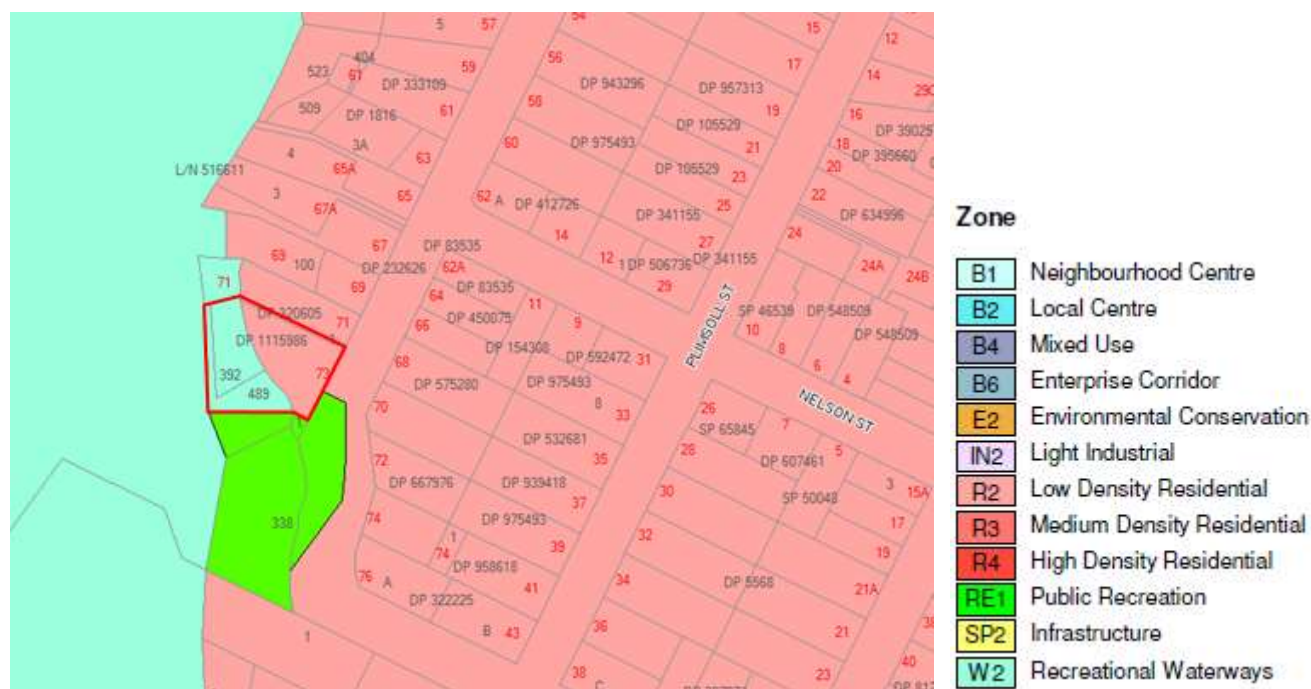


PLANNING STRATEGIES, POLICIES AND CONTROLS

3.1 Existing Planning Controls

36. The site is currently zoned R2 Low Density Residential and W2 Recreational Waterways under the KLEP 2012 (refer to **Figure 12**). The site is located within a low density locality, adjacent to Council's Anderson Park which is zoned RE1 Public Recreation.

Figure 12 – KLEP 2012 Land Use Zoning Map



37. The site is identified as being affected by the Foreshore Building Line (“FBL”), refer to **Figure 13** below. The FBL is currently mapped at a 7.6m offset from the rear boundary of the R2 Low Density Residential zone.

Figure 13 – KLEP 2012 Foreshore Building Line Map



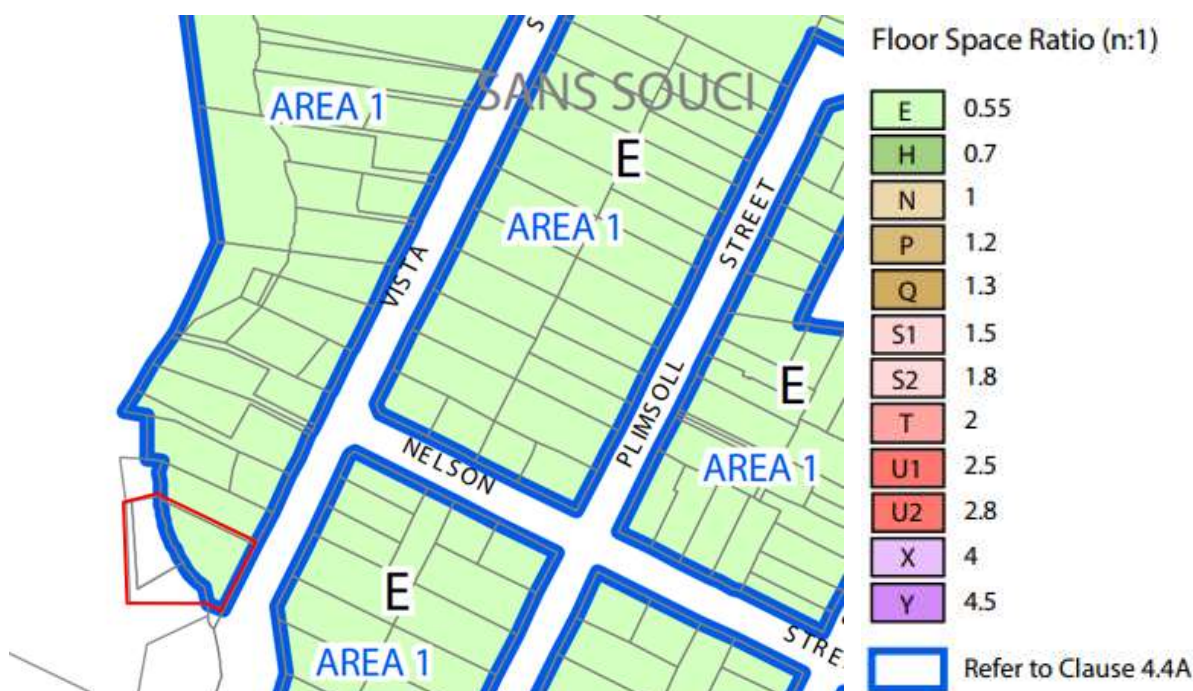
38. The site has a maximum building height of 9m under the KLEP 2012, refer to **Figure 14** below. All surrounding residential sites have the same maximum height of 9m.

Figure 14 – KLEP 2012 Height of Buildings Map



39. The site is located within Area 1 under the KLEP 2012 Floor Space Ratio (“FSR”) Map (refer to **Figure 15** below). Therefore **Clause 4.4A Exceptions to floor space ratio for residential accommodation in Zone R2** of the KLEP 2012 is applicable to the site.

Figure 15 – KLEP 2012 Floor Space Ratio Map



40. Clause 4.4A applies a sliding scale to the FSR calculations of a site in relation to the total site area. Since the subject has been identified to have a site area of approx. 2,091m², the following equation applies (refer to extract from Clause 4.4A below):

Site area	Maximum floor space ratio
less than 650 square metres	0.55:1
less than 800 square metres but not less than 650 square metres	$[(\text{lot area} - 650) \times 0.3 + 357.5] \div \text{lot area}:1$
less than 1,000 square metres but not less than 800 square metres	$[(\text{lot area} - 800) \times 0.2 + 402.5] \div \text{lot area}:1$
less than 1,500 square metres but not less than 1,000 square metres	$[(\text{lot area} - 1,000) \times 0.15 + 442.5] \div \text{lot area}:1$
not less than 1,500 square metres	$[(\text{lot area} - 1,500) \times 0.1 + 517.5] \div \text{lot area}:1$

41. As per Clause 4.4A, the site has a maximum FSR of approximately 0.28:1.

APPLICANT'S PLANNING PROPOSAL REQUEST

4.1 Background

42. Nanevski Developments accompanied by JBA and Marchese Partners met with Council officers on 17 November 2016 to present a development concept for Seniors Housing and to discuss the merits and process for a Planning Proposal for the site at 73 Vista Street, Sans Souci.
43. This preliminary development concept presented a 4-6 storey building form with two basement levels achieving a height of 13-19m and an FSR in the region of 2.35:1.
44. Council advised that the Planning Proposal should address *A Guide to Planning Proposals* and specifically the Strategic Merit Test and provided more specific advice, summarised as follows:
- The Planning Proposal should precede the Development Application rather than being a concurrent lodgement;
 - Clause 6.8 of New City Plan seeks to encourage seniors living in the R2 zone;
 - Include DCP style diagrams – the DCP can be amended to include site specific controls e.g. Kogarah Town Centre; and
 - Include a new map that indicates the realigned foreshore building line at 7.6m.
45. Regarding the merits of the development concept Council provided further advice:
- The proposal should link the future land use to the built form controls sought – consider the implications of R2 and R3 rezoning options;
 - The proposal should respect the future urban form likely within the zone – reduce the height to as close to 9.5m as possible at the street; and
 - The proposal should respect the iconic views to the water – ensure a views analysis accompanies the Planning Proposal that assesses the proposal against a complying scheme.

4.2 Summary of Planning Proposal Request

46. JBA Urban Planning Consultants submitted a Planning Proposal request (PP17/42) on behalf of Nanevski Developments on 15 March 2017 seeking the amendment of the KLEP 2012 in relation to the street address at 73 Vista Street, Sans Souci (refer to **Figure 2** above).

47. The Planning Proposal seeks to:

- Rezone Lot 392, DP752056 and part of Lot 489, DP752056 from W2 Recreational Waterways to R2 Low Density Residential; and
- Amend the Foreshore Building Line to realign from the new boundary line of the R2 Low Density Residential zone, at a depth of 7.6m; and
- Amend **Schedule 1 Additional Permitted Uses** of the KLEP 2012 to insert a clause with specific reference to the subject site as follows:

Use of certain land at 73 Vista Street, Sans Souci

1. *This clause applies to land at 73 Vista Street, Sans Souci, being Lots Lot 1 DP 320605, Lot 1 DP 1115986, Lot 489 DP 752056 and Lot 392 DP 752056;*
2. *The objective of this clause is to provide for additional floor space and height on the land to which this clause applies for the purposes of Seniors Housing;*
3. *Notwithstanding any other provisions, development for the purposes of Seniors Housing is permitted with development consent if the floor space ratio does not exceed 2.35:1 and the building height does not exceed RL 20.4.*
4. *Notwithstanding Clause 3 above; building height may exceed RL 20.4 to the extent that;*


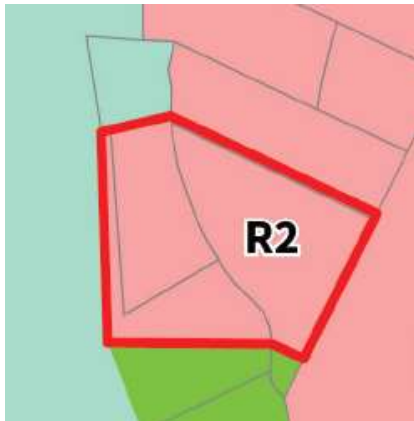
4.1 There is a lift overrun to a maximum height of RL 21.6;

4.2 There is a rooftop communal open space; the building height may exceed RL 20.4 to accommodate associated structures including parapets, planters, access, lifts and stairs subject to merit assessment

48. In summary, the Planning Proposal requests the following changes as per **Table 2** below:

Table 2 – Comparison of Current Controls and Planning Proposal

	Current Controls	Planning Proposal
Land Use Zone	W2 – Recreational Waterways - Lot 392 DP 752056	R2 – Low Density Residential - Lot 392 DP 752056

	Current Controls	Planning Proposal
	<p>- Lot 489 DP 752056</p> 	<p>- Lot 489 DP 752056</p> 
Foreshore Building Line		
Height of Building	9 metres	12.45 metres (Front – Vista Street) 18.9 metres (Rear – Georges River)
Floor Space Ratio	0.28:1 (Clause 4.4A)	2.35:1

4.3 Summary of Indicative Scheme

49. This Planning Proposal is accompanied by an Indicative Scheme prepared by Marchese Partners demonstrating the proposed built form. The submitted scheme was superseded by a revised version on 7 July 2017 (refer to **Attachment 1**) comprising of the following:
- 48 seniors living units as per breakdown below:
 - 17 one bedroom units
 - 21 two bedroom units
 - 10 three bedroom units
 - 100 car parking spaces
 - 2 levels of basement
 - 4 storey building form at streetscape
 - 6 storey building form at rear waterway (due to existing topography through cut and fill)

f) Outdoor terrace at rooftop level with lift overrun

50. Council also requested that a Visual Impact Assessment (“VIA”) be submitted. A VIA prepared by Arcadia Landscape Architecture was submitted on 11 May 2017 (refer to **Attachment 2**).

4.4 St George Design Review Panel

51. The St George Design Review Panel (“DRP”) considered the Planning Proposal request at its meeting dated 6 July 2017. Comments provided by the DRP are summarised below with respect to the applicable Design Quality Principles set out in State Environmental Planning Policy No. 65 Design Quality of Residential Flat Development (SEPP 65):

52. Context and Neighbouring Character

DRP Comment: The proposal is out of context with the surrounding built environment, which are predominantly single dwellings of no more than 3 storeys.

The proposed building is in close proximity to the boundary and may adversely impact on the existing mature trees in Anderson Park.

Council Comment: Council agrees that the proposed 4 storey building form at the street is out of context with the surrounding built environment. Furthermore, the proposed 6 storey rear building form is visually intrusive to the low-scaled context of the Kogarah Bay foreshore view catchment.

Council agrees that the proposal has not addressed the potential impact of the proposed building on the existing mature trees immediately to the south of the site. Greater side boundary setback distance should be provided.

53. Built Form and Scale

DRP Comment: The DRP had strong reservations about the bulk and form of the proposal, as confirmed by the Visual Impact Assessment which demonstrates through montage views that the form and scale is inappropriate for the site, being at least 3 storeys higher than any existing buildings within the foreshore area view catchment. It is identified that a 2-3 storey form at streetscape is more appropriate.

Council Comment: Council agrees that the proposed bulk and form greatly exceeds the urban form of its surroundings. As per Council’s comments in the pre-Planning Proposal meeting dated 17 November 2016, the applicant was advised that:

- the proposal should respect the future urban form likely within the zone – reduce the height to as close to 9.5m (maximum 3 storeys) as possible at the street; and
- the proposal should respect the iconic views to the water – ensure a views analysis accompanies the Planning Proposal that assesses the proposal against a complying scheme.

54. Density

DRP Comment: No convincing evidence was presented to justify the substantial increase in density from 0.28:1 to 2.35:1 and this density is unacceptable for the site.

Council Comment: Council agrees that no adequate justification has been provided for this substantial increase in density. This density is mainly attributed to the proposed non-compliant building height and lack of setbacks, and that density will be reduced if the building height is reduced.

55. Landscape

DRP Comment: No landscape plans were provided with the submission. The proposal does not suitably blend with the existing landscape and built form and relies on additional trees to be planted in Anderson Park to screen the proposed building, rather than allowing for substantial setbacks and planting within the subject property.

Council Comment: Council agrees that the proposal has neglected to create a visual and physical connection with the existing public reserve. The proposal has not utilised its advantageous location of being immediately adjacent to Anderson Park. Side setbacks should be increased and consideration should be made to create pedestrian connections between the site and the park as per the design principles stipulated by the Seniors Housing SEPP.

56. Amenity

DRP Comment: The proponent proposes a variety of communal services within the proposal but there is no guarantee these will remain in final designs.

Council Comment: The proposed floor plans do not indicate any communal services or ancillary functions such as on site health care, ancillary facilities and recreational facilities. The proposal has not provided sufficient amenity for the purposes of Seniors Housing.

57. Housing Diversity and Social Interaction

DRP Comment: It is not an issue that some greater mix of housing types in this area would be desirable but the proposal for Seniors Housing only at this scale of development is not appropriate.

Council Comment: Council agrees that it is the scale of the proposed development cannot be supported. The site is considered to a suitable for accommodating Seniors Housing as per **Clause 6.8** of the KLEP 2012, which intends to encourage seniors housing in the form of self-contained dwellings so as to increase the supply and diversity of housing that meets the needs of seniors in Zone R2 Low Density Residential. It should be noted that seniors housing is only permitted under Clause 6.8 if the building height does not exceed 8m and the floor space ratio does not exceed 0.5:1. The proposal significantly exceeds the provisions of this clause with a proposed building height of 12.45m – 18.9m and FSR of approx. 2.35:1. No justification has been provided by the applicant in this regard.

58. Aesthetics

DRP Comment: The proposal is too visually assertive for its waterfront locality. The DRP does not accept the conclusion of the Visual Impact Assessment as the visual impacts of the proposal is considered 'High' and unacceptable.

Council Comment: Council agrees that the proposal is of a 'High' visual impact to its surrounding context, both at streetscape and the Kogarah Bay foreshore to the rear. A lowered scale which is appropriate to the surrounding 2-3 storey setting is more likely to be supported.

59. In summary, the DRP provided the recommendation that the Planning Proposal cannot be supported due to the inappropriate built form, scale, and building density proposed, which is out of context with the surrounding built environment.
60. A copy of the St George DRP Minutes is included in **Attachment 3**.

ASSESSMENT OF THE PLANNING PROPOSAL

5.1 Strategic Merit

61. An assessment has been undertaken in accordance with the requirements of the Strategic Merit Test as outlined in the NSW Department of Planning's *Rezoning Reviews* (August 2016).
62. The key factor in determining whether a proposal should proceed to a Gateway determination should be its strategic merit. A proposal that seeks to amend controls that are less than 5 years old will only be considered where it clearly meets the Strategic Merit Test. Based on the Strategic Merit Test, the following corresponding comments are provided:

1. Consistent with the relevant draft district plan or corridor/precinct plan released for public comment.

Although the proposal supports the principles of improving housing diversity and delivering on the South District's five year housing supply target, as well as encouraging Seniors Housing in waterfront areas (identified in the former Kogarah Council's Housing Strategy, and the Kogarah Ageing Strategy), it is considered that the proposed height and density on the site is inconsistent with the former Kogarah Council's endorsed Housing Strategy and the recently gazetted KLEP 2012 Amendment No. 2 - New City Plan (dated 26 May 2017).

Kogarah LEP 2012 (Amendment No 2) includes a site specific clause to encourage seniors housing. **Clause 6.8 Seniors housing—self-contained dwellings in Zone R2** encourages seniors housing in the form of self-contained dwellings appropriate to the low density setting. The proposed scale and typology of the development is unsuited to the R2 Low Density zoning of the Vista Street locality, therefore it is inconsistent with the KLEP 2012.

2. Consistent with a relevant local strategy that has been endorsed by the Department.

The Planning Proposal is inconsistent with the provisions of the KLEP 2012 Amendment No. 2 - New City Plan, which has proposed to retain a height and FSR consistent with the surrounding low density residential development. The amendment was recently gazetted on 26 May 2017 and the applicant was made fully aware of the KLEP 2012 amendment at the time of the Planning Proposal's preparation and submission.

There has been inadequate justification provided with respect to the proposed height and FSR. The Visual Impact Assessment illustrates the proposal within a bayside setting. The site is clearly visible from the western bank of Kogarah Bay. The proposed 6 storey building form dominates the low density setting of the foreshore area, which is considered to have a significant impact on the existing views of the surrounding dwellings due to the visually intrusive scale of the development.

3. Responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls.

No significant investment in infrastructure is proposed in the locality and there are no changing demographic trends in the area.

5.2 Strategic Planning Context

63. Consideration of the Planning Proposal request in relation to A Plan for Growing Sydney (Metropolitan Strategy) and draft South District Plan is provided below.

A Plan for Growing Sydney (Metropolitan Strategy)

64. The applicant has nominated a set of Goals and Directions from A Plan for Growing Sydney (Metropolitan Strategy) in their justification of the Planning Proposal. Council's comments with regards to the consistency of the Planning Proposal with the aims of the Metropolitan Strategy are as follows.

65. *Goal 1: A competitive economy with world-class services and transport*

The proposed scheme solely features Seniors Housing, which is a type of residential accommodation. The Indicative Scheme does not propose any other ancillary functions including on site healthcare or maintenance facilities. The proposal does not have any contributions to Sydney's economy nor does it propose the delivery of new infrastructure.

66. *Goal 2: A city of housing choice, with homes that meet our needs and lifestyles*
Direction 2.1: Accelerate housing supply across Sydney

Whilst the proposal will deliver additional dwellings, the Indicative Scheme presents a residential flat building typology within a R2 Low Density Residential zone characterised by detached residential dwellings. The proposed type, scale, and bulk of development are all incompatible with the existing character of the locality.

67. Direction 2.2: Accelerate urban renewal across Sydney – providing homes closer to jobs

The Metropolitan Strategy nominates suitable locations for urban renewal as places that are located near centres on the existing public transport network. The subject site is not located in a place where it is readily accessible by public transport. Whilst the Planning Proposal intends to enable a turnover of existing housing stocks by providing Seniors Housing for local residents to downsize into, it fails to address how urban renewal will be achieved and where it will occur.

68. Direction 2.3: Improve housing choice to suit different needs and lifestyles

As noted above in the comments for Direction 2.1, the proposal is incompatible with the existing character of its locality despite being able to provide additional Seniors Housing.

69. *Goal 3: A great place to live with communities that are strong, healthy and well connected*

Direction 3.1: Revitalise existing suburbs

As noted above, whilst the provision for Seniors Housing is encouraged in R2 Low Density Residential zones, it is the residential flat building typology of the development that cannot be supported due to its incompatibility with surrounding developments and its impact on the low scale character of the area.

70. *Goal 4: A sustainable and resilient city that protects the natural environment and has a balanced approach to the use of land and resources*

Direction 4.1: Protect our natural environment and biodiversity

The proposed rezoning of the existing W2 Recreational Waterways portion of the site into R2 Low Density Residential will not significantly affect the existing foreshore area as the W2 zone is identified as a mapping anomaly. The existing landform suggests that this portion of the site has been filled, with a retaining seawall built along the current western edge of the site. Therefore the current true mean high water mark is located further west towards Kogarah Bay, aligning with the current seawall and subdivision boundary.

Currently, the site is physically separated from Anderson Park by a side boundary fence which prevents public access from the park. There are opportunities to provide pedestrian access between the proposed development and the park to improve amenity for both the residents and park users. However, the Indicative Scheme does not identify any proposed landscaping or physical connection.

Draft South District Plan

71. The draft South District Plan proposes a 20-year vision by setting out aspirations and proposals for the South District. The applicant has not provided strategic justification in relation to the draft South District Plan.

72. The following priorities and actions have been identified by Council's officer as being relevant to the Planning Proposal:

Priorities & Actions Relevant to the Planning Proposal	
A Liveable City	Improve housing choice Improve housing diversity and affordability Create great places in the South District Respond to people's need for services
A Sustainable City	Protecting the District's waterways Managing coastal landscapes Protecting and enhancing biodiversity Delivering Sydney's Green Grid

73. Council's comments with regards to the relevant priorities and actions are provided below:

It is recognised that the Planning Proposal will introduce a number of Senior Housing apartments in response to the South District's ageing population. However, the residential flat building typology is inconsistent with the vision set out by the Kogarah Housing Strategy 2031 as the proposal is incompatible with the existing character of the surrounding R2 Low Density Residential area.

The Planning Proposal does not utilise its advantageous foreshore location, or of the adjacent Anderson Park. The proposed 6 storey building form visually dominates the foreshore area with an inappropriate bulk and scale. This visual dominance can be seen from a range of vistas across Kogarah Bay as demonstrated by the Visual Impact Assessment. Furthermore, landscape design is absent from the Indicative Scheme, which has lacked initiatives to complement the existing biodiversity provided by the adjacent park.

5.3 Council's Local Strategic Plans

74. Consideration of the Planning Proposal request in relation to the Kogarah Ageing Strategy and Kogarah Housing Strategy 2031 is provided below.

Kogarah Ageing Strategy

75. The Kogarah Ageing Strategy establishes goals and strategies to provide a framework to ensure that the needs and aspirations of older people are recognised and addressed.
76. The applicant has not provided strategic justification in relation to the Kogarah Ageing Strategy. The following goals have been identified by Council's officer as being relevant to the Planning Proposal with Council's corresponding comment below:

Goals Relevant to the Planning Proposal	Council's Comments
A Clean, Green and Sustainable City Provide park and recreation facilities and infrastructure that meets the needs of our community	The site is situated in a desirable location being immediately adjacent to an existing park (Anderson Park). However, the proposal does not seek to utilise this advantageous location with no efforts or thoughts being made to provide a physical connection between the site and

	Anderson Park.
A Vibrant, Safe and Inclusive City Older people in the City of Kogarah have a range of high quality and accessible services to meet their needs	The site is located in a low density residential area where it is serviced only by bus routes, and the nearest neighbourhood centre to offer a range of essential services is located approx. 1.5km away on Rocky Point Road. The limited access to essential services to meet daily needs of the residents is likely to lead to a reliance on private vehicles as the main mode of transport.
A Vibrant, Safe and Inclusive City Foster a community where older people feel included and are supported to remain safely in their homes	The applicant anticipates that the future residents will be those downsizing from the local housing stock of freestanding homes. The proposed apartment building typology presents a disparate contrast to the target market's existing homes. This is not considered to be an appropriate transition and is likely to cause feelings of displacement.

Kogarah Housing Strategy 2031

77. The Kogarah Housing Strategy 2031 seeks to ensure a reasonable supply of new housing comes onto the market over the period from 2015 to 2031 for the former Kogarah LGA.
78. The applicant has not provided strategic justification in relation to the Kogarah Housing Strategy 2031. The following action has been identified by Council's officer as being relevant to the Planning Proposal with Council's corresponding comment below.
79. *Action 8. Provide opportunities for seniors housing on large sites in waterfront and foreshore areas.*

The intent of this action is to enable older people to downsize to smaller appropriately constructed homes. The former Kogarah Council sought to provide additional opportunities for self-contained dwellings for seniors on large sites in and around the foreshore. It was specifically stated that the development for this type of accommodation is not to be out of context with the character of the existing residential development in terms of height and density.

The proposal greatly exceeds the permitted height and FSR, and the residential flat building form significantly affects the character of the Vista Street locality.

5.4 State and Regional Statutory Framework

80. The consistency of the Planning Proposal with the relevant State Environmental Planning Policies (SEPPs) is addressed below:

State Environmental Planning Policy No. 55 – Remediation of Land

81. SEPP 55 aims to promote the remediation of contaminated land for the purpose of reducing risk and harm to human health or any other aspects of the environment.
82. The proponent has advised that a Phase 1 Contamination Report has been commissioned and all future developments on site will comply with SEPP 55 requirements.

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

83. The proposed development will be subject to the provisions of SEPP No 65, which aims to improve the quality of residential flat design in NSW.
84. The proponent has advised that the Indicative Scheme has been designed in accordance with SEPP 65 and the Apartment Design Guide and any future DA will demonstrate compliance with the standards contained in this SEPP.
85. The Indicative Scheme was considered by the DRP with respect to the Design Quality Principles outlined in SEPP 65. The Panel does not consider the proposal to be compliant with SEPP 65.
86. Refer to **Section 4.4** above for a summary of DRP comments and considerations. A copy of the St George DRP Minutes is included in **Attachment 3**.

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

87. A preliminary assessment has been undertaken against the Seniors Housing SEPP. Council's comments are provided below:

Site-related requirements

88. The Seniors Housing SEPP states that the residents of the proposed development must have access to shops, bank service providers and other essential retail and commercial services, community and recreation facilities, and a general medical practitioner all within 400 metres of the site by means of a suitable access pathway.

It is also required that public transport must be available within 400 metres from the site by means of a suitable access pathway.
89. The closest neighbourhood centre that offers a reasonable range of essential retail and commercial services including a post office, restaurants, supermarkets, a medical centre, and a pharmacy is located on Rocky Points Road at approx. 1.5km north of the subject site. Kogarah is the closest town centre and is located approx. 5km to the north of the site.
90. Public transport is available within 400 metres of the site (refer to **Figure 11**) with well-maintained pedestrian footpaths available on both sides of the street. The provision of bus stops within 400 metres of the site improves the accessibility to essential services but the residents are likely to be reliant on private vehicles as their primary mode of transport to access services that meet their daily needs such as shops and medical care.
91. Notwithstanding the above, ample of community and recreation facilities are available within 400 metres of the site including Anderson Park, Botany Bay Yacht Club, St

George Motor Boat Club, and the Sans Souci neighbourhood centre which offers a small number of restaurants / cafes and retail shops. The Sans Souci Leisure Centre and Sans Souci Park are located within 500 metres of the site.

92. Whilst the site is considered to have limited accessibility to shops, bank service providers and other essential retail and commercial services, the amenity of the residents is supplemented by good access to a wide range of community and recreational facilities within 400 metres.
93. In light of the existing conditions of accessibility, the site is not considered to be an ideal location for Seniors Housing at a high density such as the one proposed due to its inaccessibility to essential shops and services.
94. The site does possess some potential to provide a small number of self-contained senior living dwellings that leverage off the proximity to existing community and recreation facilities, so as to increase the supply and diversity of housing that meets the needs of seniors in R2 Low Density Residential zones in line with the vision set out by **Clause 6.8** of the KLEP 2012.
95. This initiative is also supported by the Kogarah Housing Strategy 2031 which seeks to provide additional opportunities for self-contained dwellings for seniors on large sites in and around the foreshore area at a scale that is appropriate with the surrounding built form.

Design principles

96. It is stated that the proposed development should recognise the desirable elements of the location's current character and maintain appropriate residential character by adopting a compatible scale to adjacent developments and providing building setbacks to reduce bulk and overshadowing.

The SEPP also specifies the provision of safe pedestrian links from the site to local facilities.

97. The Vista Street locality is characterised by low density, detached dwelling houses of maximum 3 storeys. These dwelling houses are sited in relation to the sloping foreshore typology with built forms that encourage the sharing of water views to Kogarah Bay.
98. The proposed building form of 4-6 storeys exceeds the existing low density character of both the streetscape and foreshore context. It is visually intrusive and is generally double the height of the surrounding buildings which restricts view sharing opportunities. In addition, the proposed residential flat building typology is significantly out of context within the R2 Low Density Residential zone as it is a land use that is typically prohibited in the zone.
99. The proposal does not provide consideration to pedestrian connectivity and movement between the site and the recreational facility provided by the adjacent park. Currently, access to the park is provided via a stairway from Vista Street, or a driveway shared with the St George Motors Boat Club. The provision of safe pedestrian links to Anderson Park should be addressed by the proposed development.
100. As such, the proposed development does not comply with the applicable design principles stipulated by the Seniors Housing SEPP.

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

101. A preliminary assessment has been undertaken against the Seniors Housing SEPP. Council's comments are provided below:
102. Site-related requirements: the Seniors Housing SEPP states that the residents of the proposed development must have access to shops, bank service providers and other essential retail and commercial services, community and recreation facilities, and the practice of a general medical practitioner all within 400 metres of the site by means of a suitable access pathway.

It is also required that public transport must be available within 400 metres from the site by means of a suitable access pathway.

103. Public transport is available within 400 metres of the site (refer to **Figure 11**) with well-maintained pedestrian footpaths available on both sides of the street.

However, the closest neighbourhood centre that offers a reasonable range of essential retail and commercial services including a post office, restaurants, a medical is located on Rocky Points Road at approx. 1.5km north of the subject site.

5.5 Preliminary Advice from NSW DPE

104. Council had sought preliminary advice from the NSW Department of Planning & Environment ("DPE") with respect to the proposed use of **Schedule 1 – Additional Permitted Uses** to identify the height and FSR on the proposed site.
105. The Department, in this regard has advised the following in their email response dated 15 March 2017:

".....prescriptive Schedule 1 Amendments, such as the one proposed, are not generally encouraged by the Department as it is not the intended purpose of the mechanism. There is also potential that such an amendment would not be supported at a legal drafting stage. A preferred approach to such an amendment would be to lodge a spot rezoning planning proposal to change all the planning controls."

106. Council considers that the proposal, particularly with respect to the height fronting Vista Street should be reviewed to be consistent with the height of buildings in the R2 Low Density Residential zone.
107. A copy of the preliminary advice from the DPE is provided in **Attachment 4**.

5.2 S117 Ministerial Directions

108. Ministerial Directions under Section 117 of the Environmental Planning and Assessment Act 1979 set out a range of matters to be considered when prepared an amendment to a Local Environmental Plan.
109. S117 Ministerial Directions have not been considered as part of the assessment of this Planning Proposal as the proposed amendments to the KLEP 2012 have not met the requirements of the Strategic Merit Test and cannot be supported by Council.

VOLUNTARY PLANNING AGREEMENT

110. The Voluntary Planning Agreement (“VPA”) Policy was adopted on 1 August 2016 and sets out Council’s objectives in relation to the use of planning agreements. The Policy has been consistently applied to planning proposals and development applications alike since its adoption.
111. Clause 5.3 of the Policy states that where either a Planning Proposal is proposed, or development consent is sought, which will result in an exceedance of development standards, resulting in an inherent increase in value of the land or development, the concept of land value capture may be used to assess the appropriate contribution.
112. Clause 5.13 of the Policy states through a formula, that Council capture fifty percent (50%) of the increase in the residual land value resulting from the planning uplift sought for a site via the Planning Proposal.
113. The Planning Proposal provides for a significant uplift in the value of the land. However as Council’s officers were not supportive of the form and scale of the proposed development, discussions with respect to the provision of community benefit and the negotiation of a VPA were not entered into.

SUMMARY OF ASSESSMENT / CONCLUSION

114. The Planning Proposal request to amend Kogarah LEP 2012 in relation to Lots 1 DP320605, Lot 1 DP1115986, Lot 392 DP752056 and Lot 489 DP752056 known as No 73 Vista Street, Sans Souci
 - To rezone Lot 392, DP752056 and part of Lot 489, DP752056 from W2 Recreational Waterways to R2 Low Density Residential; and
 - To amend the Foreshore Building Line to realign from the new boundary line of the R2 Low Density Residential zone, at a depth of 7.6m from Mean High Water; and
 - To amend **Schedule 1 Additional Permitted Uses** to include a provision that allows for additional building height from 9m to 12.45m – 18.9m and floor space ratio from 0.28:1 to 2.35:1 where the development is for the purpose of Seniors Housing.

is not be supported for the following reasons:

- a) The height and density proposed on the subject site is inconsistent with the Seniors Housing SEPP, the former Kogarah Council’s endorsed Housing Strategy and the objectives of the R2 Low Density Residential zone in the recently gazetted Kogarah LEP 2012 (Amendment No 2); and
- b) The proposed development resulting from the Planning Proposal is inappropriate in terms of built form, scale and density and will be out of context with the character of the immediate locality when viewed both from Vista Street and the Georges River foreshore; and

- c) There is inadequate justification provided in the documentation submitted with the Planning Proposal to support the increased height and density on the subject site; and
- d) The outcomes of the Planning Proposal do not have strategic merit and the development, as proposed is inconsistent with the Strategic Merit Test as outlined in the NSW Department of Planning's *Rezoning Reviews* (August 2016); and
- e) The Department of Planning does not support the use of prescriptive **Schedule 1** Amendments such as that proposed in the Planning Proposal.

115. As such it is recommended that the Planning Proposal not be supported and that Council recommend that it will not request a Gateway Determination in accordance with Section 55 and 56 of the Environmental Planning & Assessment Act 1979.

ATTACHMENTS

Attachment Indicative Scheme prepared by Marchese Partners

[View1](#)

Attachment Visual Impact Assessment prepared by Arcadia

[View2](#)

Attachment Design Review Panel Minutes dated 6 July 2017

[View3](#)

Attachment Letter to Applicant - Design Review Panel Minutes - July 2017 - 73 Vista St Sans Souci

[View4](#)

Attachment L200317_73 Vista Street_Planning Proposal

[View5](#)

Attachment Attachment 4 Preliminary Advice provided by NSW DPE dated 15 March 2017 - 73 Vista St Sans Souci

[View6](#)

73 Vista St, San Souci

Seniors Living Feasibility

17th November 2016

marchesepartners

Esprit de Vie

applying science to aged living and aged care design

The 7 Design Principles of *Esprit de Vie*

1. Familiarity
2. Legibility
3. Distinctiveness
4. Accessibility
5. Connectivity
6. Safety
7. Individual Choice

'Person Centred Living'

Environments that facilitate choice, independence and well being in a manner that engenders an enriched lifestyle.



Low Rise/Small Impact Designs

Waterbrook, Bayview NSW



LifeCare Joslin, SA



Waterbrook Greenwich



Tarragindi Bowling Club, QLD

Library/Study

Hester, Canterbury VIC



Watermark, Castle Cove NSW



Waterbrook, Greenwich NSW



Hester, Canterbury VIC

Common Space

Waterbrook, Greenwich NSW



Watermark, Castle Cove NSW



Hester, Canterbury VIC



Links Seaside, Wollongong NSW



Kantarra, Lindfield NSW



Gowenbrae Village, NSW

Awards for Design & Innovation

- 2016 Excellence in Aged-Care - NSW
The Urban Development Institute of Australia
Mark Moran Vaucluse
- 2015 Most Outstanding Over 50s Housing Design
Best in the World The Globals
Mark Moran Vaucluse
- 2015 Best Design and Architecture Award
Asia Pacific Eldercare Innovation Awards
Mark Moran Vaucluse
- 2014 Best Retirement Living and Award for Innovation
Property Council National Award
Selendra Rise Retirement Village VIC - Nominated
- 2013 Best Retirement Living
Property Council National Award
Oceangrove Dee Why
- 2013 Best Retirement Living Property Council
National Award
Gowanbrae Village - Nominated
- 2011 Seniors Living Design Award for Excellence
The Urban Development Institute of Australia
Watermark Residences Castle Cove
- 2008 Best Seniors Living Project NSW
Urban Taskforce
Waterbrook Greenwich
- 2008 Best Seniors Living Project NSW
Urban Taskforce
Waterbrook Greenwich



Introduction

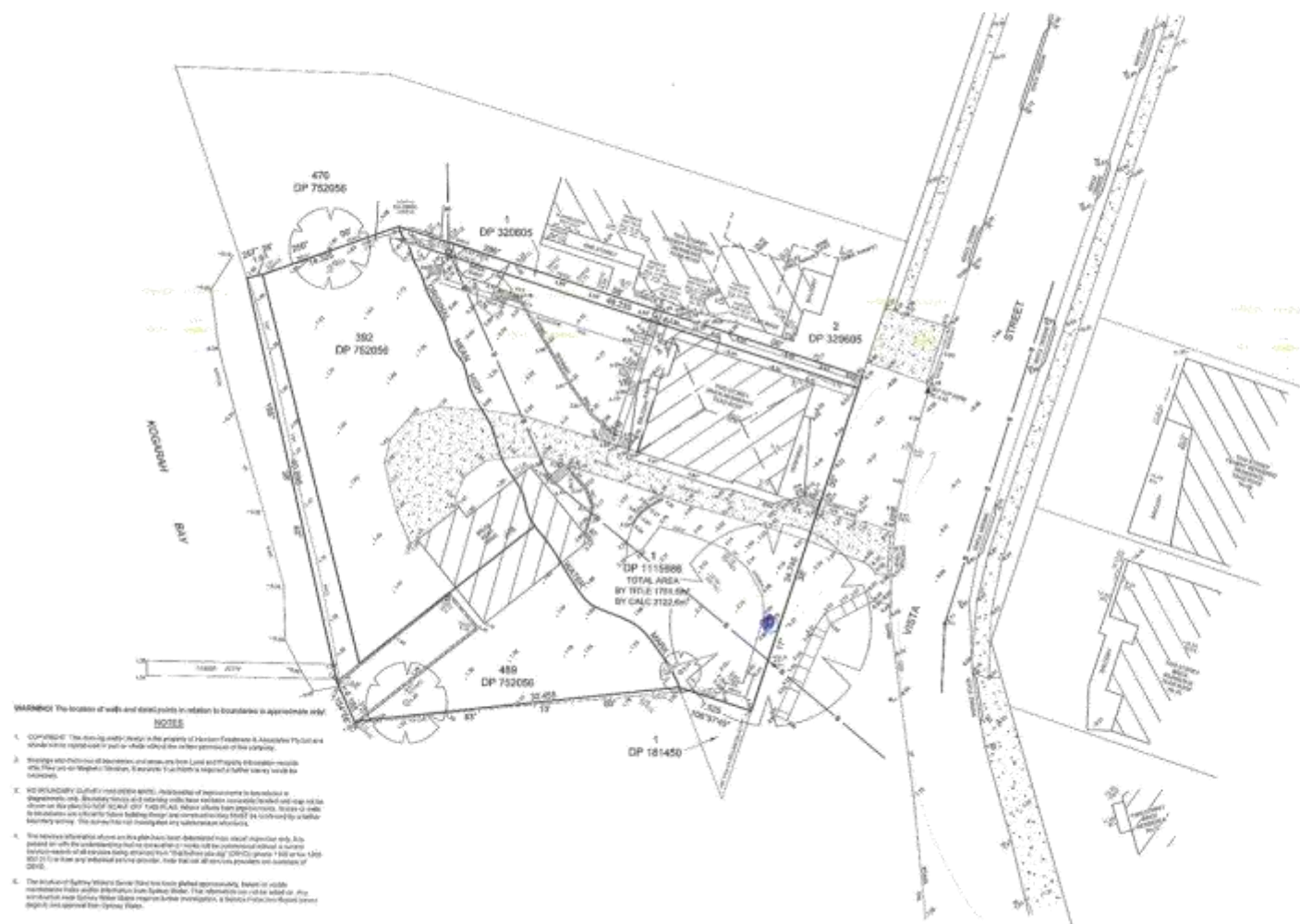


Address: 73 Vista St, Sans Souci
Site Area: 2,120m²
Size: 48 Apartments

Survey & Floor Plans



Site Survey



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Survey
73 Vista St, San Souci

Site Analysis



Ground Floor



First Floor



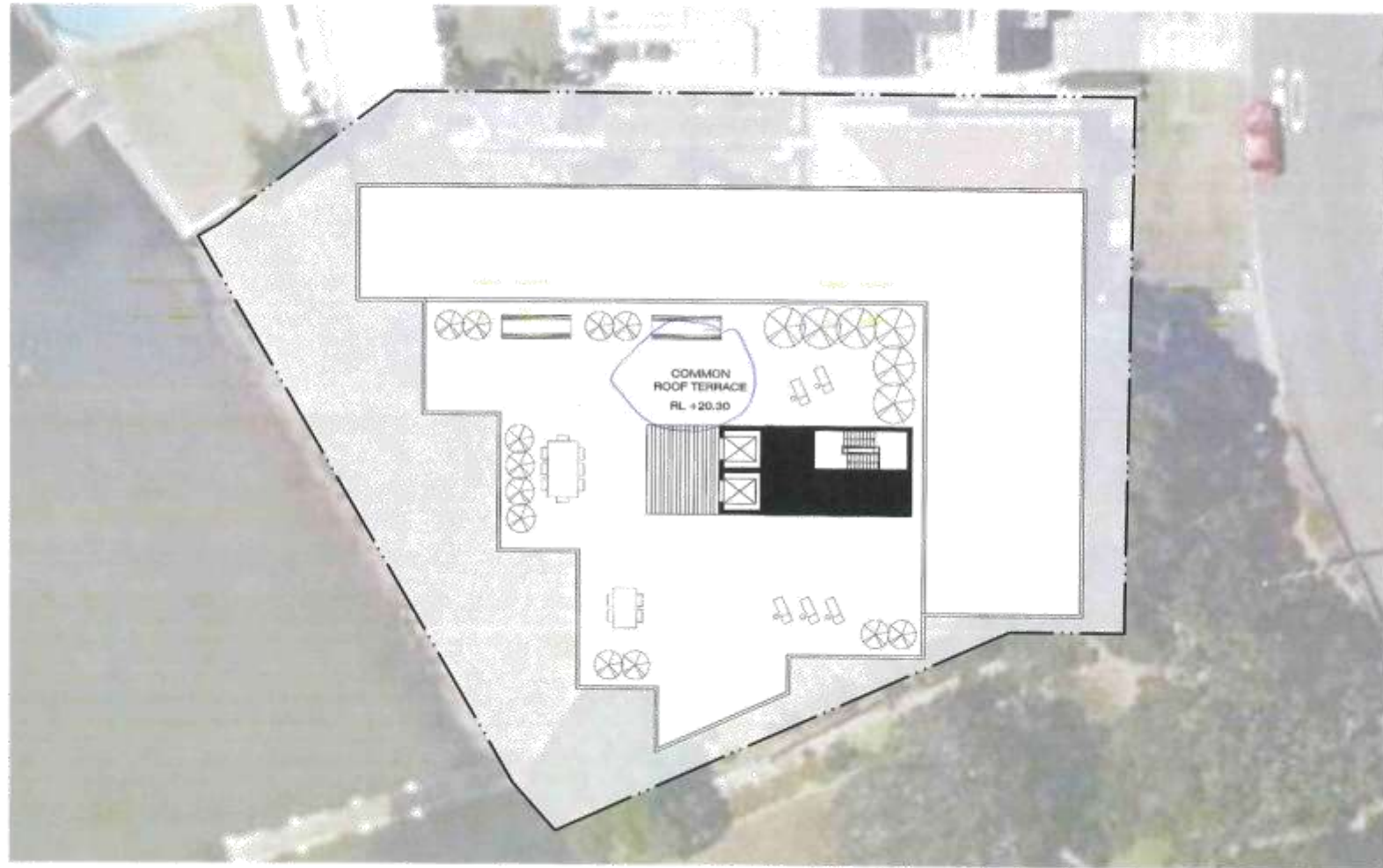
Second Floor



Third Floor



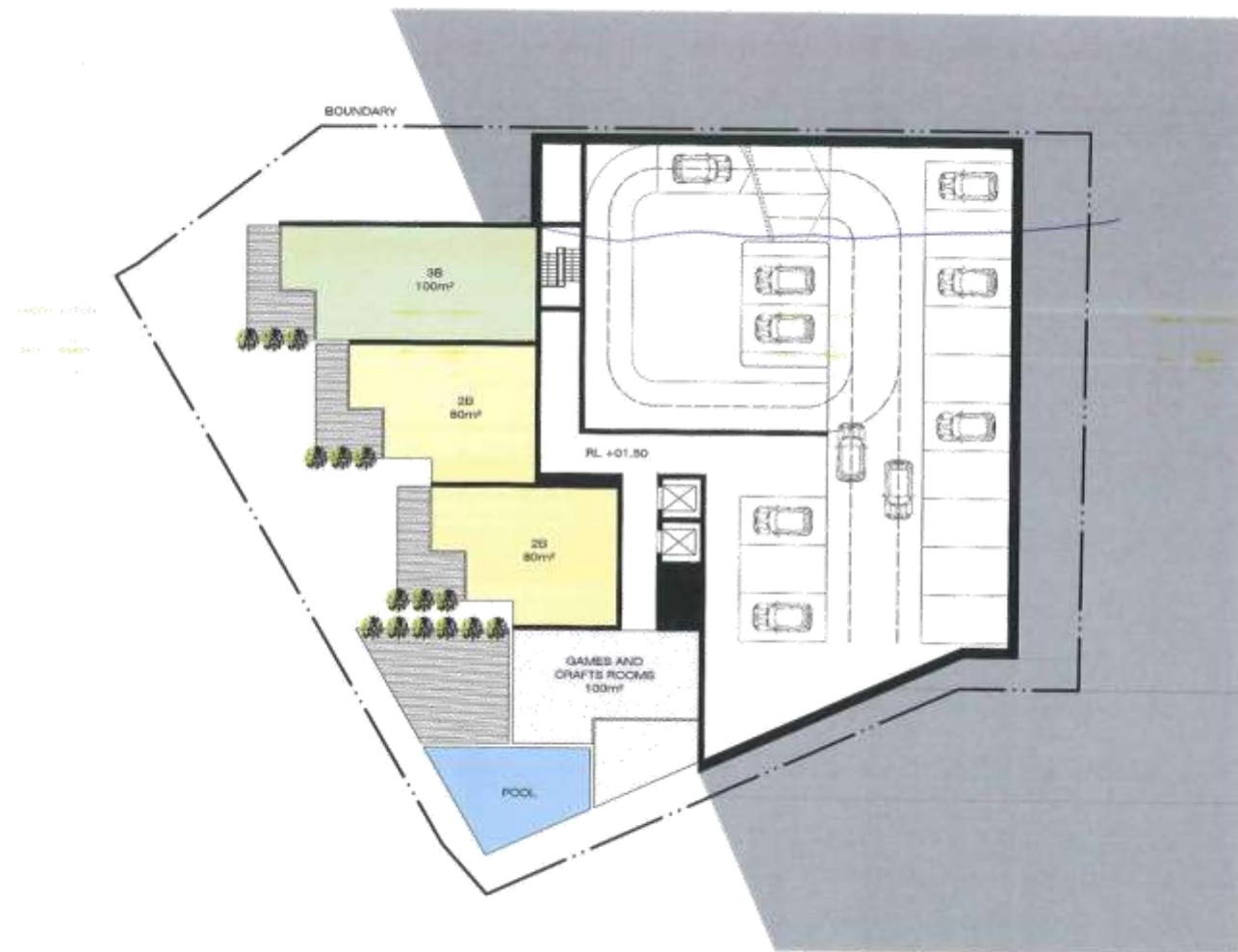
Roof



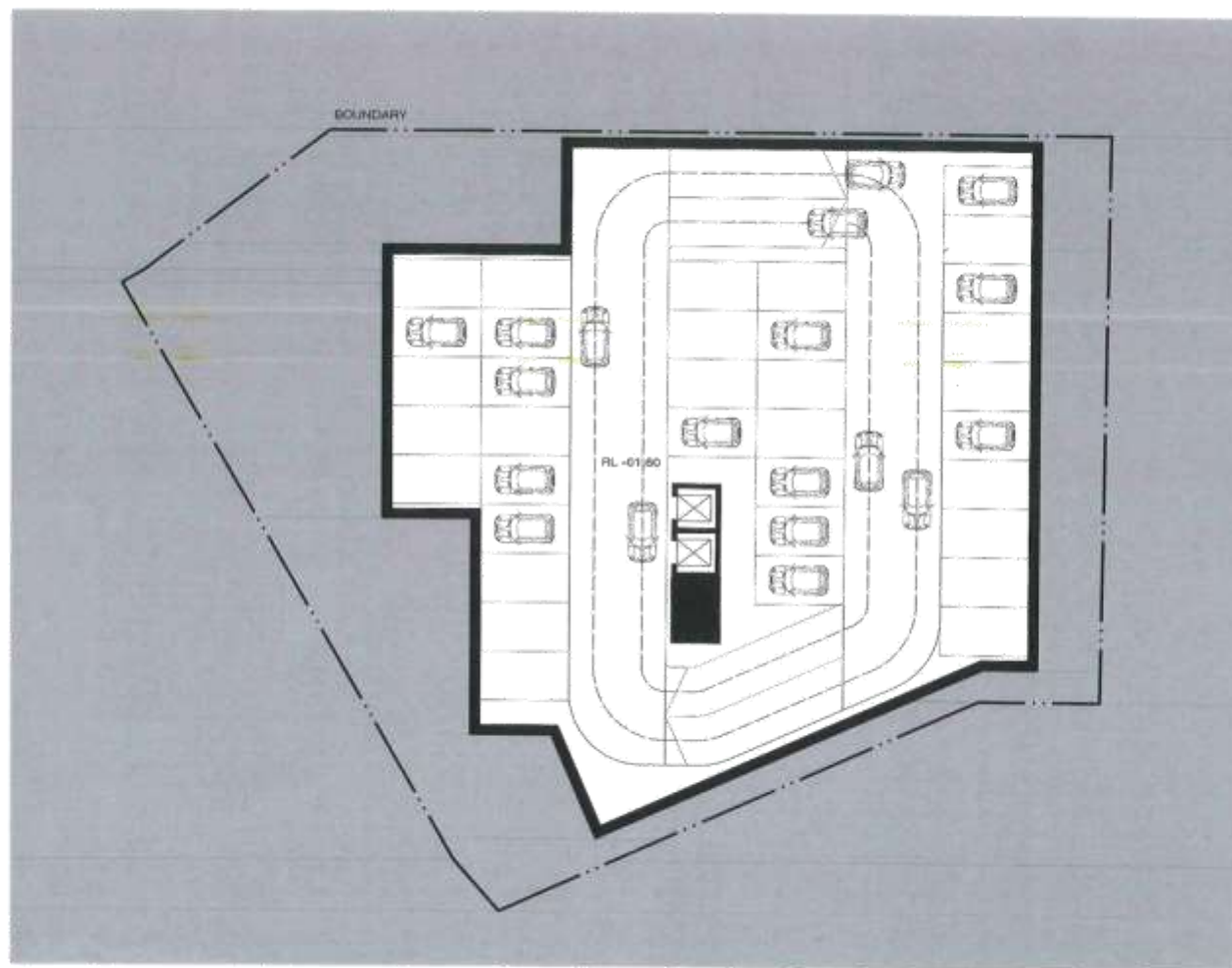
First Lower Ground



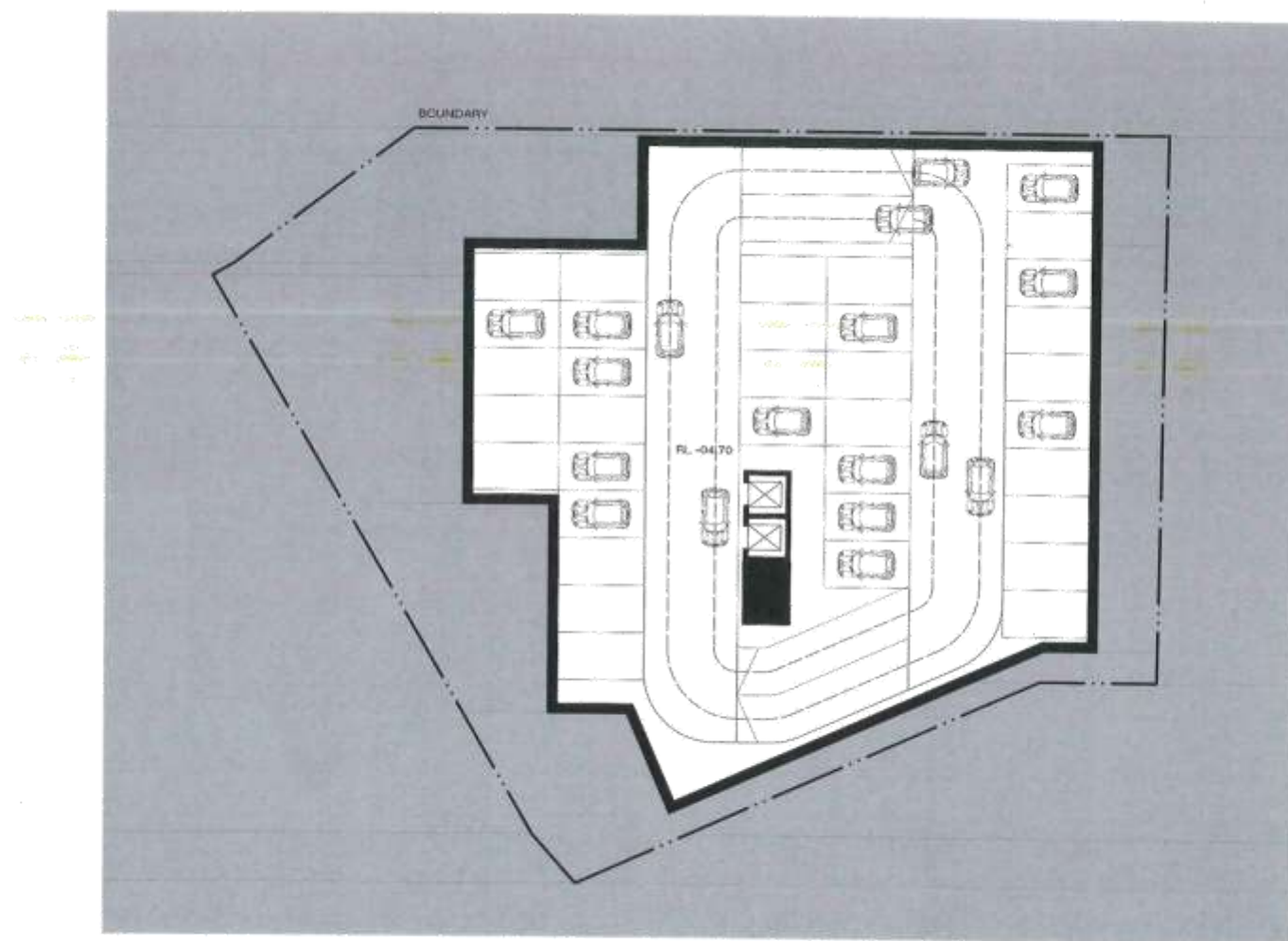
Second Lower Ground



Third Lower Ground



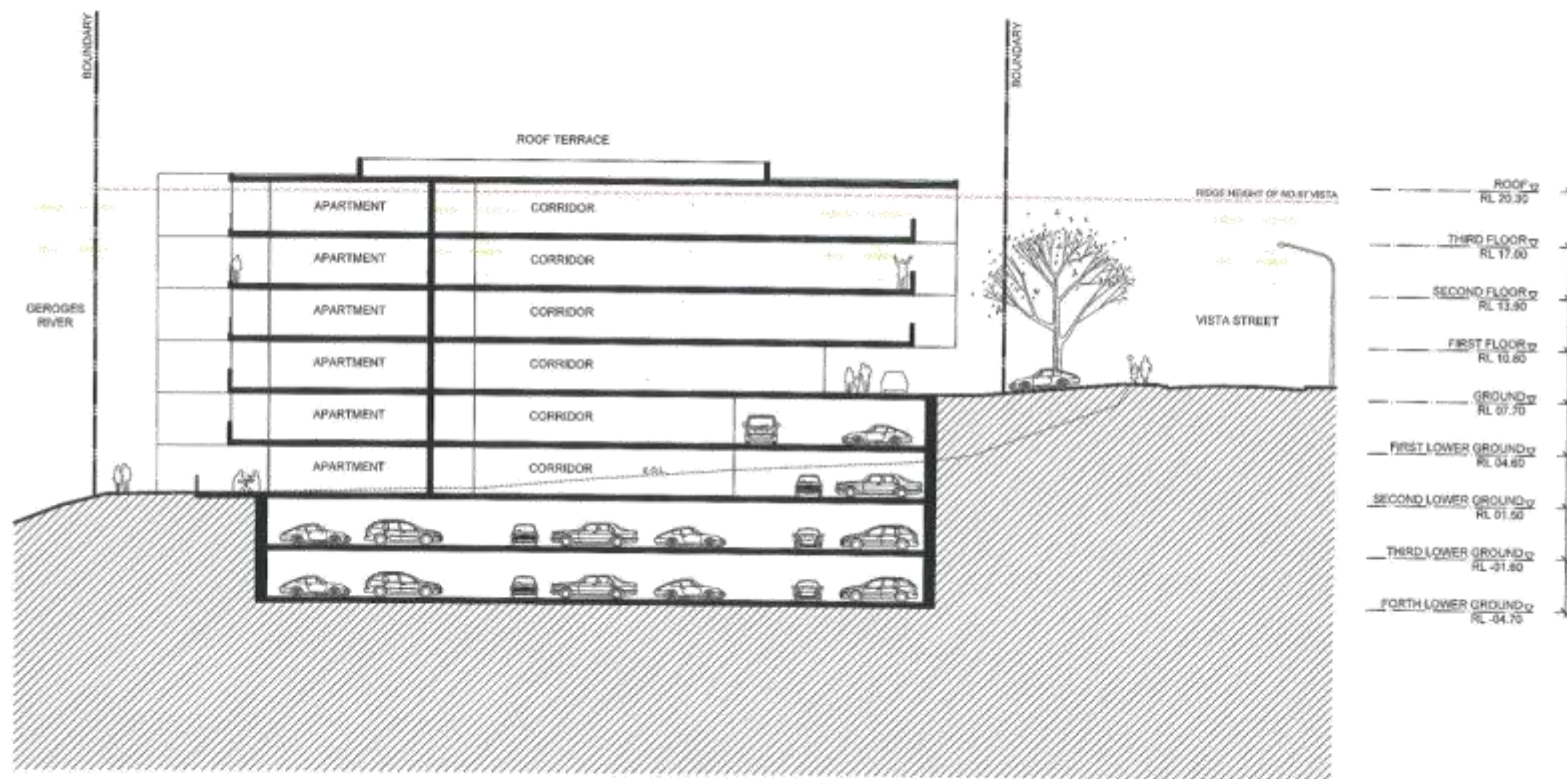
Fourth Lower Ground



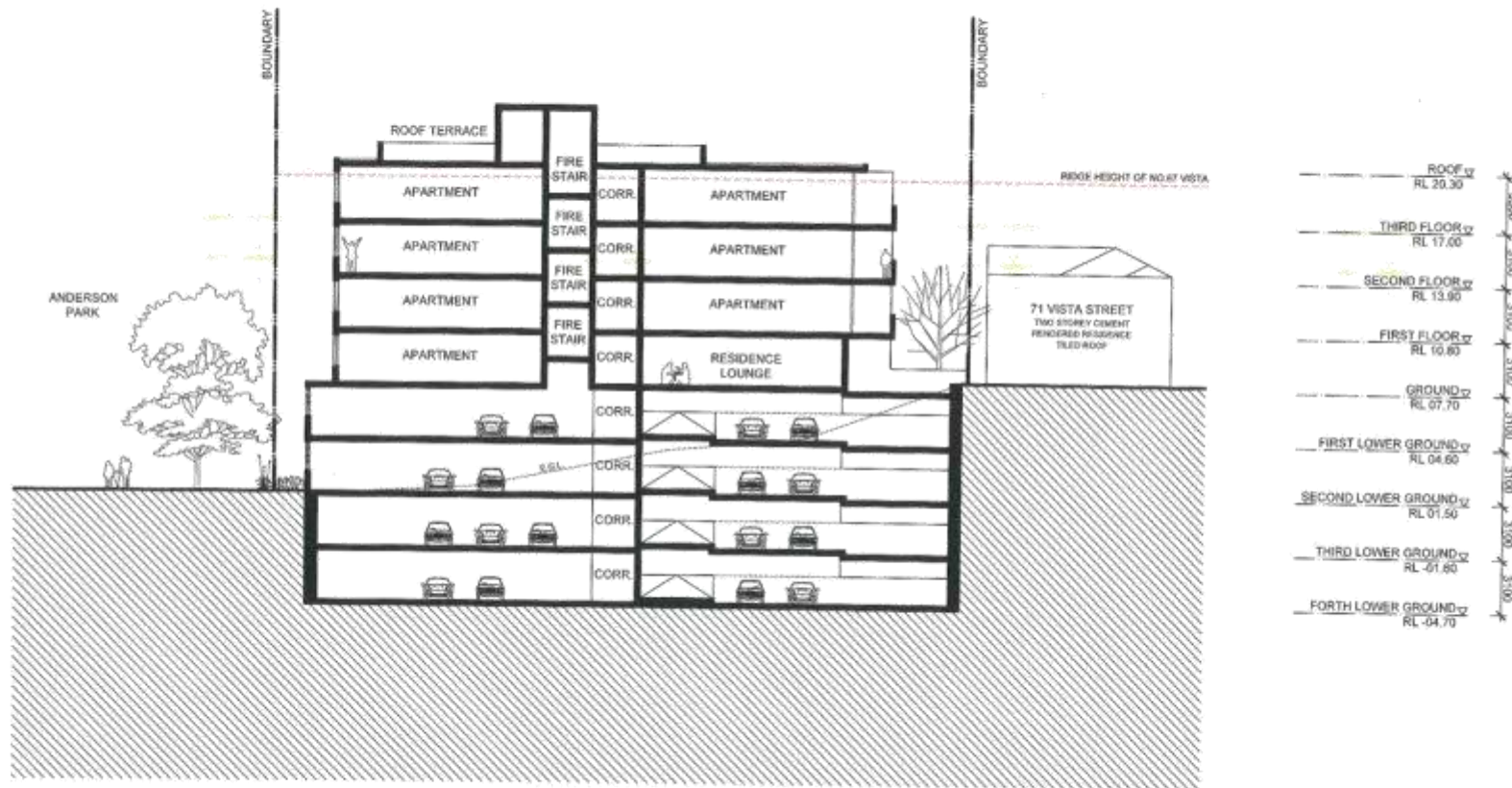
Sections



Section A



Section B



View From Vista Street Towards South



View From Vista Street Towards North

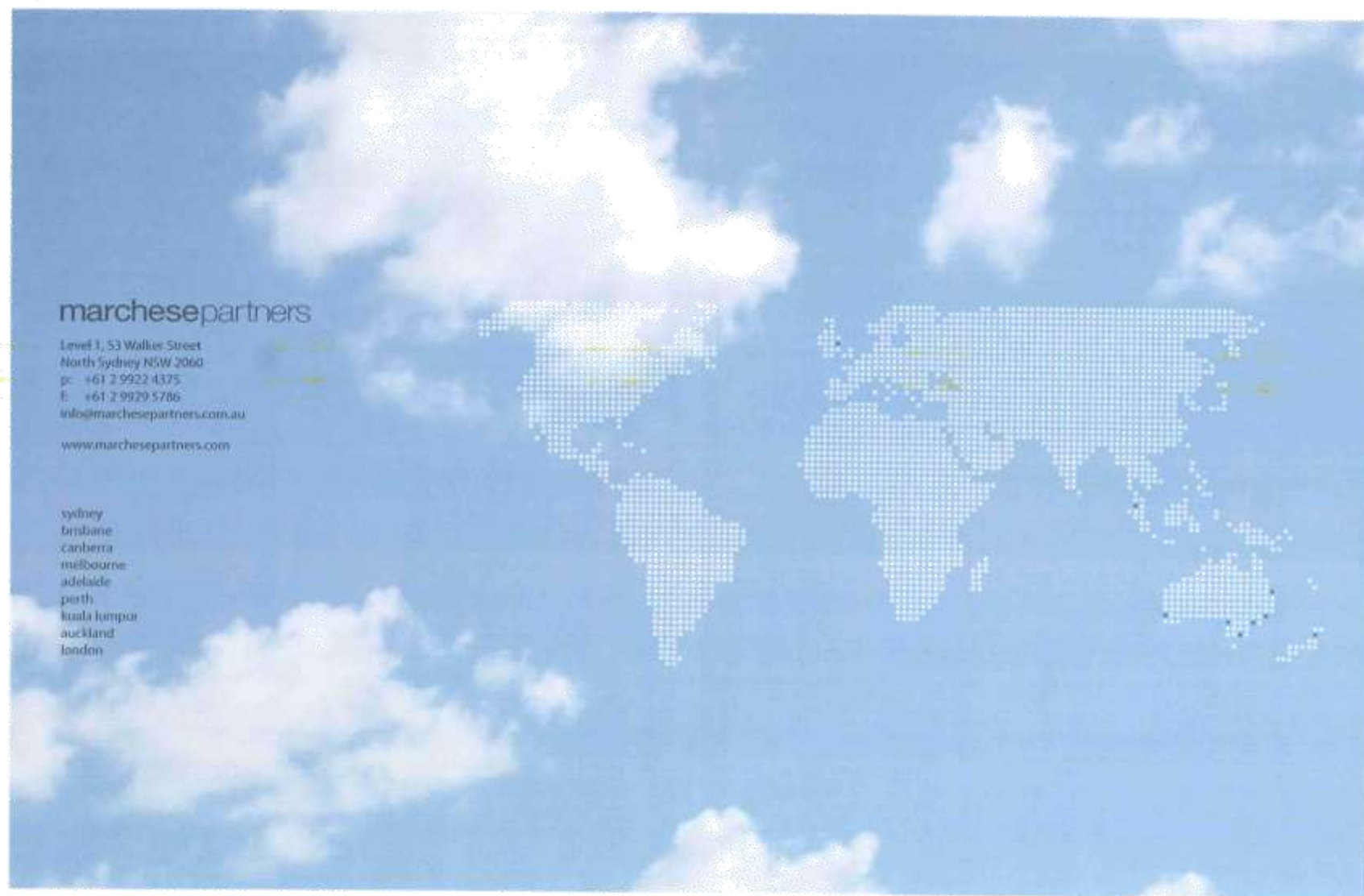


Development Data

2000 - 2004	2005 - 2009	2010 - 2014	2015 - 2019	2020 - 2024
10	10	10	10	10

Summary

UNIT MIX	1 BED	2 BED	3 BED	
Second Lower Ground	0	2	1	
First Lower Ground	0	3	1	
Ground	2	4	2	
First Floor	5	4	2	
Second Floor	5	4	2	
Third Floor	5	4	2	
Total	17	21	10	48
	35%	44%	21%	



marchesepartners | Esprit de Vie



DIAGRAM PROVIDED BY
PROPOSER - DEP SESSION
THURSDAY 6/7/17





This report has been prepared for:

73 Vista Street, Sans Souci

BY:

ARCADIA LANDSCAPE ARCHITECTURE

Suite 76, Lower Deck
Jones Bay Wharf
26-32 Pirrama Road
PYRMONT NSW 2009

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01 INTRODUCTION

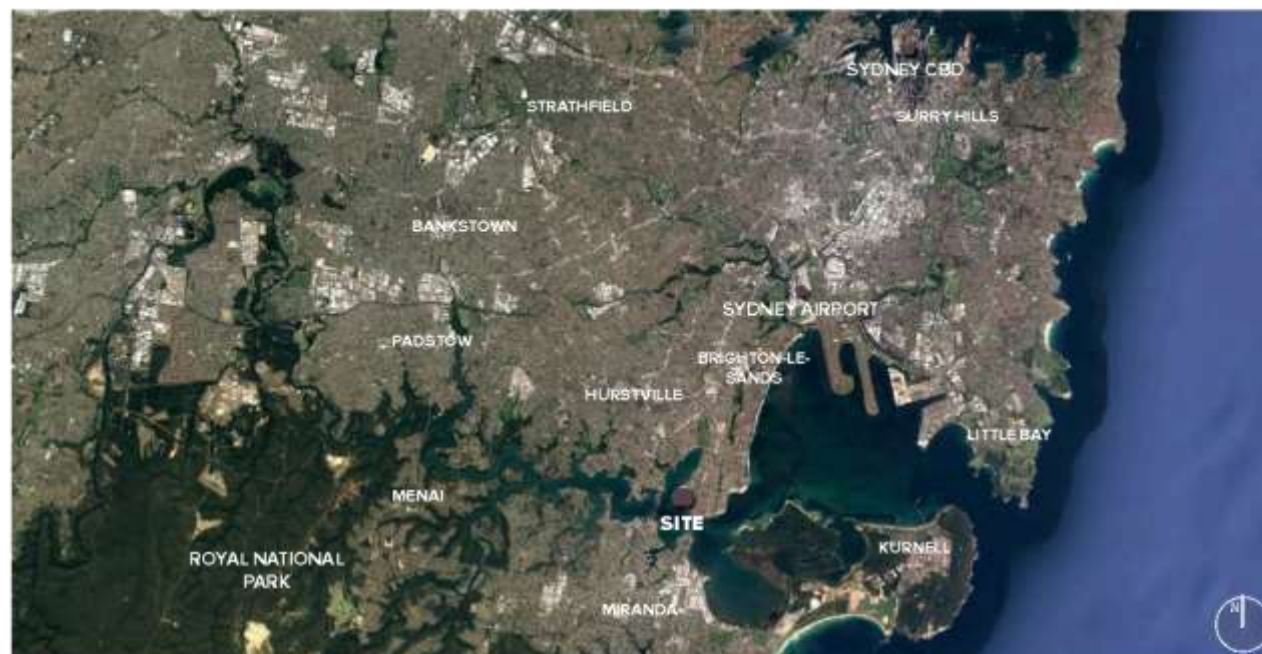
1.1 METHODOLOGY

This report will inform the planning proposal currently under review by Council for the proposal.

This report will describe the visual character of the study area. An assessment of the visual envelope and impact of the proposed development from various view points has also been included in this study.

- Section 1 is an analysis of the landscape character and existing condition. The impacts of the scope and impacts of the proposal is assessed.
- Section 2 describes the visual impacts of the proposed residential development and associated works. Existing view points and their sensitivity are also identified in this section.
- Section 3 outlines the proposed strategies to mitigate the visual impact of the proposed development.
- Section 4 highlights the recommendations based on the outcome of the report.
- Section 5 describes the concluding comments.

1.2 PURPOSE OF THIS REPORT



Above: Site and surrounding context

Arcadia Landscape Architecture has been commissioned by Nanevski Developments to prepare a Visual Impact Assessment to identify the potential visual impacts that the proposed seniors housing development would have on the surrounding area, identify design strategies and make recommendations for the identified impacts.

In addition, this report would inform the project approval authority, other agencies and the community about the visual impact of the proposal and what mitigation strategies have been considered. The results of this assessment provide an indication of the expected impacts.

The preparation of this report has involved both a desk-top analysis and a site visit to the subject site and surrounding region.



1.3 BACKGROUND

This visual impact assessment accompanies a planning proposal lodged with Georges River City Council by Nanevski Developments for 73 Vista Street Sans Souci Seniors Housing Development.

Located approximately 22km South of the Sydney Central Business district, 9.7km South of the Sydney International Airport and 2km north of Taren Point, this site is located in an accessible location, close to all necessary amenities and services. Public transport facilities are also available to occupants to travel further to shopping centres and the Sydney CBD.

The main purpose of the proposal is to redevelop the site with a Seniors Housing development that suitably caters for the aging population in the surrounding area. The process would require a future DA approval and be subject to additional requirements at that stage. The site consists of five allotments with the following legal property descriptions; Lot 1 DP 320605, Lot 1 DP 1115986, Lot 489 DP 752056 and Lot 392 DP 752056.

The site has a total area of approximately 2,123m² and a frontage of 35 meters to Vista Street to the east. Its western boundary (approximately 40 meters in length) adjoins Kogarah Bay. The study area is currently occupied by low density residential development and ancillary structures. A two storey brick residential dwelling and small brick shed are located within the E4-zoned portion of the site. A large shed and garage and associated wet dock are located predominantly within the site's W2-zoned portion. Due to the slope of the land, the site appears as a single storey dwelling house when viewed from the street. A jetty extends into the Georges River waterway from the site's western boundary.



1.4 THE PROJECT

PROJECT OBJECTIVES

The Proposal aims to:

- Provide for, and contribute to, residential dwelling targets;
- Provide for more housing for seniors, of a high level of amenity, in accordance with the objectives of the (former) Kogarah City Council; and
- Acknowledge the specific constraints and opportunities presented by the unique location and other characteristics of this site;
- create an iconic residential development.

SCOPE OF WORK

- A building that presents as six storeys to the waterfront and three storeys to the street;
- Underground car parking across four levels (including 2 basements below the waterfront ground level);
- Two lifts to provide suitable access across all levels;
- Swimming pool and communal spaces; and
- Landscaped common areas.

DESCRIPTION OF WORK

Work that may result in a visual impact involves:

- clearing of vegetation within the proposed construction area;
- landscaping and revegetation works;
- bulk earth works involving cut and fill that mimics the natural landscape as much as possible;

- Construction of drainage and stormwater management systems;
- Construction of 6 storey building

DESCRIPTION OF CONSTRUCTION ACTIVITIES

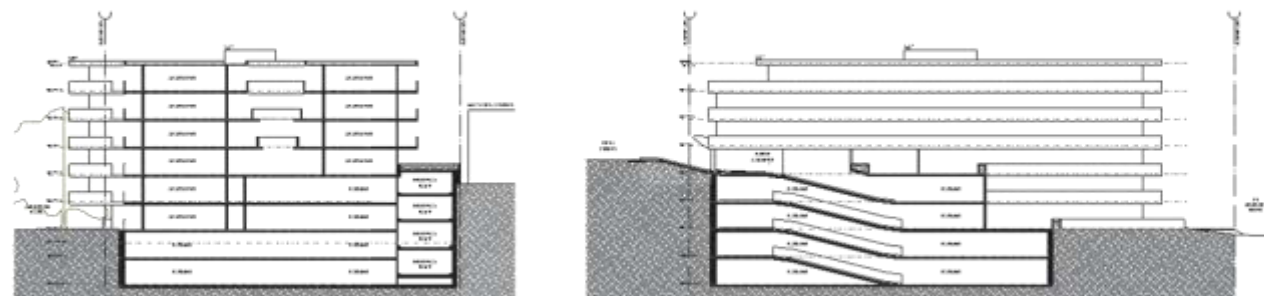
Construction activities will be planned and scheduled to minimise disturbance;

Construction activities will include:

- Installation of environmental controls and pre-construction monitoring;
- Site establishment including construction of site offices
- Clearing and topsoil removal;
- Excavation as required e.g. for services, building footings, drainage lines;
- Installing retaining walls following site regrading.



1.5 THE PROPOSAL



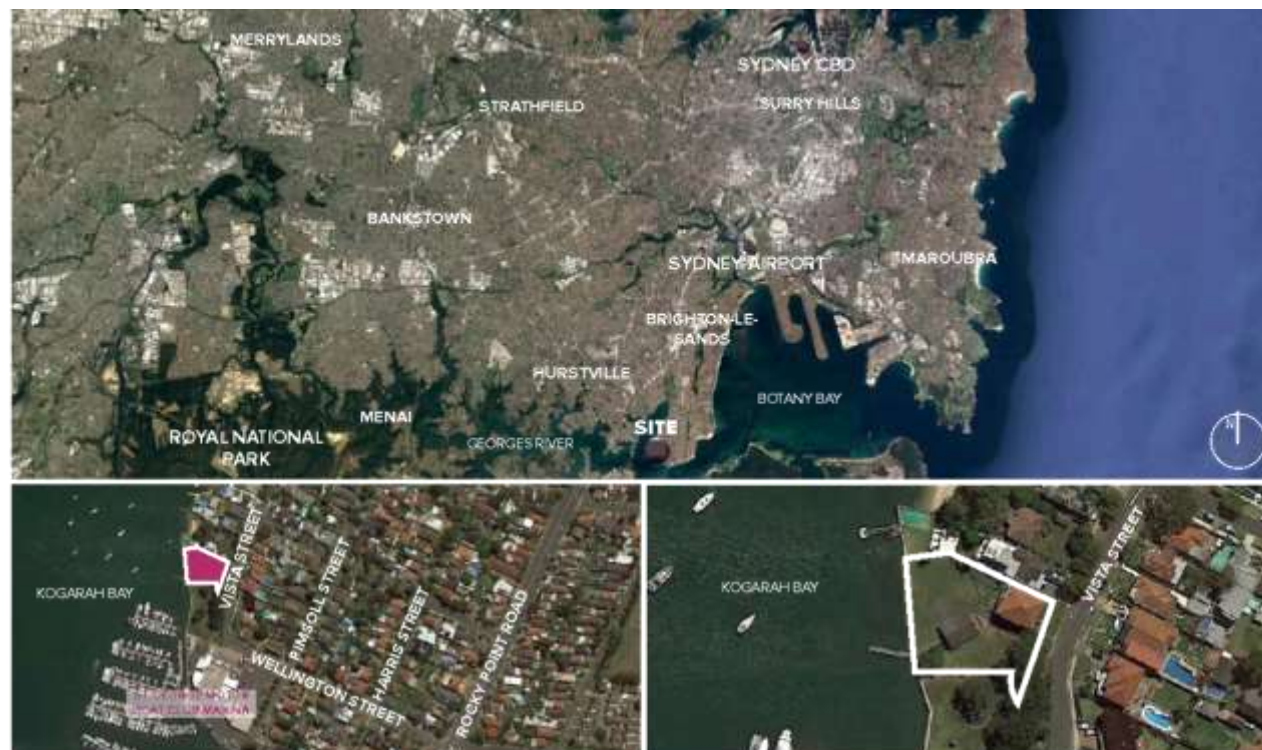
ARCADIA
LANDSCAPE & ARCHITECTURE

73 VISTA STREET SANS SOUCI

PREPARED BY	Arcoxia Landscape Architecture	DATE	May 2017
CLIENT	Namewaki Developments	ISSUE	B

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1.6 SITE LOCATION



Above: Site and surrounding context

Arcadia Landscape Architecture has been commissioned by Nanevski Developments to prepare a Visual Impact Assessment to identify the potential visual impacts that the proposed seniors housing development would have on the surrounding area, identify design strategies and make recommendations for the identified impacts.

In addition, this report would inform the project approval authority, other agencies and the community about the visual impact of the proposal and what mitigation strategies have been considered. The results of this assessment provide an indication of the expected impacts.

The preparation of this report has involved both a desk-top analysis and a site visit to the subject site and surrounding region.





1.7 LOCAL
LANDSCAPE
SETTING

Located in an established urban area, Sans Souci is predominantly residential. This southern Sydney suburb is bounded by Ramsgate Rd in the north, Botany Bay and the suburbs of Sandringham and Dolls Point in the east, the Georges River in the south and Rocky Point Rd in the west. It is also connected to Taren Point, in the Sutherland Shire, to the south and by the Captain Cook Bridge over the Georges River.

This waterfront property sits within a bayside setting with views across Kogarah Bay and the Georges River. The site is also in close proximity to several parklands and reserves, including Anderson Park which sits adjacent the site. Several mature native eucalyptus species line neighboring properties, giving this site a leafy green feel.



02 VISUAL ASSESSMENT

2.1 SITE DESCRIPTION

The site is located on the western side of Vista Street, north of the public recreation area, St Kilda Point, as well as the St George Motor Boat Club. The site consists of five allotments and is located in an accessible location, close to all necessary amenities and services. Excluding the triangular allotment to the south, the site has a total area of approximately 2,123m² and a frontage of some 35 meters to Vista Street to the east. Its western boundary (approximately 40 meters in length) adjoins Kogarah Bay.

The site is currently occupied by low density residential development and ancillary structures. A two storey brick residential dwelling and small brick shed are located within the E4-zoned portion of the site. A large shed and garage and associated wet dock are located predominantly within the site's W2-zoned portion. Due to the slope of the land, the site appears as a single storey dwelling house when viewed from the street. A jetty extends into the Georges River waterway from the site's western boundary.

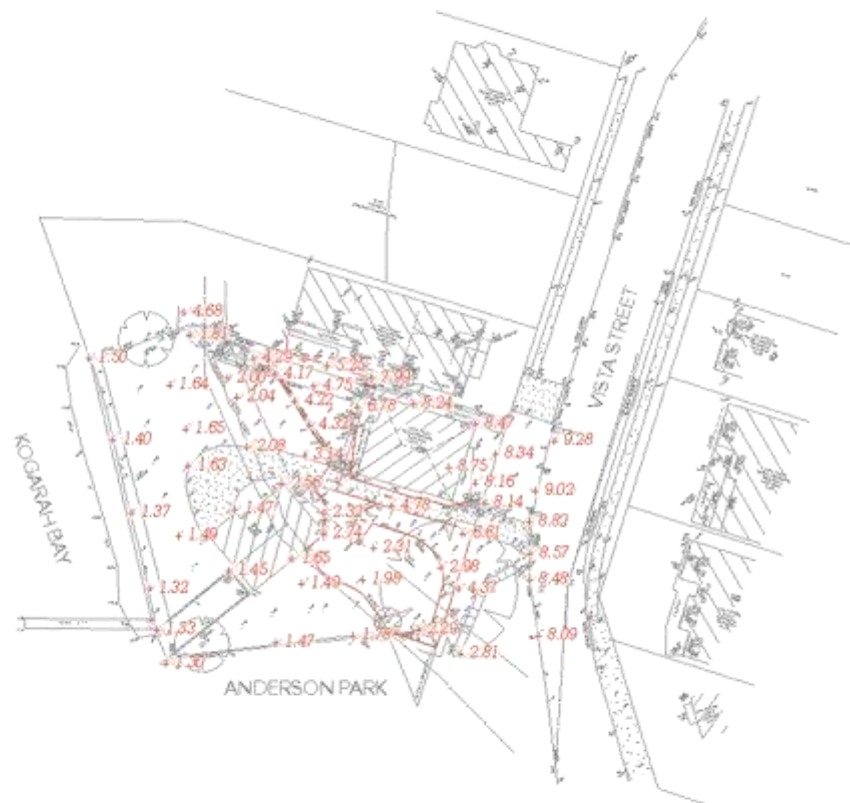
The development surrounding the site generally comprises of low density residential dwellings of one to two storeys in height. As the land is located on the waterfront, all land to the west forms part of the Georges River.

The attributes of the site include:

- Topography from Vista Street to the water's edge is fairly steep, falling approximately 7m;
- Public open space (Anderson Park) is located to the south providing outlook and amenity for increased residential use;
- Waterfront location with excellent amenity (outlook, privacy, solar access) for increased residential use;



2.2 TOPOGRAPHY



NOT TO SCALE
 Site Topographic Plan

ARCADIA
 LANDSCAPE ARCHITECTURE

73 VISTA STREET SANS SOUCI
 VISUAL IMPACT ASSESSMENT

PREPARED BY Arcadia Landscape Architecture DATE May 2017
 CLIENT Nazwani Developments ISSUE B

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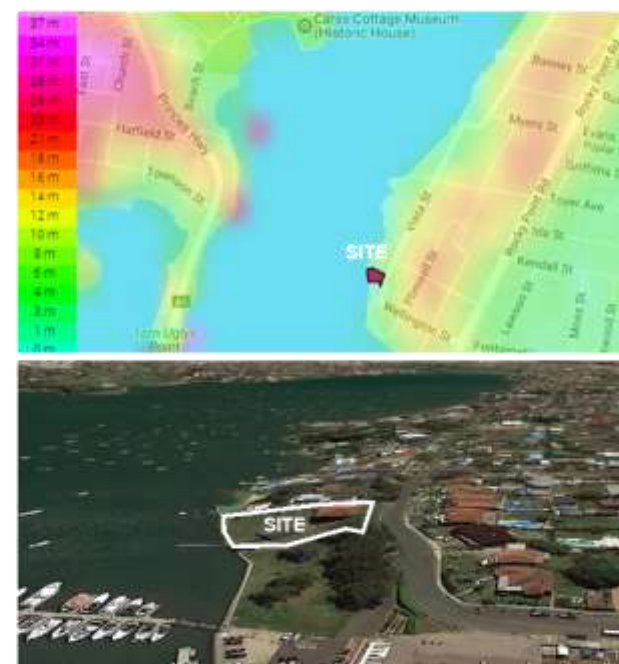


2.3 TOPOGRAPHY

The site area falls nearly 7 meters from Vista Street down towards the water's edge. The elevation of the land along Kogarah Bay is approximately 7 meters above sea level. As a result of the steep topography down toward the west, views from Vista Street are minimal. As the site approaches the western water front edge, the topography begins to level out, creating a flat grass reserve area.

The existing landform suggests that this site has been historically filled, with a retaining seawall built along the western edge of the site. Therefore, the actual high water mark is located further west toward Kogarah Bay, aligning with the current landform and subdivision pattern.

The proposed building height is reflective of the historic house at 67 Vista Street to the north, whilst the sloping topography of the land, in combination with the stepped building form to the street, ensures that the building appears as a three storey form when viewed from Vista Street. In addition, common space has been provided on the roof level facing the street to reduce the height of the building when viewed from this direction.





2.4 VISUAL EXPOSURE

The design of the indicative scheme has taken into account the local context to minimise the impact on neighboring properties as much as possible. The site area falls nearly 7 meters from Vista Street down towards the water's edge. This sloping topography of the land, in combination with the stepped building form to the street, means that visibility of the building appears to be only a three storey form when viewed from Vista Street as opposed to six-storeys. This reduces the visual exposure of the development when viewed from Vista Street.

Setbacks have also taken into account the streetscape and have increased the setback to the north to allow for a view corridor from the dwellings on the eastern side of Vista Street to the water and to allow good solar access to the future dwellings. The proposed setback from the northern boundary is a minimum of 6 meters to the apartments and 4.75 meters to balconies. Setbacks have been reduced to the south of the site towards Anderson Park to provide a building form that offers passive surveillance of the park and to maximise the northern setback.

Anderson Park and the St. George Motor Boat Marina located west of the site will experience high visual exposure due to the close proximity to the development. Tom Ugly's Point located directly across the water will also experience high exposure. Proposed buffer planting, existing vegetation and distance will however, reduce the sites visual access. Views from Carrs Bush Park and residential dwellings, located across the water and on the ridge-lines west of the site will have visual access to the subject land. Landform and vegetation of the development, combined with the orientation of the building, results in a negligible visual exposure from these vantage points.

The proposed development will be of no visual impact on traffic traveling on Rocky Point Road, Tarren Point Road or north-bound on Tom Ugly's Bridge, due to their elevation and orientation. The Visibility Analysis Plan provided on the following page illustrates the extent of the area that the proposal will be visible from. This visual envelope is defined through existing landform and obscuring effect of vegetation.

2.5 VISUAL ENVELOPE



Above: Viability Analysis Plan including areas within the site boundary

LEGEND
 low site visibility high

NOT TO SCALE

ARCADIA
 LANDSCAPE ARCHITECTURE

73 VISTA STREET SANS SOUCI
 VISUAL IMPACT ASSESSMENT

PREPARED BY Arcadia Landscape Architecture DATE May 2017
 CLIENT Hazeval Development ISSUE B

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2.6 VISUAL ASSESSMENT VIEWPOINTS



Above: Visual Assessment Viewpoints Plan

VIEWPOINT 01



Before Photo

Visual sensitivity from Viewpoint 01 is considered to be low as the development sits within an urbanised residential location, which is already built-up. While the bulk and scale of the building does have some impact, it is considered minimal when taking into consideration the urbanised setting in which it sits.

The visual magnitude is considered to be moderate to low. This is largely due to the nature of the development and scale of the building, being that of a six storey form adjacent one to two storey residential buildings. In addition to this, the development does have some impact on views as it sits above the natural skyline. The top of the building protrudes above the tree-line and adjacent rooftops.



Image 01: After Photo - 3D Visualisation shown does not depict finished landscape outcome and is indicative only.

VIEWPOINT 02



Before Photo

Visual sensitivity from Viewpoint 02 is considered to be moderate to low when taking into consideration the proximity of the development to the adjacent park. The built-up nature of the development is very different to the vegetated park sitting beside and therefore impacts the nature of view.

The visual magnitude is considered to be low. The surrounding vegetation and existing topography provide a backdrop that would mitigate the visual impact of the proposal and leave the skyline and existing tree-line unaffected.



Image 02: After Photo. 3D Visualisation shown does not depict finished landscape outcome and is indicative only.

VIEWPOINT 03



Before Photo

Visual sensitivity from Viewpoint 03 is considered to be low. The distance to the development and the urbanised surroundings within which the development sits mean that the effects are minimal.

The visual magnitude is considered to be moderate to low. While views have been affected, the general character and landscape setting of this development would be retained as the built-form has been designed to sit within the natural topography and landform so that it does not impede the vistas behind. In addition to this, the development does not protrude above the tree tops or affect views to the existing sky line.



Image 03 After Photo 3D Visualisation shown does not depict finished landscape outcome and is indicative only.



2.7 OVERALL VISUAL SENSITIVITY & MAGNITUDE

The visual sensitivity is based on how sensitive the character of the setting is to the proposed change. In this regard, a residential neighborhood will be less sensitive to change than a pristine natural environment.

While the current use of the site as a two storey residential house is to be changed, the proposal does not significantly alter the land use character. Given the previous land use has modified the natural landscape, the proposed land use character change would not be an issue.

Changes to the site would predominately be visible and observed from neighboring properties and directly across the water. The surrounding built form and existing vegetation will however, reduce visual access and ensure that impact is minimised. As vegetation neighboring the development will be retained the visual sensitivity of the environment is quite low.

The visual magnitude depends on the scale and contrast of the proposal and its visual integration of form, line, shape, pattern, colour and texture. Viewer access also influences the visual magnitude.

The public view to the proposal would be limited to certain vantage points, typically directly across the water at Kogarah Bay, the adjacent park and boat marina and neighboring

properties on Vista Street.

The proposal would also be viewed from a few distant properties. The site is therefore of low visual magnitude.

The overall magnitude of the project is considered low when taking into consideration the overall landscape setting and its sense of scale. The topography is maintained where possible and the built-form has been designed so that it is of minimal scale when viewed from Vista Street, reducing the built form impact. In addition to this, the built-form is split-levelled to ensure it blends with the surrounding character and relates more closely to the existing topography. Existing vegetation and mature trees on neighboring properties will be maintained, which also act as a visual buffer to the proposed development.

2.8 LANDSCAPE
VISUAL IMPACT
TABLES

		Magnitude					
		High	High to Moderate	Moderate	Moderate to low	Low	Negligible
Sensitivity	High	High Impact	High Impact	Moderate-high	Moderate-high	Moderate	Negligible
	High to Moderate	High Impact	Moderate-high	Moderate-high	Moderate	Moderate	Negligible
	Moderate	Moderate-high	Moderate-high	Moderate	Moderate	Moderate-Low	Negligible
	Moderate to low	Moderate-high	Moderate	Moderate	Moderate-Low	Moderate-Low	Negligible
	Low	Moderate	Moderate	Moderate-Low	Moderate-Low	Low Impact	Negligible
	Negligible	Negligible	Negligible	Negligible	Negligible	Negligible	Negligible

Table 1: Landscape Visual Impacts Rating Table

VIEWPOINT	SENSITIVITY	MAGNITUDE	IMPACT
1	Low	Moderate-Low	Moderate-Low
2	Moderate-Low	Low	Moderate-Low
3	Low	Low	Low

Table 2: Landscape Visual Impacts Table by Viewpoint

The combination of the visual sensitivity and magnitude will provide the rating of the landscape character impact. It is based on the table shown above.

03 MITIGATING STRATEGIES

3.0 STRATEGIES TO MINIMISE VISUAL IMPACT

Mitigation strategies relate both to incorporated design elements/strategies and recommended strategies for consideration in detailed design stage.

A number of key strategies may be considered to assist in mitigation. These would include:

The existing site topography, although modified heavily from past subdivisions, is one of the defining characteristics of the site. General retention of the existing grades and landform.

Maximum retention of existing vegetation is recommended where possible. Planting in the neighboring park should also be utilised to assist in buffering the development. The advice of the landscape architect should be sourced to confirm the plantings will assist with the screening of the proposal.

Additional buffer planting and screening to be provided along site boundary to provide a visual barrier from surrounding areas. A native plant list incorporating species that are found on site and within the area should be used to extend the existing landscape character.

In addition to this, the character of the foreshore area should be maintained to minimise the visual impact of the development.

The built-form should remain in line with or below the tree top line and roof line when viewed from across the water. Finishes of low reflectivity and a paint palette that is complementary to the existing setting should also be used to ensure visual access is minimised.



Above: Existing vegetation character to be retained where possible

04 RECOMMENDATIONS

4.0 ADVICE

A number of measures that could be under taken during the detailed design phase of the project in order to further mitigate visual impacts of the proposed development are outlined below:

Introducing native shrub and tree planting within the boundary areas disturbed during construction would help mitigate the effect of the proposed built form. The advice of a landscape architect to be sourced to confirm planting selection and layout.

The layout of proposed planting within the site needs to be carefully considered to maximise the effect of screen planting and visual integration. The preferred planting approach is one that reinforces the character of the existing vegetation. Such an approach would ensure that the visual screening relates to the native landscape character as opposed to providing dense buffers that use exotic vegetation. Screen planting would visually mitigate the impact of the works from publicly accessible viewpoints. Additional planting beyond the site fence could be explored to assist in mitigating the visual effects of the proposal by providing new focal points.

In addition to this, extra sensitivity needs to be taken when working along the foreshore line to ensure the waters edge is preserved and the physical impact is minimal. Ensure works are blended into the existing foreshore character and remain consistent with neighboring properties.



Above: Photo looking back toward site from Water's Edge

05 CONCLUDING COMMENTS

5.0 CONCLUSION

It appears that the proposed project would have a **moderate-low** visual impact on the general landscape overall - as opposed to the visual impact as seen from specific viewpoints.

When considered from outside the site boundary the visual impact of the proposed works is found to be low with a **moderate-low** impact expected where the development borders the adjacent park.

The visual impact from within the site would still be **low** due to the low sensitivity of the highly modified residential land and the retention of native trees and vegetation.

The proposed construction on site will have minimal impact on the existing context as the area is already urbanised.

A key aspect that reduces the overall visual impact of the proposed works is the relationship of the site to its surrounding topography. While there are distant public viewpoints, most views are generally obstructed by slopes and existing vegetation with minimal roads/traffic passing the site.



Above: Photo looking from Vista Street back toward the site



Design Review Panel

Georges River Council

REPORT OF THE DESIGN REVIEW PANEL

Meeting held on Thursday, 6 July 2017 at Georges River Council - Hurstville Office

Panel Members – Mr Peter Annand, Prof Peter Webber, Ms Caitriona O'Dowd

ITEM 3

Date of Panel Assessment:	6 July 2017
Applicant:	Manevski Developments
Architect:	Marchese Partners
Property Address:	73 Vista St Sans Souci
Description:	Planning proposal to re-zone part of site
No. of Buildings:	N/A
No. of Storeys:	N/A
No. of Units:	N/A
Consent Authority Responsible:	Georges River Council
Application No.:	PP2017/0042
Declaration of Conflict of Interest:	None

The proponents have submitted a planning proposal that seeks to rezone the site which is currently zoned in part W2 (recreational waterways) and in part R2 (low density residential) under Kogarah LEP 2012. It will require amendments as follows:

- To the foreshore building line
- To realign the boundaries
- To amend Schedule 1 to allow for substantially increasing the building height from 9m to approx. 18.9m
- To increase FSR from 0.27:1 to 2.32:1

It is proposed that the site be developed with approximately 50 seniors living self-contained units, which was the number the applicant argued was necessary if the required communal facilities and services were to be included. This is the justification advanced for a planning proposal of this bulk, scale and density.

SEPP 65 – Design Quality of Residential Flat Buildings	Comments
<p>Context and Neighbouring Character</p> <p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p>The proposal is completely out of context with the surrounding built environment which is predominantly single dwellings, many large and up to 3 storeys high and stepping down the site. The view catchment from the site reveals no apparent buildings above 3 storeys anywhere along this part of the waterway.</p> <p>To the south, the site adjoins Anderson Reserve. At the southern end of the reserve there is a substantial motor yacht club which has an apparent height of about 3 storeys. There are substantial trees on the adjacent reserve and one large and very significant tree within the south west corner of the subject site.</p> <p>The proposed building in close proximity to the boundary may possibly impact adversely on the existing mature specimens in Anderson Reserve. An arborist should be consulted in relation to impacts on all significant trees. .</p> <p>It is very likely that the important tree on the site itself would be endangered.</p>

<p>Built Form and Scale</p> <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p>The applicant submitted a schematic design indicating possible height and form of the future development, as well as a proposed envelope diagram. This provides for a 3 storey building form on the Vista Street frontage increasing from 4 to 6 storeys on the remainder of the site.</p> <p>It was stated that this would be appropriate to 'book end' the existing motor club at the opposite end of the reserve, although this in reality is less bulky and only 2-3 storeys in height.</p> <p>It also indicates small and unacceptable setbacks from Vista Street and the common boundary with Anderson Reserve as well as potentially inadequate setbacks from the common boundary with the adjoining residential property which would appear not to comply with the ADG standards. On the Georges River frontage the proposed setback is well under the average of waterfront buildings on properties to the north and highly problematic.</p> <p>The built form and scale is unacceptable in this urban and waterfront context.</p> <p>After the site visit the Panel had strong reservations about the bulk and form of the proposal. The 'Visual Impact Presentation' provided at the meeting reinforced this position. The montage views clearly demonstrated that the form and scale is inappropriate for the site, being of the order of at least three storeys higher than any existing buildings within the view catchment, and with a floor area much larger than any but the Motor Boat Club.</p>
<p>Density</p> <p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	<p>No convincing evidence was presented by the proponent to justify a very substantial increase in density from .271:1 to 2.32:1. This density is clearly unacceptable for the site – see above.</p>

<p>Sustainability</p> <p>Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</p>	<p>No sustainability information was provided at this stage.</p>
<p>Landscape</p> <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</p>	<p>No landscape plans were provided with the submission. The visual impact assessment as presented by the landscape architect illustrates that this proposed building does not suitably blend with the existing landscape and built form.</p> <p>The assessment relied on the provision of additional tree planting on the public reserve to screen the excessive bulk of the proposed building rather than allowing for substantial setbacks and planting <i>within</i> the subject property.</p>

<p>Amenity</p> <p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	<p>As this is a planning proposal, architectural details and definitive architectural forms were not presented. .</p> <p>The proponents are proposing a variety of community and communal services within the proposal however, there is no guarantee that these will remain in final designs nor may they survive necessary floor space reductions.</p>
<p>Safety</p> <p>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</p> <p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	<p>No comment at this stage.</p>
<p>Housing Diversity and Social Interaction</p> <p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<p>It is not an issue that some greater mix of housing types in this area would be desirable but the proposal for seniors housing only at this scale of development is not appropriate.</p>

<p>Aesthetics</p> <p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	<p>A detailed design has not been developed since this is at planning proposal stage. The built form which proposes a waterfront development of 6 storeys in height is inconsistent with the character and scale of any nearby development, and far too visually assertive, particularly from the water and adjoining parkland.</p> <p>The Panel does <i>not</i> accept the conclusions of the 'Visual Impact Assessment' that the impacts would be only in the 'Low' and 'Moderate-Low' range, and considers that the impacts would be in reality High and unacceptable.</p>
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RECOMMENDATION

- The planning proposal cannot be supported.



Contact: Rita Vella
Phone: 9330 9437
File Reference: PP17/42

27 July, 2017

Mr Tom Nanevski
Nanevski Developments Pty Ltd
34 Plimsoll Street
SANS SOUCI NSW 2219

Reference is made to the Planning Proposal submitted on 9 March 2017 for Nos 73 Vista Street (Lot 1, DP320605; Lot 1, DP1115986; Lot 489, DP752056; Lot 392, DP752056; Lot 1, DP181450), Sans Souci seeking consideration of a rezoning of the property from W2 – Recreational Waterways to R2 – Low Density Residential.

The Planning Proposal also seeks the following amendments to Kogarah LEP 2012:

- Amending the foreshore building line (FBL) to realign from the new boundary line of the R2 – Low Density Residential zone, at a depth of 7.6m; and
- Amend Schedule 1 to include a provision that allows for additional height and FSR where the development is for the purpose of Seniors Housing.

In accordance with Council's policy on the consideration of Planning Proposals, the application was referred to the Design Review Panel (DRP) on 6 July 2017. Attached for your information is a copy of the DRP Minutes.

Further to the preliminary assessment undertaken by Council and Council's advice provided in correspondence dated 17 March, 2017 and the comments made by the DRP, Council considers that the Planning Proposal, in its current form cannot be supported.

As stated previously, the proposal, in its current form (height and FSR) is completely out of context with the surrounding built environment and the character of the R2 – Low Density Residential zone. As outlined previously, the height of the proposed development fronting Vista Street should be reviewed to be consistent with the height of buildings in the R2 – Low Density Residential zone (Kogarah LEP 2012).



The height and siting of the proposed development to the rear of the site is also considered excessive and out of context with the surrounding character of Vista Street.

Council's recently gazetted amendment to Kogarah LEP 2012 (Amendment No. 2) acknowledges that there is a need to increase the supply and diversity of Seniors Housing in the R2 – Low Density Residential zone and includes specific provisions for the development of seniors housing in the form of self-contained dwellings (Clause 6.8 – Seniors housing –self-contained dwellings in Zone R2) subject to meeting the following criteria:

- (a) *the total site area is not less than 1,000 square metres, and*
- (b) *the street frontage of the site is not less than 20 metres (measured at the building line), and*
- (c) *the building height does not exceed 8 metres, and*
- (d) *the floor space ratio of buildings on the site does not exceed 0.5:1, and*
- (e) *the proposed development provides for not less than one car parking space in respect of each dwelling, and*
- (f) *the proposed development complies with the standards set out in Schedule 3 to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, and*
- (g) *a condition is imposed by the consent authority to the effect that only seniors may occupy any accommodation to which the application relates, and*
- (h) *the consent authority is satisfied that a restriction as to user will be registered against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, limiting the use of any accommodation to which the application relates to seniors.*

Council considers that the following options are available with respect to the consideration of the Planning Proposal:

Option 1 – Amendment of the Planning Proposal

As previously advised, the Planning Proposal in its current form (proposed height and FSR) cannot be supported by Council officers. This view is also supported by the Design Review Panel.

It is considered that the following components of the Planning Proposal could be supported by Council:

- Rezoning Lot 392, DP752056 and part of Lot 489, DP752056 from W2 - Recreational Waterways to R2 - Low Density Residential, with an amendment to the area that is currently identified as the wet dock - this should be retained as W2 - Recreational Waterway; and
- Amending the foreshore building line (FBI) to realign from the new boundary line of the R2 - Low Density Residential zone, at a depth of 7.6m

Option 2 – Withdrawal of the Planning Proposal

As previously advised, you may wish to withdraw the Planning Proposal. If the Planning Proposal is withdrawn, Council will refund 40% of the original Planning Proposal fee (\$8,000).

Option 3 – Report to IHAP and Council

Council will prepare a report on the Planning Proposal and documentation submitted in accordance with the requirements of the *Environmental Planning and Assessment Act 1979*, and *Environmental Planning and Assessment Regulation 2000* and any relevant policy documents prepared by the NSW Department of Planning & Environment.

This report will be prepared and forwarded to Council's Independent Planning & Assessment Panel (IHAP) for consideration and Council for a resolution. It should be noted however, that for the reasons outlined above and previously, Council's Strategic Planning staff are unlikely to support the Planning Proposal in its current form.

You are advised that should a report be prepared and presented to IHAP/Council, regardless of the outcome, no refund of fees will be given.

You are requested to advise Council in writing as to how you wish to proceed within 14 days of the date of this letter. Should Council not receive a response **by Friday 11 August 2017**, Council will assume that you wish to allow Council to proceed with the assessment and preparation of a report to the IHAP/Council.

Please do not hesitate to contact Council's Coordinator Strategic Planning, Rita Vella on 9330 9437 should you wish to discuss this matter or require any additional information.

Yours faithfully



Catherine McMahon
Manager – Strategic Planning

GEORGES RIVER COUNCIL

Contact: Rita Vella
Phone: 0439 894 483
File Reference: 17/42

17 March 2017

Mr Tom Nanevski

Nanevski Developments Pty Ltd

34 Plimsoll Street

SANS SOUCI NSW 2219

Dear Mr Nanevski

Planning Proposal – No 73 Vista Street, Sans Souci

Reference is made to the Planning Proposal submitted on 9 March 2017 for Nos 73 Vista Street (Lot 1, DP320605; Lot 1, DP1115986; Lot 489, DP752056; Lot 382, DP752056; Lot 1, DP181450), Sans Souci seeking consideration of a rezoning of the property from W2 – Recreational Waterways to R2 – Low Density Residential.

The Planning Proposal also seeks the following amendments to Kogarah LEP 2012:

- Amending the foreshore building line (FBL) to realign from the new boundary line of the R2 – Low Density Residential zone, at a depth of 7.6m
- Amend Schedule 1 to include a provision that allows for additional height and FSR where the development is for the purposes of Seniors Housing

Council has undertaken a preliminary assessment of the Planning Proposal application against Council's key strategic planning documents and the New City Plan and it is considered that the planning proposal in its current form cannot be supported as the proposed height and FSR zone is incompatible with the surrounding development and the intent and objectives of the R2 – Low Density Residential zone in the New City Plan.

It should also be noted that No 75 Vista Street, Sans Souci (Lot 1, DP181450) is in the ownership of Georges River Council and should not form part of the Planning Proposal or the subject site for the purposes for the calculation of FSR. Any future Planning Proposal should be amended to not include the Council owned site.

Council has also undertaken an assessment of the Planning Proposal in accordance with the requirements of the Strategic Merit Test as outlined in the NSW Department of Planning's *Rezoning Reviews* (August 2016) and came into force on 1 September 2016.

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HURSTVILLE CIVIC CENTRE
MacTavish and Dora Streets, Hurstville

KOGARAH CIVIC CENTRE
2 Belgrave Street, Kogarah

Postal address: PO Box 205, Hurstville NSW 1581

Contact: 9330 6400 | mail@georgesriver.nsw.gov.au | www.georgesriver.nsw.gov.au



WELCOME TO THE RIVER

Georges River Council 9330 6400

Based on the Merit Test, the following comments are provided:

Strategic Merit Test Criteria	Council Comment
Is the proposal: 1. Consistent with the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment;	Although the proposal supports the principles of improving housing diversity and delivering on the South District's five year housing supply target, as well as encouraging Seniors Housing in waterfront areas (identified in the former Kogarah Council's Housing Strategy), it is considered that the proposed height and density on the site is inconsistent with the former Kogarah Council's endorsed Housing Strategy and amendment to Kogarah LEP 2012 (New City Plan). There has been inadequate justification provided with respect to the proposed height and FSR, which is considered to be out of context with the surrounding low density residential area, and will have a significant impact on the existing views of the surrounding existing dwellings. Also no contextual/visual analysis has been provided from the Georges River with respect to the proposed height/bulk and scale of the development, as viewed from the water
or 2. Consistent with a relevant local council strategy that has been endorsed by the Department;	It is inconsistent with the provisions of the New City Plan, which has proposed to retain a height and FSR consistent with the surrounding low density residential development. The draft plan is currently with the DPE for finalisation.
or 3. Responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognised by existing planning controls	No significant investment in infrastructure is proposed in the locality and there are no changing demographic trends in the area.

Council has also sought preliminary advice from the NSW Department of Planning &

Page 2 of 5

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Language Assistance

语言援助



Accessibility

131 450

Environment with respect to the use of Schedule 1 – Additional Permitted Uses to identify the height and FSR on the proposed site. The Department, in this regard has advised the following:

“.....prescriptive Schedule 1 Amendments, such as the one proposed, are not generally encouraged by the Department as it is not the intended purpose of the mechanism. There is also potential that such an amendment would not be supported at a legal drafting stage. A preferred approach to such an amendment would be to lodge a spot rezoning planning proposal to change all the planning controls.”

Council considers that the proposal, particularly with respect to the height fronting Vista Street should be reviewed to be consistent with the height of buildings in the R2 – Low Density Residential zone.

Due to the fall of the site to the water, there may be some opportunity to increased height to the rear of the site however an indicative visual impact of any proposed changes to the height along the foreshore would need to be presented as part of any Planning Proposal. Currently, the Planning Proposal does not provide a visual assessment of the proposed development from the waterway.

Council considers that there are two (2) options available with respect to the consideration of the Planning Proposal:

Option 1 – Assessment and Consideration by Council

Council will undertake an assessment of the Planning Proposal and documentation submitted in accordance with the requirements of the *Environmental Planning and Assessment Act 1979*, and *Environmental Planning and Assessment Regulation 2000* and any relevant policy documents prepared by the NSW Department of Planning & Environment.

A report will be prepared and forwarded to Council's Independent Planning & Assessment Panel (IHAP) for consideration and Council for a resolution. It should be noted however, that for the reasons outlined above, Council's Strategic Planning staff are unlikely to support the Planning Proposal in its current form.

You are advised that should a report be prepared and presented to IHAP/Council, regardless of the outcome, 80% of the fees paid to date will be retained by Council (\$16,000) to cover the assessment and administration of the Planning Proposal by Council's Strategic Planning staff.

Option 2 – Withdrawal of the Planning Proposal

Alternatively, you may wish to withdraw the Planning Proposal. It is considered that the following components of the Planning Proposal could be supported by Council:

- Rezoning Lot 392, DP752056 and part of Lot 489, DP752056 from W2 – Recreational Waterways to R2 – Low Density Residential, with an amendment to

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HURSTVILLE CIVIC CENTRE
MacMahon and Gore Streets, Hurstville

KOGARAH CIVIC CENTRE
2 Belgrave Street, Kogarah

Postal address: PO Box 205, Hurstville NSW 1481

Contact: 9330 6400 | mail@georgesriver.nsw.gov.au | www.georgesriver.nsw.gov.au



Georges River Council | 10 Belgrave Street, Kogarah NSW 1505 | Phone: 9330 6400

the area that is currently identified as the wet dock – this should be retained as W2 – Recreational Waterway; and

- Amending the foreshore building line (FBL) to realign from the new boundary line of the R2 – Low Density Residential zone, at a depth of 7.6m

If the Planning Proposal is withdrawn, Council will refund the majority of the fees already paid. A \$1000 fee will be applicable to cover Council's administrative costs.

Community Benefit

In addition, the proposed rezoning is seeking a significant uplift.

The *Georges River Council Policy on Voluntary Planning Agreements (VPA) Policy* was adopted on 1 August 2016 and sets out Council's objectives in relation to the use of planning agreements including:

- *to provide an enhanced and more flexible development contributions system;*
- *to supplement or replace, as appropriate the application of s94 or s94A...;*
- *to ensure that the framework for planning agreements is consistent, efficient, fair and accountable;*
- *facilitate the provision of public facilities and services.."*

The Policy has been consistently applied to planning proposals and development applications alike since its adoption. Clause 5.3 of the Policy states that where either a planning proposal is proposed, or development consent is sought, which will result in an exceedance of development standards, resulting in an inherent increase in value of the land or development, the concept of land value capture may be used to assess the appropriate contribution. This concept may be applied in addition to other considerations in relation to the level of the contributions.

Clause 5.13 of the Policy states through a formula, that Council capture fifty percent (50%) of the increase in the residual land value resulting from the planning uplift sought for a site via the Planning Proposal.

The Planning Proposal provides for a significant uplift in the value of the land and the applicant has had no discussions with Council around the provision of community benefit and the negotiation of a VPA.

You are requested to advise Council in writing as to how you wish to proceed within 14 days of the date of this letter. Should Council not receive a response by Monday 3 April 2017, Council will assume that you wish to allow Council to proceed with the assessment and preparation of a report to the IHAP/Council.

Please do not hesitate to contact Council's Coordinator Strategic Planning, Rita Vella on 0439 894 493 should you wish to discuss this matter or require any additional information.

Yours faithfully



Cathy McMahon

Manager – Strategic Planning

From: Douglas Cunningham
To: [Rita Vella](mailto:Rita.Vella@georgesriver.nsw.gov.au)
Cc: Martin.Cooper@planning.nsw.gov.au
Subject: RE: Use of Schedule 1 to allow Additional FSR and Height
Date: Wednesday, 15 March 2017 5:17:55 PM
Attachments: [image006.png](#)
[image007.png](#)

Hi Rita

After speaking to Wayne Williamson who is Acting Leader, we are both of the opinion that should the site be rezoned R2 under the New City Plan, there would be no need to lodge such an amendment to the LEP.

Notwithstanding the above, prescriptive Schedule 1 Amendments, such as the one proposed, are not generally encouraged by the Department as it is not the intended purpose of the mechanism. There is also potential that such an amendment would not be supported at a legal drafting stage. A preferred approach to such an amendment would be to lodge a spot rezoning planning proposal to change all the planning controls.

Let me know if you have any other questions

Thanks
Doug

Disclaimer: The information in this message is intended to be general information only and does not constitute professional advice and should not be relied upon as such. Recipients should seek independent professional advice and refer to the relevant legislation before taking action or relying on any such matter contained in this message.

Douglas Cunningham
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Environment



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From: Rita Vella [<mailto:Rita.Vella@georgesriver.nsw.gov.au>]
Sent: Wednesday, 15 March 2017 4:32 PM
To: Douglas Cunningham <Douglas.Cunningham@planning.nsw.gov.au>; Martin Cooper <Martin.Cooper@planning.nsw.gov.au>
Cc: Catherine McMahon <cmcmahon@georgesriver.nsw.gov.au>
Subject: Use of Schedule 1 to allow Additional FSR and Height

Hi Martin/Douglas

I'm wondering if I could get some preliminary advice on a Planning Proposal that has been received by Council. I understand that the Department is generally reluctant to provide advice but Council would appreciate any comments that you may have in relation to the following:

Council has received a Planning Proposal for No 73 Vista Street, Sans Souci. The subject site is currently zoned E4 – Environmental Living and W2 – Recreational Waterways. Under the New City Plan, it is proposed that the E4 portion be rezoned to R2 – Low Density Residential.

The Planning Proposal is proposing to make some changes to the zoning to rectify the W2 – Recreational Waterways zone, which isn't an issue.

It is also proposing to amend Schedule 1 of the LEP to include the following provision (or similar):

Use of certain land at 73 Vista Street, Sans Souci

1. This clause applies to land at 73 Vista Street, Sans Souci, being Lots Lot 1 DP 320605, Lot 1 DP 1115986, Lot 489 DP 752056 and Lot 392 DP 752056;

2. The objective of this clause is to provide for additional floor space and height on the land to which this clause applies for the purposes of Seniors Housing;

3. Notwithstanding any other provisions, development for the purposes of Seniors Housing is permitted with development consent if the floor space ratio does not exceed 2.35:1 and the building height does not exceed RL 20.4.

4. Notwithstanding Clause 3 above, building height may exceed RL 20.4 to the extent that:

4.1 There is a lift overrun to a maximum height of RL 21.6;

4.2 There is a rooftop communal open space; the building height may exceed RL 20.4 to accommodate associated structures including parapets, planters, access, lifts and stairs subject to merit assessment

Council is aware of **Draft LEP Practice Note – Schedule 1 Additional Permitted Uses**

<http://epla.org.au/news/past-news/media/pdf/DOP%20LEP%20Practice%20Note%20180912.pdf>

however is unsure of the Department's consideration with respect to this Practice Note.

It would be appreciated if advice could be provided in this regard.

Please do not hesitate to contact me should you require any additional information

Regards,

**GEORGES
RIVER
COUNCIL**

Rita Vella Co-ordinator Strategic Planning
Civic Centre MacMahon Street Hurstville NSW 2220

P | M 0439 894 493

E rita.vella@georgesriver.nsw.gov.au **W** <http://www.georgesriver.nsw.gov.au>

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