

**REPORT TO GEORGES RIVER COUNCIL  
IHAP MEETING OF 21 JUNE 2016**

<b>IHAP Report No</b>	Item 3	<b>Development Application No</b>	DA2015/0095
<b>Site Address &amp; Ward Locality</b>	4-6 Barsbys Avenue, Allawah Ward Locality-Kogarah Bay		
<b>Proposal</b>	Demolition of existing dwellings and the construction of a five (5) storey residential flat building comprising of fourteen (14) units and basement parking.		
<b>Report Author/s</b>	Senior Planner – Mr B. Moroz		
<b>Zoning:</b>	R3- Medium Density Residential		
<b>Date of Lodgement</b>	26 May 2015		
<b>Owner</b>	Cuzeno Pty Ltd George and Renee Jabbour		
<b>Applicant</b>	George Jabbour		
<b>Submissions</b>	Ten (10)		
<b>Cost of Works</b>	\$3,250.000		
<b>Issues</b>	Non-compliances and unresolved objections. The development is numerically reliant on the Draft Local Environmental Plan (LEP) also referred to as the New City Plan.		
<b>Recommendation</b>	That the application be approved in accordance with the conditions included in the report.		

**Site Plan**



**Executive Summary**

## **Proposal**

1. Council is in receipt of an application for the demolition of the existing dwellings and the construction of a five storey residential flat building comprising of fourteen units and basement parking on the subject site.

## **Site and Locality**

2. The site is comprised of two lots located on the south-eastern side of Barsbys Avenue. The site presents an overall frontage width of 24.38m, site length of 36.575m and an overall site area of 891.9m<sup>2</sup>.

## **Zoning and KLEP 2012 Compliance**

3. The site is zoned R3-Medium Density Residential Zone under KLEP 2012 and the proposal is a permissible form of development with Council's consent. The proposed development generally satisfies all relevant clauses contained within KLEP 2012 apart from that associated with site area where a shortfall of the 1000m<sup>2</sup> required for residential flat buildings has been presented. This will be discussed in more detail later in this report.

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

4. The proposed development satisfies the provisions of Section 1.1 – Streetscape Character of KDCP 2013 and is appropriate within the existing streetscape character. However, the proposal does not comply with Councils controls for density, height, setbacks, carparking and provision of communal open space.

## **Submissions**

5. Ten submissions were received raising concern to scale of development, privacy, solar access, devaluation of property, stormwater drainage, noise, inadequate separation and parking.

## **Conclusion**

6. 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. 95/2015 should be approved subject to conditions.

# Report in Full

## Proposal

7. Council is in receipt of an application for the demolition of the existing dwellings and the construction of a five storey residential flat building comprising of fourteen units and basement parking on the subject site.

## The Site and Locality

8. The site is comprised of two lots located on the south-eastern side of Barsbys Avenue. The site presents an overall frontage width of 24.38m, site length of 36.575m and an overall site area of 891.9m<sup>2</sup>. The site is relatively level with two single storey dwellings and detached shed existing on the site which will be demolished to make way for the proposed development.
9. Residential flat buildings ranging in scale from three to four stories and single storey undeveloped residential dwellings are noted along Barsbys Avenue, while Joy Meade Reserve adjoins the site along the south-western boundary. Adjoining the site to the north-east is a residential flat building of a three storey scale while to the rear of the site, a residential flat building of a four storey scale and frontage to Rutland Street is noted.



## Background

10. The application was submitted with Council on 25 May 2015 and was neighbour notified from 5 June to 19 June where ten objections were received.
11. The application was reviewed by the St George Design Review Panel on 9 July 2015 where the application was generally supported subject to the carrying out of minor design changes in accordance with the Panel's recommendations.
12. A letter was sent to the applicant on 28 July 2015 that outlined a number of concerns Council had with the application. These concerns include issues related to the height of the proposal, street presentation, amenity, solar access and landscape treatments.

13. A response to the concerns raised in Council's letter was received on 12 October 2015. As these changes resulted in the reduction in the overall scale of the building, the application did not require re-notification.
14. Since the receipt of those documents consideration of the application was deferred as its current form presented significant variations to the existing DCP controls. At the Regular Council Meeting held on 26 April 2016 consideration to a process for dealing with development applications reliant on the provisions of the Draft Local Environment Plan (LEP), also known as the New City Plan, was endorsed. As a result, where a variation to a development standard was presented without their being any change to zoning, assessment and determination of an application relying on the newly endorsed development controls is available. In this case, the proposal is a permissible form of development relying on variations to both the KLEP and KDCP, in particular to proposed height and floorspace.
15. This report is based on the architectural plans received on 12 October 2015 and the landscape plans received on 15 April 2016.

### **Section 79C Assessment**

16. The following is an assessment of the application with regard to Section 79C (1) of the Environmental Planning and Assessment Act 1979.

**(1) *Matters for consideration – general***

***In determining an application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:***

- (a) *the provision of:***
  - (i) *any environmental planning instrument,***

### **Kogarah Local Environmental Plan 2012 (KLEP 2012)**

#### **Part 2 – Permitted or Prohibited Development**

##### **Clause 2.1 – Land Use Zones**

17. The site is zoned R3-Medium Density Residential Zone under KLEP 2012 and the proposal is a permissible form of development with Council's consent. The proposed development generally satisfies all relevant clauses contained within KLEP 2012 apart from that associated with site area where a shortfall of the 1000m<sup>2</sup> required for residential flat buildings has been presented. This will be discussed in more detail later in this report.



## Part 4 – Principal Development Standards

### Clause 4.1A - Minimum lot size for residential flat building

18. Residential Flat Buildings within the R3 Zone are required to be constructed on a lot/s where the area is equal to or greater than 1000m<sup>2</sup>. The proposed residential flat building will be constructed on two lots that comprise of a total area of 891.9m<sup>2</sup>. In order to address this shortfall, the applicant has submitted a Clause 4.6 variation that is discussed below.

### Clause 4.6 – Exceptions to development standards

- (1) **The objectives of this clause are as follows:**
- (a) **to provide an appropriate degree of flexibility in applying certain development standards to particular development,**
  - (b) **to achieve better outcomes for and from development by allowing flexibility in particular circumstances.**
- (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

19. The applicant has submitted a written request that has outlined that compliance with the development standard 4.1A where Residential Flat Buildings within the R3 Zone are required to be constructed on a lot/s where the area is equal to or greater than 1000m<sup>2</sup> is unreasonable and unnecessary in the circumstance of this case and that there are sufficient environmental planning grounds to justify contravening the development standard. The applicant outlined that the subject site is capable of providing a residential flat building that is of an appropriate scale and that is not anticipated to adversely impact the amenity of neighbouring properties. Further, there was no opportunity to increase the area of the development site through site amalgamation as it is constrained by Joy Meade Reserve to the south-west and an existing residential flat building to the north-east.
20. In this instance, it is considered that the written request has suitably addressed the matters required to be demonstrated in Clause 4.6 subclause (3) where the development is considered to be in the public interest and consistent with the objectives of this standard and with the objectives for development within the zone in which the development is proposed to be carried out and the variation is supported.

## **Part 5 – Miscellaneous Provisions**

### Clause 5.9 – Preservation of Trees or Vegetation

21. The application was referred to Council's Tree Management Officer for comment who raised no objection to the proposal subject to the retention of a number of trees located within Joy Meade Reserve. Consent conditions will be imposed with any development consent requiring that all trees within the Park be preserved and protected in accordance with the Arborist report submitted under separate cover. In addition, consideration has been given to the provisions of Section B2 – Tree Management and Greenweb of KDCP 2013 and the proposed development satisfies those relevant controls.

### Clause 5.10 – Heritage Conservation

22. 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

23. 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

24. The proposed development will require significant excavation works in order to accommodate the basement car park. The proposed excavation is the minimum necessary to achieve a basement and it has been designed to allow for substantial deep planting areas around the perimeter of the building.
25. It is considered that the proposed earthworks are 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

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

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

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

### **State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP No 65)**

28. The proposed development is subject to the provisions of SEPP No 65, which aims to improve the quality of residential flat design in NSW.
29. The application has been accompanied by a design verification from a qualified designer that verifies that:
  - a) *He or she designed or directed the design of the modification, and*
  - b) *The modifications achieve the design quality principles as set out in Part 2 of SEPP No 65, and*
  - c) *The modifications do not diminish or detract from the design quality, or compromise the design intent of the approved development.*
30. The application was referred to the St George Design Review Panel for consideration at their meeting of 9 July 2015. The following comments were provided with respect to the design quality principles set out in the Policy:
31. It should be noted that at the time this application was reviewed by the Panel, the Department of Planning and Environment had issued a gateway determination for the planning proposal for the New City Plan to proceed. The New City Plan proposes to rezone land and increase gross floor space ratios and height on certain sites. It had been recommended to increase the floor space and height on the subject site. The Design Review Panel based its comments/recommendations on the draft controls of the New City Plan which are detailed below:-

## **Context**

*The site is located in an established residential neighbourhood, with predominantly three to four storey residential apartments. There is a local park with good amenity adjacent to the development. The subject site boundary is adjacent to a stand of established trees which are a core component of the park's amenity.*

### Comment

32. Acceptable.

## **Scale**

*The scale is appropriate for the evolving urban framework however the building appears bulkier than it is due largely to its windowless, monolithic, concrete construction to the street.*

### Comment

33. Acceptable.

## **Built Form**

*The proposed setbacks from the north-east and south-west boundaries are problematic. The south-west façade does not comply with the Council setback requirement. Furthermore the configuration of basement and building footprint would have a detrimental impact on the adjoining parkland trees. The current design impacts on tree protection zones for many of these trees and is unacceptable. The Panel recommends the setback on this boundary comply with the minimum requirement established by Council. The basement and the building should be shifted toward the north-eastern boundary.*

### Comment

34. The amended proposal has reduced the overall scale of the development and also reduced the visual massing of the street facade. The overall height of the building has been reduced and the north eastern raised corner element has also been deleted. The design of the residential flat building remains unequivocally contemporary in architectural style, however subtle, but purposeful, detailing of the street elevation in the amended proposal results in a facade treatment that will appear less bulky. The amended street elevation includes a total of ten windows, with the inclusion of several new feature windows, the largest of which is framed with stepped concrete fenestration.

35. The visual massing of the street facade is also abated through the use of a staggered front building wall which is achieved through the use of three wall planes. The staggered front facade allows south west vertical slot windows to be included in the design and will result in the creation of shadow lines and variation in the depth of the facade. Additionally the choice of materials, colour and texture for the facade and side walls has been carefully considered with respect to the surrounding natural and built environment. Smooth finish and sand blasted concrete, glass block, steel framing and glass louvres are proposed with special attention given to the articulation and proportion of elements, including metal clad forms, high level finish white and grey concrete and fixed glazing to the Barsby Avenue facade.

36. The landscaping treatment of the front of the site has also been amended to address the bulk and scale impacts of the development. A new plate metal entry gate is proposed although the plate metal fence that was extending across the frontage of the site has been deleted and replaced with a planter (with vegetation) in front of Unit G.01. Additional vegetation has also been provided including a proposed new street tree (*Buckinghamia celsissima*) which grows to 8m-10m upon maturity to complement the existing two street trees and the two "Water Gum" trees (which grow to 12m upon maturity) proposed for the front landscaped setback area.

### **Density**

*Appropriate.*

### Comment

37. Acceptable.

### **Resource, energy and water efficiency**

*Deep soil zones should be consolidated on this site to maximize benefit to the adjacent park and retain the existing established trees. The water tank should be relocated clear of deep soil zones.*

### Comment

38. The deep soil zone along the south western side of the development site, adjacent to Joy Meade Reserve, has been increased and amended to ensure the retention of the existing established trees in the park. With respect to the rear deep soil zone it is noted that the planned location of the water tank is as a result of the 'hybrid' storm water approach which has been negotiated with Council's Engineer and which responds to the constraints of the site. Notwithstanding, it is noted that the amended landscape plan includes the planting of at least one Water Gum tree and over twenty Magnolia trees along the rear boundary, in addition to the numerous shrubs and ground covers. This approach will ensure adequate deep soil plantings are provided within the rear deep soil zone.

### **Landscape**

*The building should be modified as noted above to maximize deep soil and landscaping along the front and western boundaries. Furthermore all constructed elements including raised planters, walls and services should be removed from these zones. Where Fencing is proposed, this should be developed in conjunction with the arborist to ensure footings and trenching does not impact on existing park trees. All TPZ's zones for park trees and other trees adjacent to the site should be protected and kept clear of all architectural and engineering elements and services. Water tanks should be relocated to provide deep soil on the rear boundary. Tree planting should be provided in this zone.*

*Given the importance of the interface between the building and the adjoining street and the park, careful consideration should be given to the design of private open space and landscape zones. Landscape sections should be provided and incorporate information on measures used to mitigate impact on existing park trees. Insufficient detail has been provided on the park interface. Typical details as provided do not sufficiently describe site conditions. A detailed and fully annotated landscape drawing with accompanying site sections should be provided. The wall to Barsbys Avenue is too high and should be reduced in scale. The private landscape should contribute to the amenity of the street. Additional street tree planting should be provided, to contribute to the amenity of the street. Setting the building back would improve solar access to the park.*

#### Comment

39. The amended scheme includes changes to the proposed landscaping treatment. In particular, considerable detail has been provided with respect to the amended approach to the landscape treatment along the south western side boundary adjacent to Joy Meade Reserve with regard to the deep soil and landscaping treatment along the south-western side and front and rear boundaries. With respect to the Barsbys Avenue presentation, the front plate steel fence (wall) has been deleted and replaced with increased areas of soft landscaping (including additional plantings of significant trees).

#### **Amenity**

*The street façade would benefit from windows, which would also provide northern light to apartments and modulation to the facade. The front entry requires further resolution with a stronger emphasis. The car waiting bay potentially blocks access to the building entry and should be reconsidered. South facing, narrow deep slots to bedrooms provide insufficient daylight access. Private open space to unit G03 could be improved by modifying the long path.*

#### Comment

40. The street facade has been amended and includes additional windows and improved modulation with the front entry also being modified in order to provide a stronger emphasis. The front fence has been deleted to allow for an increased area of soft landscaping and an amended main entry gate has been positioned in the centre and at the forefront of the property. The design of the entry gate has been integrated with the adjacent fire services and a taller formal element encasing the fire egress stair to provide a safe exit from the basement levels. The main entry gate is bordered by a wall which now separates pedestrian and vehicular paths providing a clearly delineated and dedicated access to the lift lobby area for residents and visitors. In respect to daylight access, the amended proposal now complies with the solar access and cross ventilation guidelines in the RFDC. With respect to the open space to unit G03, the long path has been removed in response to the suggestion of the Panel.

#### **Safety and Security**

*It's hard to find the front door. The blank façade to the street does not promote passive surveillance.*

### Comment

41. The front entry arrangements have been amended to respond to the Panel's comments and the street facade of the building has been amended to now also include the provision of additional windows.

### **Social, dimensions and housing affordability**

No comment.

### Comment

42. Acceptable.

### **Aesthetics**

*The street façade requires some element of domesticity and would benefit from more fenestration. Tree planting can assist in providing privacy for residents and also provide outlook.*

### Comment

43. The street facade has been amended as suggested by the Panel with the inclusion of additional windows and fenestration. The landscape arrangements have also been amended to include additional plantings.

### **Deemed State Environmental Planning Policy – Georges River Catchment**

44. 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

**(ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and**

45. The New City Plan includes changes to zoning and the introduction of development standards in parts of the City to deliver a range of new housing options.

46. Specifically, the New City Plan proposes to introduce height and FSR standards. A floor space ratio of 1.5:1 and height of 15m is proposed in this case which this application has been designed to satisfy. The proposal is not inconsistent with the objectives and standards of the New City Plan.

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

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

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

## Frontage

48. Council's DCP outlines that a 20m frontage is required for residential flat building. In this case, an overall frontage width of 24.38m is provided complying with the DCP controls.

## Number of Storeys

49. The DCP permits three storey residential flat buildings on the subject site.
50. The proposal involves the construction of a five storey building which does not comply with this numerical control. The non-compliance should be supported for the following reasons:
- The New City Plan determination outlines an anticipated scale of five storeys on both the subject and neighbouring undeveloped sites within the local context.
  - The proposal satisfies the design principles contained in SEPP 65 and the Residential Flat Design Code.
  - The building facades have been suitably articulated and modulated in order to reduce the visual scale of the building when viewed from both the neighbouring properties and the street.
  - No unreasonable level of amenity impact related to either privacy or overshadowing will result from this variation.

## Height

51. The proposed development has a maximum height of 15m (top of parapet) and 15.75m (top of lift overrun) that does not comply with the maximum height limit of 10.5m (H1) and 12m (H2) for residential flat buildings with a three storey height limit. The non-compliance should be supported for the following reasons:
- The proposed maximum height of 15m (top of parapet) complies with the anticipated height maximums as outlined in the New City Plan. In respect to the lift overrun, the lift is setback from site boundaries and also from the edge of the proposed building so that it will not be clearly visible from the public domain and ground (and lower levels) of adjacent properties. Consequently the lift overrun will not result in significant adverse visual massing impacts. Further, the height (and impact) of the lift overrun has been minimised by adopting a design that has a relatively small overrun such that the overrun is between only 635mm and 750mm above the 15m height plane.
  - The height non-compliance will not result in the creation of any unreasonable amenity impacts to the already developed RFB's adjoining the site to the north-east or south-east. Further, no adverse impacts are anticipated to result to Joy Meade Reserve that adjoins the site to the south-west as the existing trees located within the Park along the dividing boundary are being retained and protected which itself will assist in obscuring the building from the park. The landscape elements also currently overshadow those areas of the park and no significant additional overshadowing impacts on the reserve arise from this scheme.

- The proposal satisfies the design principles contained in SEPP 65 and Residential Flat Design Code.

### Density

52. Council's DCP permits a density of 1.1m<sup>2</sup> of site area per m<sup>2</sup> of dwelling which in this instance equates to 809m<sup>2</sup>. In light of this, this development proposes a density of 1337m<sup>2</sup> or a Floorspace Ratio (FSR) of 1.5:1 that does not comply with the above noted control. While non-compliant it should be supported for the following reasons:

- The New City Plan gateway determination outlines an anticipated density of 1.5:1 or 1337m<sup>2</sup> which would be the applicable for the subject site. This proposal results in a density consistent with the maximum anticipated.
- The building maintains a suitable level of modulation and articulation throughout ensuring that any perception of visual bulk is minimised throughout the facades.
- The building will hold visual interest when approaching it from different directions within the public domain such that the extensive glazing of the north eastern and south western side elevations will be revealed when approaching the site from the eastern end or western end of Barsbys Avenue and the articulated staggered front wall, with its variety in colour and texture, will be evident from immediately opposite the site in Barsbys Avenue.
- The proposal satisfies the design principles contained in SEPP 65 and the Residential Flat Design Code.

### Setbacks

#### *Front*

53. The DCP requires a front setback of 5m to 7m for residential flat buildings. A maximum of 75% of the width of the building must be a minimum 5.0m with the remaining 25% setback a minimum of 7.0m. The proposed development provides a staggered front setback where 22% of the front wall is setback 4.87m, 61% is setback 5.82m and 17% is setback 9m. While numerically non-compliant, the front building line is consistent with that of the neighbouring residential flat building to the north-east, while Joy Meade Reserve adjoins the site to the south-west and no building setback can be established. Accordingly, it is considered that the development would suitably integrate within the established setback character of the street.

#### *Rear*

54. The proposed building presents a rear setback (south-eastern) ranging from 5.47m to 7.335m complying with DCP controls.

## Side

55. Along the north-eastern side the building presents a setback of 5.33m and to the south-west setbacks range from 2.85m to 3.3m where the building adjoins Joy Meade Reserve. Non-compliances are presented along both these elevations with the DCP controls. In respect to the non-compliance along the north-eastern side, the non-compliance is only related to the uppermost floor which in this case requires a 6m setback from this boundary. While non-compliant, the north-eastern building wall is setback between 13.592m and 15.925m to the south-western wall of the residential flat building at No.1 Hamilton Street. The building separation distances combined with the considerable articulation of this elevation will ensure that visual massing (i.e. bulk and scale) impacts are minimised.
56. Additionally the building separation combined with appropriate window placement and screening devices will ensure that there are no significant adverse visual privacy impacts resulting from the setback non-compliance.
57. In respect to the setback non-compliance presented along the south-western side to Joy Meade Reserve, the building has been orientated towards the Reserve where it has been generously articulated breaking up any visual massing. Further, the existing trees located in the Park in close proximity to the north-eastern boundary will assist in obscuring the building from along this elevation, alleviating any visual bulk that may result from the setback non-compliance. Additionally, no adverse shadowing or privacy impacts will result to the dwelling that adjoins Joy Meade Reserve to the south-west in respect to shadowing or adverse privacy impacts.
58. As a result of the above, the side setback non-compliances can be supported.

## Site Coverage

59. A maximum site coverage of 45% is applicable to residential flat buildings equating to 401m<sup>2</sup> in this instance. The proposal provides 350m<sup>2</sup> of site coverage or 39% complying with DCP controls.

## Impervious Area

60. Residential flat buildings are to have a maximum impervious area of 55% equating to 490m<sup>2</sup> in this case.
61. The proposal does not comply with this requirement, having 82% (731m<sup>2</sup>) of impervious areas on the site. The variation is considered acceptable for the following reasons:
  - Suitable deep soil landscaping is provided along the external perimeters of the site allowing for the planting of suitable trees and shrubs.
  - The building footprint of the proposed development is comparable to surrounding residential flat buildings ensuring that the proposal will not appear as an overdevelopment of the site.

### Common Open Space

62. Common open space for residential flat building developments shall be provided at a rate of 30m<sup>2</sup> per dwelling for those units that have balconies as their only form of private open space. Therefore, a minimum of 330m<sup>2</sup> is required.
63. The proposed development incorporates no common open space areas. The non-compliance should be supported as the scale of development is such that occasional meetings could be accommodated without the requirement of a designated area. Further, private open areas have been provided along the street and to the rear in place of common open space areas which is more typical this type and scale of development.

### Private Open Space

64. The DCP requires a minimum area of 35m<sup>2</sup> of private courtyard space to be provided for ground floor units with a minimum dimension of 3m. All ground floor units comply with this requirement. The upper level units that do not have access to courtyard areas provide balcony areas all of which exceed DCP controls that require a minimum 12m<sup>2</sup> area and a 3m dimension.

### **Other Requirements:**

#### Solar Access

65. The DCP states that at least 50% of the primary open space area of the proposed development should have access to a minimum of four hour hours of sunlight between 9am and 3pm on 21 June. All units will receive the required amount of solar access. In addition, the DCP requires at least 50% of the neighbouring existing principal open space or windows to main living areas must receive a minimum of three hours of sunlight between 9am and 3pm on 21 June. The proposal satisfies this requirement.

#### Privacy

66. The proposed development is separated from adjacent properties to the south-west by Joy Meade Reserve. Consequently the proposal will have no visual or acoustic privacy impacts to these properties. To the north- east, a separation distance of 13.592m to 15.952m is achieved between the north- eastern wall of the proposed building and the south-western wall of the residential flat building at No. 1 Hamilton Street, while similar separation is observed to the building located to the rear at No.s 1-5 Rutland Street. This building separation, combined with appropriate window placement and screening devices, will ensure that there is no significant adverse visual privacy impacts resulting from the development.

#### Traffic & Parking

67. In accordance with DCP controls a total of 29 car parking spaces are required to be provided. A total of 28 spaces are provided resulting in a minor variation to the controls by one space. The proposed shortfall in parking is considered under objective C2.9(b) which seeks to "reduce resident on-site parking where public transport is available within reasonable walking distance or where low car parking demand exists".

68. The subject site is located approximately 320m to the south-east of the Allawah Train Station, while bus services are located 115m from the site at Railway Parade. The site is therefore considered to be highly accessible as it is located within walking distance of well-established public transport links.
69. As a result, it is considered that a reduction in the number of resident on-site parking is acceptable in the circumstance.

#### Adaptable and Accessible Housing

70. The proposal includes two adaptable units, which equate to 14% of the total units and complies with requirements. The Access Review, prepared by Morris Goding Accessibility Consulting, demonstrates that the proposal complies with, or is capable of, complying with the accessibility requirements upon resolution of detailed design issues.

#### **Kogarah Development Control Plan 2013 Compliance Table**

71. The following table outlines the proposals compliance with the primary controls contained within KDCP 2013.

<b>Standard</b>	<b>DCP Requirement</b>	<b>Development Proposal</b>
Site Area	1000m <sup>2</sup>	891.9m <sup>2</sup>
Min Frontage Width	20m	24.38m
No. Storeys	3	5
Density (1.1m <sup>2</sup> of site area per m <sup>2</sup> dwelling)	809m <sup>2</sup>	1337m <sup>2</sup>
<b>Building Envelope</b>		
Height	10.5m (upper most habitable) 12m (overall)	15m 15.75m (lift overrun)
Setbacks	<i>Front</i>  A maximum of 75% of the width of the building must be a minimum 5.0m with the remaining 25% setback a minimum of 7.0m  <i>Side and rear</i>  3m plus 1/4 the amount of wall height exceeds 3m (south-eastern elevation)	See report
<b>Other</b>		

Standard	DCP Requirement	Development Proposal
Adaptable Units	2	2
Common Open Space Total: Dimension:	270m <sup>2</sup> 5.0m (min)	Nil
Car Parking Resident Visitor	26 spaces 3 spaces	26 spaces 2 spaces

### Section 94 Contributions

72. The proposed development requires payment of \$139,550.47 of Section 94 contributions based on the provisions of Council's Section 94 Plan applicable to Precinct Two (Carlton).
- (iv) **any matters prescribed by the regulations, that apply to the land to which the development application relates,**
73. Not applicable.
- (b) **the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,**
74. The proposed development is of a character that is generally consistent with other multi-unit development in the locality. Accordingly, the proposal is not considered to have a significant impact on the natural and built environment of the locality.
- (c) **the suitability of the site for the development,**
75. 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.
- (d) **any submissions made in accordance with this Act or the regulations,**
76. In accordance with the provisions of Section A2 – Public Notification of KDCP 2013 the application was placed on neighbour notification for a period of fourteen days. Adjoining property owners were notified in writing of the proposal and invited to comment. Ten submissions were received raising the following concerns:

## Scale of development

### Comment

77. As discussed in the body of this report, the proposed building has been designed in accordance with the provisions outlined in the New City Plan, allowing for five storey development on the subject site. While the height and density of the proposed building is above that presented by the residential flat buildings currently located within the local context, where a scale ranging from three to four storeys is noted, the overall scale of the building is consistent with that which will be established in any future emerging development on the currently undeveloped lots along Barsbys Avenue, consistent with the provisions of the New City Plan.

## Privacy and Solar Access

### Comment

78. As outlined in the body of this report, Joy Mead Park adjoins the site to the south-west and no significant adverse privacy or shadowing impacts are anticipated on that public space. Further, the proposed building is generously separated from the neighbouring residential flat buildings located to the north-east and south-east, while appropriate window placement and screening devices will ensure that no privacy impacts will result. Further, at least 50% of the neighbouring existing principal open space or windows to main living areas must receive a minimum of three hours of sunlight between 9am and 3pm on 21 June, which the proposal satisfies.

## Devaluation of property and noise

### Comment

79. The claim that the proposed building will result in the devaluation of neighbouring properties cannot be substantiated. In respect to noise, the anticipated noise level from the completed building is not considered to be in excess of what is generally expected for a residential building of this nature.

## Stormwater drainage and parking

### Comment

80. The proposal was reviewed by Council's Drainage Engineer in respect to stormwater storage and disposal and no objection was raised subject to the imposition of conditions. In respect to parking, as discussed in the body of this report, a shortfall of one visitor space is proposed which is considered acceptable. The site is considered to be highly accessible as it is located within walking distance of well-established public transport links.

### **(e) *the public interest.***

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

## **Conclusion**

82. 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 KLEP 2012 and KDCP 2013.
83. Following detailed assessment it is considered that Development Application No. 95/2015 should be approved subject to conditions.

## **Attachments**

- A4 Plans
- Clause 4.6 Statement – Minimum Site Area

## **Recommendation:**

- a) That Council as the Consent Authority pursuant to Section 80(1)(a) Environmental Planning & Assessment Act 1979, grant consent to Development Application No. 95/2015 for the demolition of the existing dwellings and the construction of a five storey residential flat building comprising of fourteen units and basement parking at No.'s 4-6 Barsbys Avenue Allawah subject to conditions, including:

### **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.

#### **I. 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 Prepared by Candalepas Associates + Wendy Lewin Drawing numbers DA-1101, 1102, 1103, 1104, 1201, 1301 and 1302 Issue B dated 1 October 2015.
- (ii) Landscape plans Elysium Design Drawing numbers ED-036-001, 002 revision 9 dated 15 April 2016.
- (iii) Stormwater plans LMW Design Group Job No 736.13 Drawing numbers D1(H), D2(C), D3(G), D4(I), D4A(H), D5(G) and D6(G).

### **SECTION B – Prior to the Issue of a Construction Certificate 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.

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	\$11,375.00
• Driveway Design and Inspection Fee (Dwelling) of	\$ 750.00
• Driveway and Restoration Works Design Inspection Fee of	\$ 7,880.00
• Asset Inspection Fee of	\$ 115.00

\*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 \$7,880.00 shall be lodged with Council to ensure the construction of the following works to be completed at the applicants' expense.

- Construction of a new 1.5m wide footpath for the full street frontage along Barsbys Avenue.

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

## 4. 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.

## 5. 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	\$ 2,263.79
No.5 – Open Space 2007	\$131,791.19
No.9 – Kogarah Libraries – Buildings	\$ 3,208.15
No.9 – Kogarah Libraries – Books	\$ 2,287.34
<b>TOTAL</b>	<b>\$139,550.47</b>

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

## **6. 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.

## **7. 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.

## **8. SEPP No. 65 Certification**

A design verification statement from a qualified designer shall be submitted that verifying that the plans and specifications achieve the design quality of the development for which consent was granted having regard to the design quality principles of State Environmental Planning Policy No. 65.

## **9. Adaptable Housing Compliance**

The proposed development including the two (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 Conduits**

A copy of Ausgrid's written requirements are to be forwarded to Council with regard to the laying of underground low voltage electricity conduits within the footpath area across the development site. Ausgrid will supply the conduits at no charge, subject to the applicant restoring the footpath after the installation and these provisions are to be put into affect prior to the release of the Occupation Certificate.

## **11. 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.

## **12. 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.

## **13. 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](http://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.

## **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. Detailed Stormwater Plan**

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

A Stormwater Detailed Plan and supporting information of the proposed on-site stormwater management system including any measures to control quality and quantity of the stormwater runoff discharged from the site are to be submitted. 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 Stormwater Concept Plan for the proposed development. Any variation to the approved concept design is required to be justified and supported by appropriate details, calculations and information to allow proper assessment of the revised concept design.

The detailed stormwater plans are to be amended to show and specific that no floor wastes or other surface drainage is to be drained into the rainwater tank.

#### **16. 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.

#### **17. On-Site Detention**

A 19.4m<sup>3</sup> On-Site Detention system with a Maximum Site Discharge of 15.6 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.

## **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 1991;
- e) The Public Health (Microbial Control) Regulation 2000;
- 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. 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.

## 21. Tree Retention – Arborist Report

The trees identified for retention prepare in the Arboricultural Assessment Report prepared by and dated 20 May 2015 and Architect Plan – Candalepas Associates + Wendy Lewin (Drawing No: DA 1102) and dated 1 October 2015 and listed below shall be protected in accordance with the above report and the requirements of Section 4 - Australian Standard AS 4970-2009 - Protection of trees on development sites.

Tree Species	Location of Tree/Tree No	TPZ
Tristanopsis laurina	Barsbys Avenue (Street tree) /Tree 1	2.4 metres
Syzygium luehmannii	Joy Meade Reserve / Tree 2	1.8 metres
Banksia integrifolia	Joy Meade Reserve / Tree 3	3.4 metres
Melaleuca quinquenervia	Joy Meade Reserve / Tree 4	3.6 metres
Melaleuca quinquenervia	Joy Meade Reserve / Tree 5	3.6 metres
Melaleuca quinquenervia	Joy Meade Reserve / Tree 6	4.8 metres
Melaleuca quinquenervia	Joy Meade Reserve / Tree 7	6.0 metres
Melaleuca quinquenervia	Joy Meade Reserve / Tree 8	3.6 metres
Melaleuca quinquenervia	Joy Meade Reserve / Tree 9	3.6 metres

There will be no excavations, formwork or stormwater drainage exceeding the 2.060 metre setback for the proposed basement from common side boundary of Joy Meade Reserve. There will be no encroachment of more than 10% into the Tree Protection Zone (TPZ) of trees 2-9. See table below:

Percentage of Encroachment of proposed building and basement into trees 2-9 Tree Protection Zone (TPZ)
Tree 2- 0% encroachment
Tree 3- 5.8 % encroachment
Tree 4- 1.7 % encroachment
Tree 5- 3.4 % encroachment
Tree 6- 1.6% encroachment
Tree 7- 6.1 % encroachment
Tree 8- 0 % encroachment
Tree 9- 0 % encroachment

## **22. Pier and Beam**

To preserve the trees numbered 2-9 as marked in the Arboricultural Assessment Report prepared by TALC (Tree & Landscape Consultants) and dated 20 May 2015, the footings of the proposed boundary fencing adjacent to trees 2-9 shall be isolated pier and beam construction within a 4.8 metre radius of their trunks. The piers shall be hand dug and located such that no roots of a diameter greater than 40mm are severed or injured in the process of any site works during the construction period. The beam shall be located on or above the existing soil levels. Any roots encountered during excavation 40mm or less that require pruning shall be cut with final cuts to undamaged woody tissue to prevent tearing damage to the root which can extend beyond the point of excavation back towards the tree. Project Arborist to be onsite during excavations for proposed boundary fencing

## **23. 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.

## **24. 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.

## **25. 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.

## **26. 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. Access Driveway

The width of the access driveway at the street front property boundary is to be a maximum of 5m.

## 30. Porous Turf

A minimum of 60m<sup>2</sup> of "Grasscel" porous turf paving blocks or equivalent is to be constructed as per the manufacturers specifications at the front driveway and entry area.

## 31. Roof and surface water

All roof and surface water from paved or concreted areas are to be disposed of in accordance with the Detailed stormwater Plan by means of a sealed pipeline constructed in accordance with AS/MZS 3500.3.2

### **32. 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.

### **33. Proposed tree pruning**

No trees to be removed, pruned or damaged on site or neighbouring properties unless there is written approval from Council in accordance with Clause 5.9 of Kogarah LEP 2012

Proposed pruning of Councils Trees (2-9) in Joy Meade Reserve is to be in accordance with the Site Analysis , Arboricultural Assessments prepared by TALC (Tree & Landscape Consultants and dated 1 October 2015 is approved. A site meeting with Council's Tree Management Officer prior to pruning of the trees is required. Details of Contractor to prune trees and a permit to enter park for pruning is required. Contractor or Builder to Contract Council prior to entering park to complete the works

### **34. 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.

### **35. 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 indemnifying Council in the event of an incident;

- A copy of an RTA 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.

### **36. 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.

### **37. 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

### **38. 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*'.

### **39. 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.

#### **40. Work within Road Reserve**

A Development Consent or any related Construction Certificate does not allow for any form of road or footpath opening to be made external to the subject property boundary. Should such an opening 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.

#### **41. Damage within Road Reserve & Council Assets**

The applicant 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.

#### **42. Public Utility & Telecommunication Assets**

The applicant 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.

#### **43. 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.

#### **44. Garbage Room**

The proposed garbage room being 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.

#### **45. 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.

#### **46. 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.

#### **47. 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.

#### **48. 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.

#### **49. Car Wash**

To ensure that waste water is treated in an acceptable manner the car wash bay shall be designed and constructed to ensure that waste water is discharged to the sewer in accordance with the requirements of Sydney Water. Evidence of a permit issued by Sydney Water shall be submitted.

**50. 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.

**51. 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.

**52. Building Finishes**

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

**53. Residential Car Parking Spaces**

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

**54. 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.

**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.**

**55. 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.**

**56. 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.

**57. 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.

**58. 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.

**59. 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](http://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.

**60. 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.

#### **61. 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.

#### **62. Maintenance Schedule**

A Maintenance Schedule for the proposed on-site stormwater management measures is to be prepared and submitted. 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.

#### **63. 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.

#### **64. 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.

### **65. Compliance with the Building Code of Australia**

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

### **66. 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.

### **67. 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

### **68. 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.

#### **69. 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.

#### **70. 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-Asbestos**

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.

## 71. Complete 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 10m<sup>2</sup> 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 ASI 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**

### **SECTION H – Advisory Notes**

#### **(i) 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](http://www.workcover.nsw.gov.au).

#### **(ii) 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](http://www.workcover.nsw.gov.au).

#### **(iii) 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.

**(iv) 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](http://www.dialbeforeyoudig.com.au).

**(v) 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*.

**(vi) 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.

**(vii) Property Address**

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

- b) That the applicant be advised of their right of appeal to the Land and Environment Court with regard to Council's decision in this matter.
- c) That those who made a submission be advised of Council's decision in this matter.