

**ELECTRONIC REPORT TO THE GEORGES RIVER LOCAL PLANNING PANEL
FOLLOWING DEFERRAL FROM MEETING OF PANEL ON 4 NOVEMBER 2021**

LPP Report		Development Application No.	DA2021/0207
Site Address and Ward	7 Loville Avenue, Peakhurst Heights Peakhurst Ward		
Proposed Development	Construction of a dwelling house and attached secondary dwelling		
Owners	Mr G R Thomas		
Applicant	A Sofios		
Planner/Architect	Antonio Sofios		
Date of Lodgement	28 June 2021		
Submissions	The application was not renotified following the meeting of 4 November 2021 (No submissions received originally).		
Cost of Works	\$685,575.00		
Local Planning Panel Criteria	The proposal seeks a variation to the maximum FSR standard greater than 10%.		
List of all relevant s4.15 matters	State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (BASIX) 2004, State Environmental Planning Policy (Affordable Rental Housing) 2009, Georges River Local Environmental Plan 2021, Hurstville Local Environmental Plan 2012, Hurstville Development Control Plan No. 1.		
List all documents submitted with this report for the Panel's consideration	LPP Report from 4 November 2021 LPP Minutes from 4 November 2021 Updated Architectural Plans Survey Plans Engineering Structural Assessment Traffic Engineer ROW Certification ROW Land Holder Consent Letter Surveyor ROW Realignment Letter		
Report prepared by	Senior Development Assessment Planner		
Recommendation	That the application be approved subject to the conditions in this report.		
Summary of matters for consideration under Section 4.15 Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?			Yes

<p>Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed and relevant recommendations summarised, in the Executive Summary of the assessment report?</p>	<p>Yes</p>
<p>Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?</p>	<p>Not applicable</p>
<p>Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?</p>	<p>Not applicable</p>
<p>Conditions Have draft conditions been provided to the applicant for comment?</p>	<p>The report is available on Council's website</p>

Executive Summary

1. This report has been prepared following the deferral of the subject application (DA2021/0207) by the Local Planning Panel (the Panel) at its meeting on 4 November 2021. The Development Application the subject of the deferral proposes construction of a dwelling house and attached secondary dwelling on land known as 7 Loville Avenue, Peakhurst Heights.
2. The application was considered by the Panel on 4 November 2021. The Panel resolved to defer consideration of the application to allow the applicant to submit amended plans to reduce the gross floor area of the development, provide pedestrian access to the secondary dwelling from the street via the side of the primary dwelling and demonstrate satisfactory vehicular access using the right of way of over adjoining properties.
3. On 1 February 2022 the applicant submitted the following information:
 - Cover Letter;
 - Amended architectural drawings;
 - Engineering Structural Assessment;
 - Survey Plans;
 - ROW realignment letter;
 - ROW landholder consent letter; and
 - Traffic Engineer Certification.
4. An assessment of the submitted information has been undertaken by Council staff and is discussed within this report. All requested information has been provided and outstanding matters addressed to the satisfaction of Council.
5. It is noted that a Clause 4.6 variation request to the FSR development standard was submitted with the original DA, however as a consequence of amendments made to the application subsequent to the Panel's deferral, the proposal is now compliance with FSR and the clause 4.6 request is no longer required.

6. It is noted that Council's previous recommendation was for refusal, however if the panel were of a mind to approve the application in accordance with its deferral notice, the Panel could seek to approve for the below reasons and conditions.

Report In Full

Background

7. At its meeting of 4 November 2021, the Georges River Local Planning Panel considered the subject application and resolved the following:

Deferral

The Panel determined to defer Development Application No. DA2021/0207 for the construction of new dwelling house with attached secondary dwelling at 7 Loville Street, Peakhurst Heights, and invites the applicant to submit amended plans that:

- a) *Delete the southern wall and garage door of the garage/turning area of the proposed secondary dwelling in order to comply with the floor space ratio control under Hurstville Local Environmental Plan 2012.*
- b) *Provide an access door from the parking area of the proposed secondary dwelling to the external terrace on the northern side of the proposed development to enable direct pedestrian access from Loville Street via the proposed external stairs to the secondary dwelling.*
- c) *The applicant has to demonstrate how satisfactory vehicle access to the secondary dwelling's parking area is to be obtained having regard to the constraints of the boundaries and rights of the owners of all properties benefiting from or burdened by the existing right of carriageway and all other easements affected by any proposed driveway works.*

Amended plans addressing the Panel's concerns above, must be submitted to the Council by 31 January 2022 (or as otherwise determined by Council) otherwise the application will be determined on the information currently provided. Following receipt of this information, the Panel (as constituted on 4 November 2021) will determine the application electronically, unless the Chair determines that a further public meeting is required.

Amended Plans And Reports

8. On 1 February 2022 the applicant submitted the following information:

- Cover Letter;
- Amended architectural drawings;
- Engineering Structural Assessment;
- Survey Plans;
- ROW realignment letter;
- ROW landholder consent letter; and
- Traffic Engineer Certification.

9. The table below provides an assessment of the requirement of the Panel as per the minutes of the meeting and the information submitted by the applicant.

LPP Meeting Minute	Applicant's Submission
<i>Delete the southern wall and garage door of the garage/turning area of the proposed secondary dwelling in order to comply with the floor space ratio control under Hurstville Local Environmental Plan 2012.</i>	<p>The southern wall has been deleted and replaced with supporting posts.</p> <p>The garage door has been replaced with a sliding gate.</p>
<p>Comments:</p> <p>This design change request has been satisfied.</p>	
<i>Provide an access door from the parking area of the proposed secondary dwelling to the external terrace on the northern side of the proposed development to enable direct pedestrian access from Loville Street via the proposed external stairs to the secondary dwelling.</i>	<p>Amended plans showing a door between the parking area and the external terrace.</p>
<p>Comments:</p> <p>This design change request has been satisfied.</p>	
<i>The applicant has to demonstrate how satisfactory vehicle access to the secondary dwelling's parking area is to be obtained having regard to the constraints of the boundaries and rights of the owners of all properties benefiting from or burdened by the existing right of carriageway and all other easements affected by any proposed driveway works.</i>	<p>The applicant submitted:</p> <ul style="list-style-type: none"> • Amended architectural drawings; • Engineering Structural Assessment; • Survey Plans; • ROW realignment letter; • ROW landholder consent letter; and • Traffic Engineer Certification.
<p>Comments:</p> <p>Council's Traffic Engineer has reviewed the documentation submitted and advised that it satisfies the request above. The applicant's engineer has provided sufficient information on the grades of the driveway, and Council's Traffic Engineer is satisfied with the proposed grades and the turning area. The following conditions of consent are recommended by Council's Traffic Engineer:</p> <p>RE-SEALING OF DRIVEWAY</p> <p><i>The existing bitumen driveway between the gutter crossing/layback on Loville Avenue and the southern boundary of the site shall be demolished and reconstructed to cater for the expected wheel loadings.</i></p>	

LPP Meeting Minute	Applicant's Submission
	<p data-bbox="220 237 1453 376"><i>Details of the driveway, including materials of construction and levels shall be submitted to the Certifying Authority for approval prior to driveway works commencing. Resealing works shall include the additional/widened part of the R.O.W shown on drawing DA 10.00ROW- issue "A".</i></p> <p data-bbox="220 416 1305 450">DRIVEWAY WORKS WITHIN THE LINE OF THE DRAINAGE EASEMENT</p> <p data-bbox="220 490 1342 562"><i>Prior to works commencing on the construction of the driveway, a plan shall be submitted to the Certifying Authority for approval showing the following:</i></p> <ol data-bbox="231 602 1465 1039" style="list-style-type: none"> <li data-bbox="231 602 1437 674"><i>1. The line and depth of the existing stormwater pipe contained within that part of the drainage easement over which the driveway is to be constructed.</i> <li data-bbox="231 674 1433 779"><i>2. A section showing the invert and obvert (top) of the stormwater pipe and the depth and materials of construction proposed between the pipe obvert and the finished surface level of the driveway.</i> <li data-bbox="231 779 1406 884"><i>3. Any works required to be carried out in the vicinity of the stormwater pipe in order for there to be no damage to the pipe as a result of the driveway being constructed over it.</i> <li data-bbox="231 884 826 920"><i>4. The driveway design wheel loading.</i> <li data-bbox="231 920 1465 1039"><i>5. Documentation from a suitably qualified and experienced engineering consultant confirming there will be no detrimental effect on the stormwater pipe as a result of the driveway being constructed over it.</i> <p data-bbox="220 1077 762 1111">DRIVEWAY/FOOTPATH CROSSING</p> <p data-bbox="220 1151 1453 1256"><i>The 1.5m wide (footpath) section of driveway/footpath crossing shown on drawing DA 3.01b Issue "A" shall be amended to have a crossfall to the roadway not exceeding 2% (1:50)</i></p> <p data-bbox="220 1296 1422 1402"><i>Amended drawings for the driveway/footpath crossing and vehicle clearance profiles shall be submitted to the Certifying Authority for approval prior to construction commencing on the driveway incorporating the 2% crossfall.</i></p> <p data-bbox="220 1442 1374 1514"><i>These conditions have been included in the draft consent at the end of this report (condition numbers 30, 31 and 29).</i></p> <p data-bbox="220 1554 1062 1588">REALIGNMENT OF RIGHT-OF-CARRIAGEWAY (R.O.W)</p> <p data-bbox="220 1628 1422 1771"><i>Prior to the issue of the Occupation Certificate, the adjustment required to the line of the R.O.W shown on drawing DA 10.00ROW-issue "A" attached to the letter from surveyors Bee and Lethbridge dated 28 January, 2022 shall be undertaken with the registration of documents being to the satisfaction of Council.</i></p> <p data-bbox="220 1812 1366 1883"><i>The condition above in the relation to the ROW is included as a deferred commencement condition rather than a <i>Prior to Occupation Certificate</i> condition.</i></p>

Conclusion

10. The additional information submitted by the applicant in response to the reasons for deferral by the Georges River Local Planning Panel has been addressed in this report.
11. It is noted that Council's previous recommendation was for refusal, however if the panel were of a mind to approve the application in accordance with its deferral notice, the Panel could seek to approve for the below reasons and conditions.

Determination And Statement Of Reasons

12. The application has been assessed having regard to the Matters for Consideration under Section 4.15 (1) of the Environmental Planning and Assessment Act 1979 and relevant statutory provisions.

Statement of Reasons

13. The reasons for this recommendation are:
 - The proposed development complies with the requirements of the relevant environmental planning instruments.
 - The proposed development is considered to be an appropriate scale and form for the site and the character of the locality given the current planning controls applicable to the site and the proposal.
 - In consideration of the aforementioned reasons, the proposed development is a suitable and planned use of the site.

Determination

14. THAT Pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979, as amended, the Georges River Local Planning Panel grant consent to DA2021/0207 for construction of a dwelling house and secondary dwelling on Lot 6 in DP215320 on land known as 7 Loville Avenue, Peakhurst Heights subject to the conditions referenced below.

Schedule 1

- A. Deferred Commencement - General** - Pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, this consent will not operate until the following requirements are satisfied:

- (a) This consent is not to operate until the Applicant satisfies the Council, that the adjustment required to the line of the R.O.W shown on drawing DA 10.00ROW-issue "A" attached to the letter from surveyors Bee and Lethbridge dated 28 January, 2022, has been undertaken with the registration of documents being to the satisfaction of Council.

Documentary evidence as requested or the above information must be submitted within thirty six (36) months of the granting of this deferred commencement consent. Activation of this Consent cannot commence until written approval by Council is given advising Section A is satisfied.

Subject to Section A above being satisfied the development is to be carried out subject to the following conditions as referenced in Section B.

Schedule 2

DEVELOPMENT CONSENT is granted to the Development Application described above, subject to the following conditions.

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 4.20, and 4.53 of the Act.

Right of Review – If you are dissatisfied with this decision, you may request a review of the determination under Section 8.2 of the Environmental Planning and Assessment Act 1979. A request for review and the decision by Council of that request must be made and determined 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 8.2 is not applicable to Integrated or Designated Development).

Right of Appeal – Alternatively, Division 8.3 – Appeals – Development Consents of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the NSW Land and Environment Court within twelve (12) months of the determination date on this notice.

SPECIFIC DEVELOPMENT CONDITIONS

Development Details

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

Description	Reference No.	Date	Revision	Prepared by
Cover	DA 0.00	7.4.22	D	Not Stated
Site Plan	DA 1.00	28.01.22	C	Not Stated
Site Analysis	DA 1.01	24.8.21	B	Not Stated
Lower Ground	DA 1.99A	7.4.22	D	Not Stated
Lower Ground	DA 1.99B	7.4.22	D	Not Stated
Ground	DA 2.00A	24.8.21	B	Not Stated
Ground	DA 2.00B	24.8.21	B	Not Stated
Roof	DA 2.01A	11.5.21	A	Not Stated
Roof	DA 2.01B	11.5.21	A	Not Stated
Section AA	DA 3.00	11.5.21	A	Not Stated
Driveway Section BB	DA 3.01	11.5.21	A	Not Stated

Driveway Section BB	DA 3.01B	11.5.21	A	Not Stated
Driveway Section CC	DA 3.02	24.8.21	B	Not Stated
Driveway Section CC	DA 3.02B	24.8.21	B	Not Stated
Elevation West	DA 4.00	11.5.21	A	Not Stated
Elevation North West	DA 4.01	11.5.21	A	Not Stated
Elevation North east	DA 4.02	11.5.21	A	Not Stated
Elevation South	DA 4.03	7.4.22	C	Not Stated
Right of Way Proposed Re-alignment Diagram	DA 10.00 ROW	28.01.22	A	Not Stated

Separate Approvals Required Under Other Legislation

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

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

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

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

- (j) Stormwater and ancillary works in the road reserve;
- (k) Stormwater and ancillary to public infrastructure on private land; and
- (l) If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council's roadways/footways.

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

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

3. Driveway Crossing - Minor Development - Constructing a driveway crossing and/or footpath requires a separate approval under Section 138 of the Roads Act 1993 prior to the commencement of those works.

To apply for approval, complete the "Application for Driveway Crossing and Associated Works on Council Road Reserve" issued under Section 138 Roads Act." which can be downloaded from Georges River Council's Website at 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 Driveway Crossing applications.

An approval for a new or modified driveway 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 in accordance with Council's specifications applicable at the time, prior to the issue of an Occupation Certificate.

The design boundary level is to be received from Council prior to construction of the internal driveway.

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

Requirements of Concurrence, Integrated & Other Government Authorities

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

Prior to the Issue of a Construction Certificate

6. **Asset Protection Zones Intent of measures** - to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.
 - a) From the start of building works, and in perpetuity to ensure ongoing protection from the impact of bush fires, the entire property must be managed as an inner protection area (IPA) in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019.

When establishing and maintaining an IPA the following requirements apply:

- tree canopy cover should be less than 15% at maturity;
 - trees at maturity should not touch or overhang the building;
 - lower limbs should be removed up to a height of 2m above the ground;
 - tree canopies should be separated by 2 to 5m;
 - preference should be given to smooth barked and evergreen trees;
 - large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;
 - shrubs should not be located under trees;
 - shrubs should not form more than 10% ground cover;
 - clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
 - grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and
 - leaves and vegetation debris should be removed.
- Construction Standards Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.
- b) New construction on the Roof, North and East elevations must comply with section 3 and section 6 (BAL 19) Australian Standard AS3959-2018 Construction of buildings in bush fire-prone areas or NASH Standard (1.7.14 updated) National Standard Steel Framed Construction in Bushfire Areas – 2014 as appropriate and Section 7.5 of Planning for Bush Fire Protection 2019.

- c) New construction on the South and West elevations must comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2018 Construction of buildings in bush fire-prone areas or NASH Standard (1.7.14 updated) National Standard Steel Framed Construction in Bushfire Areas – 2014 as appropriate and Section 7.5 of Planning for Bush Fire Protection 2019. Water and Utility Services Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.
- d) The provision of water, electricity and gas must comply with the following in accordance with Table 7.4a of Planning for Bush Fire Protection 2019:
- reticulated water is to be provided to the development where available;
 - all above-ground water service pipes external to the building are metal, including and up to any taps;
 - where practicable, electrical transmission lines are underground;
 - where overhead, electrical transmission lines are proposed as follows:
 - lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas; and
 - no part of a tree is closer to a power line than the distance set out in accordance with the specifications in ISSC3 Guideline for Managing Vegetation Near Power Lines.
 - reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 and the requirements of relevant authorities, and metal piping is used;
 - all fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and shielded on the hazard side;
 - connections to and from gas cylinders are metal;
 - polymer sheathed flexible gas supply lines are not used; and -
 - above-ground gas service pipes are metal, including and up to any outlets. Landscaping Assessment Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.
- e) Landscaping within the required asset protection zone must comply with Appendix 4 of Planning for Bush Fire Protection 2019. In this regard, the following principles are to be incorporated:
- A minimum 1 metre wide area, suitable for pedestrian traffic, must be provided around the immediate curtilage of the building;
 - Planting is limited in the immediate vicinity of the building;
 - Planting does not provide a continuous canopy to the building (i.e. trees or shrubs are isolated or located in small clusters);
 - Landscape species are chosen to ensure tree canopy cover is less than 15% (IPA), and less than 30% (OPA) at maturity and trees do not touch or overhang buildings;

- Avoid species with rough fibrous bark, or which retain/shed bark in long strips or retain dead material in their canopies;
- Use smooth bark species of trees species which generally do not carry a fire up the bark into the crown;
- Avoid planting of deciduous species that may increase fuel at surface/ ground level (i.e. leaf litter);
- Avoid climbing species to walls and pergolas;
- Locate combustible materials such as woodchips/mulch, flammable fuel stores away from the building;
- Locate combustible structures such as garden sheds, pergolas and materials such as timber garden furniture away from the building; and
- Low flammability vegetation species are used.

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

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

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

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

Fee Type	Fee
GENERAL FEES	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See https://portal.longservice.nsw.gov.au/bci/levy/	
Builders Damage Deposit	\$1,900.00
Inspection Fee for Refund of Damage Deposit	\$160.00
DEVELOPMENT CONTRIBUTIONS	
Georges River Council Local Contributions Plan 2021	\$6,899.83

General Fees

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

Development Contributions

A Section 7.12 contribution has been levied on the subject development pursuant to the Georges River Council Local Contributions Plan 2021.

Timing of Payment

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

Further Information

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

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

- a) Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development: \$1,900.00
- b) Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee to enable assessment of any damage and repairs where required: \$160.00
- c) Submit to Council, before the commencement of work, a photographic record of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal.

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

9. Site Management Plan -

Minor Development

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

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

10. BASIX Commitments - All energy efficiency measures as detailed in the BASIX Certificate No. 1139262M_02 must be implemented on the plans lodged with the application for the Construction Certificate.

11. Required design changes - The PCA shall ensure that the following changes are required to be made and shown on the Construction Certificate plans:

- (a) Council's pipe would need to be accurately located by a peg-out for its full extent within Lot 6 DP215320, No. 7 Loville Avenue Peakhurst, to confirm the pipe's location. The peg-out would need to include the layout, size, depth and features (eg. any pits / bends) of the pipe.
- (b) A dilapidation report of the pipe for the extent of the required peg-out as described above would need to be completed. The report would need to include CCTV footage with the inspection and notation of all visible defects and joints along the pipe. A specialised plumber/contactor who has a CCTV tractor that can access the pipe and provide suitable quality footage will need to be engaged.
- (c) The details and location of Council's pipe line within the existing drainage easement will need to be plotted onto the plans lodged with the construction certificate.
- (d) It is likely that any approval received for a connection to Council's pipe would require the construction of an accessible pit at the connection point.
- (e) It would need to be shown that the proposed drainage system for the development of could drain suitably by gravity to the proposed connection to Council's system.
- (f) A connection to Council's pipe would need to be applied and approved through the Stormwater Drainage Application in accordance with Section 68 of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993. See Chapter 5 of Council's Stormwater Management Policy for information on this process.
- (g) The applicant would need to prove to the PCA satisfaction that the wording of the existing easement documentation allows for the drainage of stormwater from this development's site through the easement. If this is not the case the conditions of the easement would need to be redefined to Council's and the property owner's satisfaction.
- (h) The manoeuvring and reversing curves plan for the secondary dwelling garage is to be designed and certified by a traffic consultant in accordance AS2890.1:2005, in accordance with AS2890.1:2005.
- (i) Following the above peg-out of the pipe in the drainage easement, an updated stormwater management plan is required to be prepared by the drainage engineer to incorporate the existing and design levels to confirm the connection of the site outlet discharge pipe into Council's drainage easement and the overflow from the grated pit within the right of carriage way (driveway) to run over the existing easement, to be submitted to the PCA satisfaction.
- (j) An adequate traffic report for the manoeuvring area for secondary dwelling parking is to be prepared by a qualified traffic consultant/engineer to be submitted to the PCA satisfaction.

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

- (a) Compliance with the approved Erosion & Sediment Control Plan

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

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

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

- a) All stormwater shall drain by gravity to Council's drainage easement as indicated on the drainage plan Dwg No. 2120-S1/3, Revision B, dated 17/11/2020 prepared by John Romanous & Associates P/L in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).
- b) A connection to Council's pipe would need to be applied and approved through the Stormwater Drainage Application in accordance with Section 68 of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993. (See Chapter 5 of Council's Stormwater Management Policy for information on this process.)
- c) Prior to the commencement of works, the PCA shall ensure that the approved drainage design levels are surveyed by a registered surveyor, to ensure that the stormwater system is drained by gravity.
- d) The PCA shall ensure that any potential overflow surcharge from the double grated pit in the driveway shall not flood the proposed development site and shall run over the easement without any blockage. In this regard, design measures shall be undertaken to ensure the amenity of the site.

- e) The stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a professional engineer who specialises in Hydraulic Engineering in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (1987) and Council's Stormwater Drainage Guidelines, shall accompany the application for the Construction Certificate.

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

- (a) The OSD volume and the permissible site discharge (PSD) shall comply with the requirement of Table 3 of Council's stormwater management policy.
- (b) The PCA shall ensure that the retaining walls surrounding the above ground storage OSD basin shall be impermeable and shall not leak or surcharge onto the downstream property.

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

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

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

Full details shall accompany the application for the Construction Certificate.

15. Support for Easement Pipes

- (a) All footings within 2.0 metres of the drainage easement shall be designed in such a manner that they are supported by foundations set at a minimum of 300mm below pipe invert levels or founded on sound rock.
- (b) Alternatively, the footings of the building or any structure shall be designed not to affect the zone of influence taken from the invert of any pipe.
- (c) The walls of any dwelling, pool or structure adjoining the easement shall be designed to withstand all forces should the easement be excavated to existing pipe invert levels.
- (d) No building or other structure must be placed over the drainage easement or stormwater system or within the zone of influence taken from the invert of any pipe.

Evidence from an appropriately qualified person that this design requirement has been met shall accompany the application for the Construction Certificate.

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

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

- 17. Geotechnical report** - Geotechnical Reports: The applicant must submit a Geotechnical Report, prepared by a professional engineer specialising in geotechnical engineering who holds the relevant Certificate of accreditation as required under the Building Professionals Act 2005 in relation to dilapidation reports, all site works and construction. This is to be submitted before the issue of the Construction Certificate and is to include:

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

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

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

19. **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).
20. **Waste Management Plan** - A Waste Management Plan incorporating all requirements in respect of the provision of waste storage facilities, removal of all materials from the site that are the result of site clearing, extraction, and, or demolition works and the designated Waste Management Facility shall be submitted to the Certifying Authority prior to the issue of any Construction Certificate.
21. **Landscape Plans** – All landscape works shall be carried out in accordance with the approved landscape plans and specifications, drawn by Pirro Developments, Issue B, Dwgs LA – 000, 100, 101, 102, 500 and 501 and dated 11/08/20. The landscaping shall be maintained in accordance with the approved plans in perpetuity, subject to the following -
- a) The proposed seven (7) trees at 100 litre pot/bag size and all plant species, pot/ bag size and quantities of plants must be in accordance with the proposed plant schedule upon the landscape plan.
 - b) The applicant must engage a registered and reputable nursery grower to contract grow the seven (7) x100 litre pot/ bag trees and all plants early within the build phase to ensure and guarantee that all species, quantities and pot/ bag sizes are planted as per landscape plan. The registered Architect is to sign off with a record of purchase, to the PCA of this compliance.
 - c) All seven (7) trees proposed upon the approved landscape plan shall comply with AS 2303 – 2018, *Tree Stock for Landscape use* and *NATSPEC Specifying Trees: a guide to assessment of tree quality (2003)*, and be planted and maintained in accordance with Councils standard specification;
 - d) If the planted seven (7) trees and all plants are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species. If the trees are found dead before they reach a height where they are protected by Councils Tree Management Controls, they must be replaced with the same species and pot/bag size;

- 22. Compliance with submitted Arborist Report** – The recommendations outlined in the Amended Arborist’s Report titled Arboricultural Impact Assessment prepared by Horticultural Management Services dated 23/08/21 must be implemented throughout the relevant stages of site set up, demolition, excavation construction and landscaping. Details of tree protection measures to be implemented must be detailed and lodged with the Construction Certificate application for approval and shall be in accordance with Section 4 - Australian Standard AS 4970-2009: *Protection of trees on development sites*.

The tree/s to be retained and protected are listed in the table below.

Tree Species	Location of Tree / Tree No.	Tree Protection Zone (metres) TPZ as per AS4970 - 2009
T1 – <i>Melaleuca quinquenervia</i>	Councils street tree	Trunk padding as per AS4970 -2009, Section 4.5.2
T4,5,6 <i>Archontophoenix cunninghamiana</i> (x3)	Within neighbouring site, 14 Loville Ave	2.4 metres out from its trunk

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

Tree Protection Measures

- c) All trees on Council property, subject site and adjacent sites, to be retained must be protected before site set up and maintained during demolition, excavation and construction of the site.
- d) Although trees may be on adjacent sites, the tree protection fencing must be placed on the nominated distances as per table above, out from the trees trunk, within the subject site to minimise impacts to neighbours trees and kept for the entirety of the project.
- e) The tree protection measures must be in undertaken in accordance AS4970 -2009 *Protection of trees on development sites*.

- f) Details of the tree protection measures to be implemented must be provided with the application for a Construction Certificate by a qualified Arborist who holds an AQF Level 5 or above in Arboriculture and who is a current practicing and financial member of an Arboricultural Association or Affiliation.
- g) The engaged AQF 5 Consulting Project Arborist must be present on-site during the stages of site set up, excavation, demolition and construction when works are being undertaken that could impact on the tree canopy or root zone within the tree protection zone of each tree.
- h) In accordance with AS 4970-2009 *Protection of trees on development sites*, a protective fence consisting of 2.4 x 1.8 metres high, fully supported chainmesh fence shall be used. The distance of the fence out from the base of each tree is to be in accordance with the TPZ listed in the table above. A layer of organic mulch 100 millimetres thick shall be placed over the protected area and no soil or fill should be placed within the protection area.
- i) The tree protection fencing must be kept in place during demolition, excavation and construction and also have a sign displaying 'Tree Protection Zone – DO NOT ENTER' attached to the fence and must also include the name and contact details of the Project Arborist.
- j) To preserve the *Melaleuca quinquenervia*, no work shall commence nor shall a Construction Certificate be issued (whichever occurs first) until the trunk/ branches are protected, in accordance with AS4970 - 2009, *Protection of trees on development sites*, by the wrapping of geo woven fabric around the trunk 4 / 5 times and the placement of two metre long, lengths of 50mm x 100mm timber battens vertically arranged around the trunk, with 100mm spacing's. The timber battens shall be secured by wire/ hoop straps but not secured into the tree itself. The trunk/ branch protection shall be maintained intact until the completion of all works upon the site.
- k) The Tree Protection Zone of each tree, to be protected, shall be watered thoroughly and regularly to minimise the effects of construction works.
- l) No building products, preparation of building products, storage of materials, stockpiling, site sheds or services shall be installed within the TPZ of the trees to be retained.

Excavation works near tree to be retained

- m) Excavations around the trees to be retained on site, Councils street verge or the adjoining properties shall be supervised by the AQF 5 Project Arborist to ensure that the root system will not adversely be affected.

- n) Any excavations for the building and or any services required for the project that traverses through the TPZ of the neighbouring palms (T4,5 and 6), must only be conducted using air spade or hydro vac type of non destructive excavations and under the guidance of the engaged AQF 5 Arborist.
- o) Where the Tree Protection Zone (TPZ) of trees on site or adjoining sites become compromised by any excavation works, the AQF 5 Project arborist shall be consulted to establish the position of any major roots and determine the necessary measures to protect these roots. The recommendations of the Arborist shall be submitted to Council prior to any further demolition or construction works taking place.
- p) Tree Protection Zones around the trees to be retained are not to have soil level changes, building product / materials stored or services installed in this area. Any structures proposed to be built in this area of the trees are to utilise pier and beam or cantilevered slab construction.

23. Tree Removal & Replacement

- a) Tree removal

Permission is granted for the removal of the following trees:

Tree Species	Number of trees	Location
T2 - <i>Persea americana</i>	X1	Within site, south side
T3 - <i>Archontophoenix cunninghamiana</i>	X1	Within site, south side

General Tree Removal Requirements

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

A copy of the Hurstville City Council’s Tree Removal and Pruning Guidelines and Kogarah City Council, Street Tree Management Strategy and Masterplan, can be downloaded from Council’s website www.georgesriver.nsw.gov.au.

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

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

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

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

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

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

27. Existing drainage easement, drainage reserve or stormwater drainage system benefiting Council

Council drainage easement(s) drainage reserve(s) or stormwater system either pass through or are adjacent to the site. No building or other structure must be placed over the drainage easement or stormwater system or within the zone of influence taken from the invert of any pipe.

The applicant must determine the exact location, size and level details of the potentially affected stormwater drainage systems and without causing any damage to the public system ensure its protection. The owner, principal contractor or owner builder must not obstruct or otherwise remove, disconnect or render inoperable the Stormwater Drainage System.

Works such as fences must not obstruct the natural stormwater flowpath or alter the flowpath in such a way as to direct or concentrate stormwater on to neighbouring properties.

Where the relocation or reconstruction of Council's drainage system is approved then all work carried out on Council's assets will revert to the ownership, care, control or management of Council. Therefore, upon handover to Council, the asset must comply with Council's Construction of drainage and associated works specification.

The applicant must meet all costs associated with such works.

Note: This condition does not set aside the need to obtain relevant approvals under the Roads Act 1993 or Local Government Act 1993 for works within Roads and other public places.

28. Structural Engineers Details – Supporting Council road/footway

Prior to the commencement of work in connection with the excavation of the site associated with the basement carpark, structural engineer's details relating to the method of supporting Council's roadways/footways must be submitted to the satisfaction of Council.

29. Driveway/Footpath Crossing - The 1.5m wide (footpath) section of driveway/footpath crossing shown on drawing DA 3.01b Issue "A" shall be amended to have a crossfall to the roadway not exceeding 2% (1:50).

Amended drawings for the driveway/footpath crossing and vehicle clearance profiles shall be submitted to the Certifying Authority for approval prior to construction commencing on the driveway incorporating the 2% crossfall.

30. Re-sealing of Driveway - The existing bitumen driveway between the gutter crossing/layback on Loville Avenue and the southern boundary of the site shall be demolished and reconstructed to cater for the expected wheel loadings.

Details of the driveway, including materials of construction and levels shall be submitted to the Certifying Authority for approval prior to driveway works commencing.

Resealing works shall include the additional/widened part of the R.O.W shown on drawing DA 10.00ROW- issue "A".

31. Driveway Works within the Line of the Drainage Easement - Prior to works commencing on the construction of the driveway, a plan shall be submitted to the Certifying Authority for approval showing the following:

- a) The line and depth of the existing stormwater pipe contained within that part of the drainage easement over which the driveway is to be constructed.
- b) A section showing the invert and obvert (top) of the stormwater pipe and the depth and materials of construction proposed between the pipe obvert and the finished surface level of the driveway.
- c) Any works required to be carried out in the vicinity of the stormwater pipe in order for there to be no damage to the pipe as a result of the driveway being constructed over it.
- d) The driveway design wheel loading.
- e) Documentation from a suitably qualified and experienced engineering consultant confirming there will be no detrimental effect on the stormwater pipe as a result of the driveway being constructed over it.

During Construction

- 32. Site sign - Soil & Erosion Control Measures** - Prior to the commencement of works (including demolition and excavation), a durable site sign, issued by Council in conjunction with this consent, must be erected in a prominent location on site. The site sign warns of the penalties which apply to pollution, storing materials on road or footpath and breaches of the conditions relating to erosion and sediment controls. The sign must remain in a prominent location on site up until the completion of all site and building works.
- 33. Hours of construction for demolition and building work** - Unless authorised by Council:
 - a. Building construction and delivery of material hours are restricted to: 7.00 am to 5.00 pm (inclusive) Monday to Saturday and no work on Sundays and Public Holidays.
 - b. Demolition and excavation works are restricted to: 8.00 am to 5.00 pm (inclusive) Monday to Friday only. Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site.
- 34. Ground levels and retaining walls** - The ground levels of the site shall not be excavated, raised or filled, or retaining walls constructed on the allotment boundary, except where indicated on approved plans or approved by Council.
- 35. Cost of work to be borne by the applicant** - The applicant shall bear the cost of all works associated with the construction of the development that occurs on Council property. Care must be taken to protect Council's roads, including the made footway, kerbs, etc., and, where plant and vehicles enter the site, the footway shall be protected against damage by deep-sectioned timber members laid crosswise, held together by hoop iron straps and chamfered at their ends. This construction shall be maintained in a state of good repair and condition throughout the course of construction.

- 36. Obstruction of Road or Footpath** - The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste or skip bins, or any other matter is not permitted unless separately approved by Council under Section 138 of the Roads Act 1993 and/or under Section 68 of the Local Government Act 1993. Penalty infringement Notices may be issued for any offences and severe penalties apply.
- 37. Waste Management Facility** - All materials removed from the site as a result of demolition, site clearing, site preparation and, or excavation shall be disposed of at a suitable Waste Management Facility. No vegetation, article, building material, waste or the like shall be ignited or burnt.

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

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

Prior to the issue of the Occupation Certificate

- 39. BASIX Compliance Certificate** - A Compliance Certificate must be provided to the PCA regarding the implementation of all energy efficiency measures as detailed in the approved BASIX Certificate before any Occupation Certificate is issued.
- 40. Completion of Landscape Works** - All landscape works must be completed before the issue of the Final Occupation Certificate.
- a) All landscape works and the planting of seven (7) x 100 litre pot/ bag trees and all shrubs must be completed before the issue of the Final Occupation Certificate and in accordance with approved landscape plans and specifications, drawn by Pirro Developments, Ref No Issue B, Dwgs LA – 000, 100, 101, 102, 500 and 501 and dated 11/08/20.
 - b) A certificate of compliance for the planting of all seven (7) trees and all shrubs proposed for the site. An AQF 5 Horticulturist must be engaged and in writing certify that all trees have been planted as per landscape plan and specifications and forwarded to the PCA – Principal Certifying Authority.
- 41. Vehicular crossing - Minor development** - The vehicular crossing and/or footpath works shall be constructed by a private contractor at the expense of the applicant, in accordance with the 'Application for Driveway Crossing and Associated Works on Council Road Reserve' approval issued by Council's Assets and Infrastructure Division.

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

NOTE: No stencilled or coloured concrete may be used outside the boundary of the property.

The work must be completed before the issue of an Occupation Certificate.

42. Restriction to User and Positive Covenant for On-Site Detention Facility

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

Restrictions on Use of Land

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

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

Positive Covenants

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

2. *Pursuant to Section 88F(3) of the Conveyancing Act 1919 the Council shall have the following additional powers:*

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

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

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

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

Operational Conditions (On-Going)

45. Maintenance of Landscaping - All trees and plants forming part of the landscaping must be maintained. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilizing, pest and disease control, replacement of dead or dying plants and any other operations required to maintain healthy trees, plants and turfed areas.

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

Tree Protection Measures

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

Tree Replacement within subject site

- c) A minimum of 7 x 100 litre size trees, which will attain a minimum mature height of six (6) metres, shall be planted within the property. The trees are to conform to AS2303 – 2018, *Tree stock for landscape use*.
- d) If the replacement trees are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species. If the trees are found dead before they reach a height where they are protected by Councils Tree Management Controls, they must be replaced with the same species and pot/bag size.
- e) A copy of the Hurstville City Council's Tree Removal and Pruning Guidelines and Kogarah City Council, Street Tree Management Strategy, Masterplan, and Tree Management Policy 2019, can be downloaded from Council's website www.georgesriver.nsw.gov.au.

- 46. **Outdoor Lighting** - To avoid annoyance to the occupants of adjoining premises or glare to motorist on nearby roads, outdoor lighting must comply with AS 4282-1997: Control of the obtrusive effects of outdoor lighting.
- 47. **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.

Operational Requirements Under the Environmental Planning & Assessment Act 1979

- 48. **Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued.
- 49. **Appointment of a PCA** - The erection of a building must not commence until the applicant has:
 - (a) appointed a PCA for the building work; and

- (b) if relevant, advised the PCA that the work will be undertaken as an Owner -Builder.

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

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

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

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

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

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

A Notice of Commencement Form is attached for your convenience.

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

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

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

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

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

An Occupation Certificate Application Form is attached for your convenience.

Prescribed Conditions

55. **Clause 97A - BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
56. **Clause 98 - Building Code of Australia & Home Building Act 1989** - Requires all building work to be carried out in accordance with the Building Code of Australia. In the case of residential building work to which the Home Building Act 1989 relates, there is a requirement for a contract of insurance to be in force before any work commences.
57. **Clause 98A - Erection of Signs** - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the PCA and the Principal Contractor.
58. **Clause 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.
59. **Clause 98C - Entertainment Venues** - Schedule 3A of the Environmental Planning and Assessment Regulation 2000 outlines the prescribed conditions which apply to Entertainment Venues.
60. **Clause 98E - Site Excavation** - Excavation of the site is to extend only to that area required for building works depicted upon the approved plans. All excess excavated material shall be removed from the site.

All excavations and backfilling associated with the erection 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.

END CONDITIONS

NOTES/ADVICES

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

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

2. **Appeal Rights** - Part 8 (Reviews and appeals) of the Environmental Planning and Assessment Act 1979 confers on an applicant who is dissatisfied with the determination of the application a right of appeal to the Land and Environment Court of New South Wales.
3. **Lapsing of Consent** - This consent will lapse unless the development is physically commenced within 5 years from the Date of Operation of this consent, in accordance with Section 4.53 of the Environmental Planning and Assessment Act 1979 as amended.
4. **Long Service Levy** - The Long Service Corporation administers a scheme which provides a portable long service benefit for eligible workers in the building and construction industry in NSW. All benefits and requirements are determined by the Building and Construction Industry Long Service Payments Act 1986. More information about the scheme and the levy amount you are required to pay to satisfy a condition of your consent can be found at <http://www.longservice.nsw.gov.au>.

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

5. **Security deposit administration & compliance fee** - Under Section 97 (5) of the Local Government Act 1993, a security deposit (or part) if repaid to the person who provided it is to be repaid with any interest accrued on the deposit (or part) as a consequence of its investment.

Council must cover administration and other costs incurred in the investment of these monies. The current charge is \$50.00 plus 2% of the bond amount per annum.

The interest rate applied to bonds is set at Council's business banking facility rate as at 1 July each year. Council will accept a bank guarantee in lieu of a deposit.

All interest earned on security deposits will be used to offset the Security Deposit Administration and Compliance fee. Where interest earned on a deposit is not sufficient to meet the fee, it will be accepted in full satisfaction of the fee.

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

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

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

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

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

7. **Council as PCA - Deemed to Satisfy Provisions of BCA** - Should the Council be appointed as the PCA in determining the Construction Certificate, the building must comply with all the applicable deemed to satisfy provision of the BCA. However, if an alternative fire solution is proposed it must comply with the performance requirements of the BCA, in which case, the alternative solution, prepared by an appropriately qualified fire consultant, accredited and having specialist qualifications in fire engineering, must justifying the non-compliances with a detailed report, suitable evidence and expert judgement. Council will also require if deemed necessary, for the alternative solution to undergo an independent peer review by either the CSIRO or other accredited organisation. In these circumstances, the applicant must pay all costs for the independent review.

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

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