

## REPORT TO GEORGES RIVER COUNCIL IHAP MEETING OF 22 SEPTEMBER 2016

<b>IHAP Report No</b>	6	<b>Development Application No</b>	DA2016/110
<b>Site Address &amp; Ward Locality</b>	4 St Georges Parade, Hurstville Kogarah Bay Ward		
<b>Proposal</b>	Additional three (3) levels (6 units) on residential flat building under construction		
<b>Report Author/s</b>	Mr Greg Hansell – Senior Planner		
<b>Zoning:</b>	R3 Medium Density Residential		
<b>Date of Lodgement</b>	20 June 2016		
<b>Owner</b>	Shayben Construction Pty Ltd		
<b>Applicant</b>	Cornerstone Design		
<b>Submissions</b>	Four (4) submissions including a petition		
<b>Cost of Works</b>	\$1,457,500.00		
<b>Issues</b>	Building height, car parking provision, urban design quality, residential amenity impacts		
<b>Recommendation</b>	That the application be approved subject to the conditions included in the report.		

### Site Plan



## **Executive Summary**

### **Proposal**

1. Council is in receipt of an application for construction of an additional three (3) floor levels comprising six (6) residential units on the residential flat building currently under construction on the subject site.

### **Site and Locality**

2. The site is located off the southern side of Railway Parade, between Bellevue Parade and St Georges Parade. It consists of two (2) stratum titled lots. These lots are occupied by the residential flat building that is currently under construction and an established commercial swimming school centre respectively.
3. The existing streetscape character of Railway Parade in the vicinity of the site is predominantly 3-4 storey residential flat buildings. The south coast railway corridor is located above a high retaining wall, across the road to the north of the site. The minor streets surrounding the site are characterised generally by older, three (3) storey residential flat buildings with at grade parking.

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

4. The site is zoned R3 Medium Density Residential under KLEP 2012 and the proposal is a permissible form of development with council's consent. The proposed development satisfies all relevant clauses contained within KLEP 2012.

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

5. The proposal involves variations to several controls in KDCP 2013 including most notably the controls relating to building height, density and setbacks and off-street car parking provision. The proposed variations are acceptable on merit having regard to the relevant objectives and circumstances of the case.
6. The bulk, scale and density of the proposal are generally consistent with council's vision for future development of the site and locality as expressed in the New City Plan. The amount of off-street car parking provided is reasonable given the close walking distance proximity of the site to Hurstville town centre and its wide range of services and public transport options.

### **Submissions**

7. Four (4) submissions of objection including a petition were received raising the following key issues:
  - Building height
  - Traffic and parking impacts
  - Residential amenity impacts

## **Conclusion**

8. Having regard to the heads of consideration under Section 79C(1) of the Environmental Planning and Assessment Act 1979 and following a detailed assessment of the proposal, Development Application No. 110/2016 should be approved subject to conditions.

## **Report in Full**

### **Proposal**

9. Council is in receipt of an application for construction of an additional three (3) floor levels comprising six (6) residential units on the residential flat building currently under construction on the subject site.
10. The residential flat building as currently approved includes 10 x 2 bedroom units and 3 x 1 bedroom units distributed over three (3) floor levels. The associated car park is provided in a single basement level directly beneath the apartments and includes 22 car spaces. Vehicular access to and from the associated car park is provided via a single driveway access point in St. Georges Parade. Pedestrian access into the building is provided via a common lobby accessed from both street frontages. The building includes lift access from the basement car parking level to all of the apartments.
11. The additional three (3) floor levels include 2 x 2 bedroom units on each level, together with associated private balconies and common lift and stair access. A communal open space area including planter boxes at its perimeter is also provided on the rooftop adjacent to St. Georges Parade at the third floor level. The built form comprising the additional three (3) floor levels is well setback from the majority of the perimeter of the floor level immediately below, such that the overall building takes on a 'stepped' built form and its six (6) storey scale is less pronounced when viewed from most directions.
12. The external walls of the building comprise of a mixture of rendered and painted concrete and feature cladding/panelling. These walls are further articulated by different forms of fenestration, balcony elements and horizontal and vertical concrete awnings. The topmost roof of the building comprises of low pitched metal sheeting, obscured by concrete parapets on all but one (1) side.
13. All 22 car spaces within the basement level are to be allocated for resident parking, with at least one (1) car space being provided for each dwelling. Two (2) visitor car spaces are to be provided just inside the property and immediately adjacent to the on-site driveway.
14. The proposal also includes the enlargement of the external bin storage enclosure to accommodate the required number of waste bins and provision of planter boxes together with access for maintenance of these planters at the perimeter of some balconies at ground floor level.



## Background

18. On 6 January 2012, development consent was granted to the demolition of existing dwellings, construction of a residential flat building consisting of thirteen (13) units and a two (2) level car park with one basement car park level being used in conjunction with the adjoining swimming school complex and lot consolidation and stratum subdivision. This development consent has since been modified by council, the most recent occasion being on 28 January 2016.
19. Construction of the residential flat building as currently approved is well advanced. Consolidation of the lots and stratum subdivision has already been carried out.
20. A development application (DA No. 229/2015) for construction of 3 x 2 bedroom units by way of an additional floor level on top of the approved building was subsequently submitted in late 2015, but later withdrawn.
21. A brief history of the current development application is provided as follows:
  - The application was submitted on 20 June 2016.
  - The application was placed on exhibition, with the last date for public submissions being 14 July 2016. Four (4) submissions of objection including a petition were received.
  - The application was reviewed by the St. George Design Review Panel (DRP) at its meeting held on 19 July 2016 and the relevant minutes of the DRP were forwarded to the applicant by email dated 27 July 2016.
  - Revised plans and further information addressing the urban design issues raised by the DRP and issues relating to waste storage, stormwater management and car parking provision as raised by council officers were received on 16 August 2016, 19 August 2016, 1 September 2016 and 5 September 2016.

## Section 79C Assessment

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

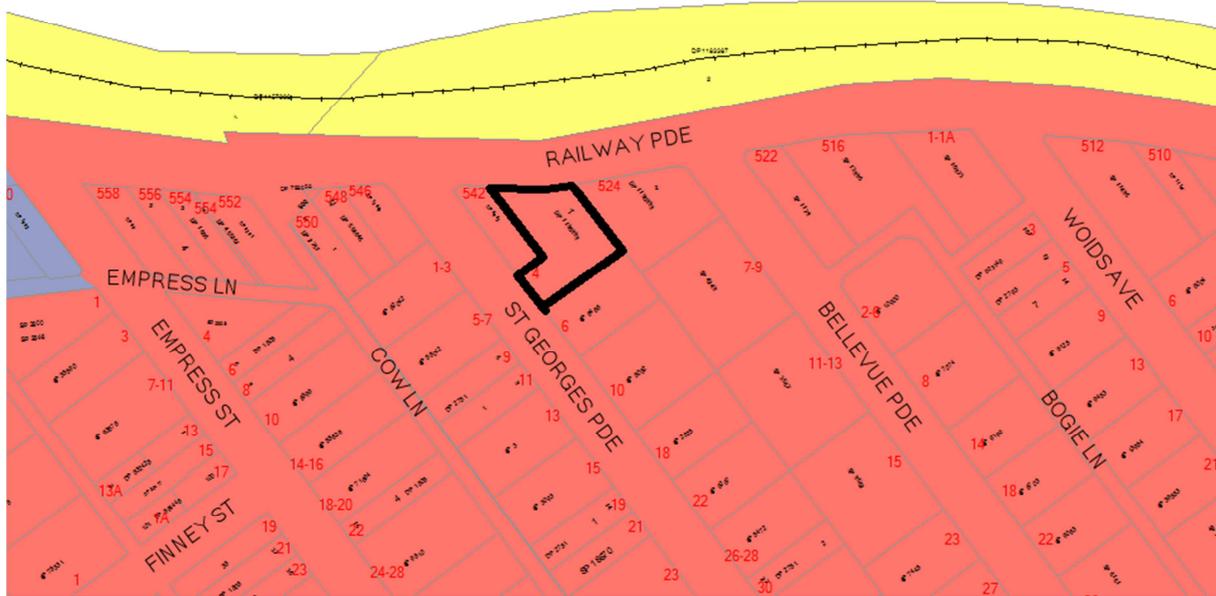
### ***(a)(i) The provisions of any environmental planning instrument***

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

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

#### **Clause 2.1 – Land Use Zones**

23. The subject site is zoned R3 Medium Density Residential and the proposal is a permissible form of development with council's consent. The proposed development satisfies the objectives of the zone in that it contributes to the housing needs of the community and the variety of housing types, within a medium density residential environment.



## **Part 4 – Principal Development Standards**

### Clause 4.1A - Minimum lot sizes

24. A minimum lot size of 1000m<sup>2</sup> is prescribed for development for the purpose of residential flat buildings in R3 Medium Density Residential zones (as in the case of the subject site). The subject site has an overall site area of 1,282m<sup>2</sup> thus readily satisfying this development standard.

## **Part 5 – Miscellaneous Provisions**

### Clause 5.9 – Preservation of Trees or Vegetation

25. The proposed development does not involve the removal of any tree or vegetation subject to the provisions of this clause.

### Clause 5.10 – Heritage Conservation

26. 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

27. 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

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

### Clause 6.3 – Flood Planning

29. The subject site is identified as flood planning land on the Flood Planning Maps. Council's stormwater drainage engineer has reviewed the proposal and raises no issues in terms of the matters for consideration under this clause. These considerations were thoroughly addressed during the assessment and determination of the original development application for the residential flat building currently under construction on the site.

### Clause 6.5 – Airspace Operations

30. The proposed development will not penetrate the Limitation or Operations Surface for both Sydney and Bankstown Airports and therefore provisions of this clause are not applicable.

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

31. 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 (Infrastructure) 2007**

32. Due to the location of the subject site adjacent to a rail corridor and having regard to the residential character of the proposal, the provisions of clause 87 of State Environmental Planning Policy (Infrastructure) 2007 relating to the consideration of rail noise/vibration impacts are relevant.
33. Clause 87 of the above state policy prescribes in part as follows:
- (2) *Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Director-General for the purposes of this clause and published in the Gazette.*
  - (3) *If the development is for the purposes of a building for residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:*
    - (a) *in any bedroom in the building—35 dB(A) at any time between 10.00 pm and 7.00 am,*
    - (b) *anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

34. The acoustic assessment prepared by Vipac Engineers & Scientists (as submitted with the application) indicates that a satisfactory level of internal amenity in line with the above noise criteria can be achieved, subject to incorporation of various acoustic attenuation measures including the use of double glazing, thickened glazing and acoustic seals to specific windows and doors. This assessment also concludes that rail vibration levels will be within relevant limits and no mitigation measures will be required.
35. The acoustic assessment was referred to Council's Environmental Health & Regulatory Services Unit (EH&RS Unit) for review and comment. Some concerns were raised over the relevance of the background noise data used in the assessment being some five (5) years out of date and the report's failure to identify the nearest potentially sensitive noise receivers. Notwithstanding these deficiencies, Council's EH&RS Unit has prepared a range of acoustic related conditions of consent for consideration in the event of approval of the proposal including the following condition:

*"Prior to issuing the construction certificate, an acoustic report prepared by a suitably qualified and experience acoustic consultant shall be provided to Principle Certifying Authority (PCA).*

*The acoustic report shall also demonstrate that appropriate measures will be taken to ensure that external road traffic noise and vibration will not exceed levels within the building in accordance with the State Environmental Planning Policy (Infrastructure) 2007 and relevant state and local policies and guidelines.*

*Construction and operational recommendations should be incorporated into the acoustic report to ensure compliance."*

36. The inclusion of this condition of consent will ensure that appropriate measures are taken such that the internal noise levels referred to in clause 87 of the abovementioned state policy are not exceeded. In coming to this conclusion, it is relevant to consider that the bedrooms associated with the proposed dwellings facing the railway corridor are not orientated towards the railway line and are buffered from this noise source to some extent by the location of the indoor living areas.

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

37. The proposed development is subject to the provisions of SEPP No. 65 which aims to improve the quality of residential apartment design in New South Wales.
38. The application was accompanied by a design verification statement from a suitably qualified designer and supporting information demonstrating that the proposal has been designed in accordance with the SEPP No. 65 design quality principles and relevant provisions of the Apartment Design Guide.

39. The initial plans that accompanied the application were referred to the St. George Design Review Panel (DRP) for consideration at its meeting of 19 July 2016. The following comments (in italics) were provided with respect to each of the design quality principles set out in SEPP No. 65. The applicant's response, together with council officer commentary where necessary, is also provided under the respective design quality principles.

#### Context and Neighbourhood Character

40. *The site is on a busy sloping road adjacent to the Hurstville Town Centre and opposite a train line. The site itself has a fall across its frontage of approximately four (4) metres. The site to its west is occupied by a two-storey gabled apartment building. To its south is a three (3) storey walkup apartment building and to its east is a low scale swimming centre. The draft KLEP 2012 (Amendment No. 2) New City Plan proposes a height of 21m and an FSR of 2:1 to the subject site and all adjacent sites. However, the corner site to the west will be difficult to develop to any substantial density due to the ADG setback requirement. As the site to the south is strata titled, it will be difficult to develop. The Panel understands from the proponent that there are plans to develop the site to the east.*
41. *The approved building now in construction on the subject site generally complies with current height and density standards and has been designed and positioned on the site accordingly. The proposal is to construct an additional 3 storeys with no significant change to car parking and minor changes to the landscape open space and communal areas. This area is in transition until the new planning controls progressively take effect along the Railway Parade. The Panel is of the opinion that the design approach which effectively extrudes the lower floors to create a 6 storey building as seen from Railway Parade does not mediate between the existing scale of buildings and the scale and form of buildings which may occur as time progresses.*
42. *The street tree planting along St. Georges Parade is a defining element of the local landscape character. It is notable that two (2) existing street trees at the development's St. Georges Parade frontage – shown on the original drawings - have been removed.*
43. Applicant's response:  
  
No comment required.

#### Officer comment:

44. The revised plans have addressed the above DRP issues satisfactorily (refer to commentary below on built form and scale and landscape). The northwest elevation of the building facing Railway Parade has been further articulated by the use of a variety of colours and additional vertical and horizontal concrete elements, such that the built form provides an appropriate transition between existing and likely future built forms on surrounding properties. The latest landscape plan includes the planting of two (2) large street trees in St. Georges Parade adjacent to the site.

## Built Form and Scale

45. *The approved building now in construction while slightly in breach of DCP height requirements, generally complies with the ADG setback requirements.*
46. *The proposed additional three floors also generally comply with the ADG setback requirements. However more could be done to break down the marked increase in building bulk by vertical articulation employing setbacks and changes of materials as seen from Railway Parade. The Panel also noted that the building as it would be seen from St Georges Parade would exacerbate the blank appearance of the fire stairs and the stacked en-suites as well as the north-western side of the additional floors. More could be done to minimise the effect of the additional building bulk through the use of changes of materials, openings in walls and the like.*
47. *During the site visit, the Panel noticed that the 3 storey wing extending towards St Georges Parade has not been built in accordance with the approved drawings whereby the balconies are now enclosed on both sides producing a bland box like appearance. It is understood from discussions at the meeting that this may have something to do with NCC compliance in relation to a path of fire exit. This compliance would not require enclosure of the balconies above the path of fire exit and the approved design should be reinstated.*

### Applicant's response:

48. *As recommended by the Panel, the proposal has been amended to incorporate changes recommended by the Panel. On the Railway Parade side, these changes include a change of colours between the base of the building and the proposed top; additional horizontal concrete awnings around the upper part of the building; and changes to the upper balconies. These changes mark a definite delineation between the base of the building and the top. Changes to the Railway Parade frontage of the building include the repositioning of the en-suites; the fire stairs articulated and windows added; and the changes of colours and materials to add interest. As recommended by the Panel, it is proposed to reinstate the approved design on the first level up. These changes are shown on the amended photo montages.*

### Officer comment:

49. The revised plans have addressed the above DRP issues satisfactorily. The northwest elevation of the building facing Railway Parade has been further articulated by the use of a mix of colours and additional vertical and horizontal concrete elements. Similar treatments including additional fenestration and feature panelling have also been applied to the south west elevation of the building facing St. Georges Parade so as to eliminate the monotonous blank wall appearance noted on the original plans.

## Density

50. *While the proposal does not comply with current density requirements, the draft LEP recommends an FSR of 2:1. Subject to addressing the amendments in this report the density is acceptable*

51. Applicant's response:

*No comment required.*

## Sustainability

52. *This was not discussed at the DRP meeting. However, as the building increases in density, it is expected that a range of well-considered sustainability measures be integrated into the proposal so as to comply with BASIX, ADG and DCP requirements.*

53. Applicant's response:

*No comment required.*

Officer comment:

54. The revised BASIX certificate indicates that the proposal will achieve the required water and energy use and thermal comfort targets. The landscape plan also includes a reasonable proportion of low water usage plant species.

## Landscape

55. *Due to traffic noise the space proposed at the Railway Parade frontage will have poor amenity. Likewise, the amenity of the area proposed for the St Georges Parade frontage is compromised by the adjacent driveway and garbage enclosure. As additional density is proposed for the site, substantial increase to communal open space is required. (The ADG requires communal space equal to 25% of the site area with 50% of the usable area receiving direct sunlight in mid-winter for a minimum of two hours between 9am and 3pm). This may be provided as roof garden at the third floor facing St Georges Parade.*

56. *The basement protrudes approximately 3.4 metres above ground level at the northeast corner. The species proposed for screening this should be changed to a species that will reach a sufficient height.*

57. *The gravel areas outside Unit 4 should be incorporated into the private open space for this unit and replaced with planter boxes so that they will be accessible for maintenance.*

58. *The landscape buffer proposed along the south and eastern boundaries is also inaccessible for maintenance. This area should be incorporated into private open space for Units 1 and 2 and a minimum 1400mm wide and minimum 1000mm depth planter box retained around the perimeter.*

59. *The very narrow (approx. 400mm) landscape strip between the block wall on the development site and the fence of the adjacent site to the south will be inaccessible for maintenance and may present a safety hazard. As the wall has already been constructed, the only solution available is to remove or not construct any boundary fencing with the neighbour to the south to ensure that this narrow space does not present a safety/entrapment hazard or become an inaccessible eyesore.*
60. *It is unfortunate that mature street trees have been removed. These must be replaced with appropriate specimens of min 4.5m height with a relative trunk caliper and container size to comply with AS2303.2015 NatSpec.*

Applicant's response:

61. *As recommended by the Panel, an area of common open space has been provided as a roof garden at the third floor overlooking Railway Parade. It has an area of 77.34m<sup>2</sup>. With respect to the remaining matters outlined above - The changes recommended have been incorporated in the amended landscape plans.*

Officer comment:

62. Given the constraints imposed by the relatively large footprint of the approved building and the relatively small size of the complex, the quantity and quality of the proposed communal open space is reasonable. Examination of the landscape plan indicates that the other changes recommended above have been incorporated to an adequate extent.

### Amenity

63. *Apart from communal open space, the approved proposal is an amenable building with reasonable outlook, solar access and cross ventilation. The additional levels proposed, comprises six (6) acceptably designed apartments.*
64. *Car parking, adaptable housing and storage requirements will also need to be carefully considered.*
65. *The Panel notes that the site is located near a railway station and, while there is a shortfall of parking overall to this additional 6 more units, consideration could be given to the shortfall being confined to resident parking and provision of visitor parking as required by the ADG.*

Applicant's response:

66. *As previously noted, an additional area of common open space has been added at the third floor level. In relation to the short fall in parking; after consultation with Council's Traffic Engineer; two additional Visitor Spaces have been proposed adjacent to the driveway off St Georges Pde. The proposal requires a total of 2 adaptable apartments for the entire development and these 2 spaces have been provided in the existing units already built. Storage as required under the ADG have been provided within each unit.*

Officer comment:

67. The revised plans have addressed the above DRP issues satisfactorily. The car parking shortfall issue is addressed in more detail elsewhere in this report.

### Safety

68. *Remains acceptable - refer to Landscape with respect to narrow landscape strip on south boundary.*
69. Applicant's response:

*No comment required.*

### Housing Diversity and Social Interaction

70. *Adaptable units will need to comply with the requirements of the DCP. As noted above, communal open space will need to be provided to comply with the requirements of the ADG and the DCP.*

Applicant's response:

71. *As previously stated, these issues have been addressed and changes made.*

Officer comment:

72. Refer to previous commentary above.

### Aesthetics

73. *As proposed the building will be very prominent in the existing context and could have set a better precedent for other buildings to come under the new City Plan controls. The use of grey rendered finishes particularly on areas of blank wall is unappealing and excessive. As previously commented, more should be done to provide greater vertical articulation between the currently approved built form and the proposed additional floors.*

Applicant's response:

74. *As previously discussed, changes have been made to address these issues. Changes include the addition of horizontal concrete awnings around the upper levels, changes in colours and materials, the addition of windows and planter boxes at upper levels, the addition of Communal Open Space at the third level, added articulation, and the changes to balconies on the upper levels. These changes give the building a distinctive 'top' when viewed from St Georges Pde.*

Officer comment:

75. Based on the latest revised architectural plans and accompanying photomontage, the proposal achieves an adequate aesthetic response having regard to the above DRP comments. The building has been sufficiently articulated so as to better define its approved base and proposed upper three (3) floor levels.

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

76. 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) The provisions of any exhibited draft environmental planning instrument***

77. A Planning Proposal for the New City Plan to amend Kogarah LEP 2012 was on exhibition from Monday 30 March 2015 until Friday 29 May 2015. The New City Plan includes changes to zonings and the introduction of development standards in parts of the city to deliver a range of new housing options.
78. Specifically, the New City Plan maintains the R3 Medium Density Residential zone that currently applies to the site and introduces development standards enabling larger scale residential development on the site including a 21m building height limit and a 2:1 floor space ratio limit. The proposal being for the purpose of a residential flat building remains permissible with consent. The proposal has a floor space ratio (FSR) of 1.4:1, thus well within the proposed FSR limit.
79. Based on the building height information submitted by the applicant, the proposed building generally complies with the 21m building height limit, apart from portions of the roof structure above the uppermost floor level. Due to the slope of the land, the parapet at the perimeter of the roof attains a maximum height of 21.9m at the eastern corner of the building. This is the highest point of the building when measured from ground level directly below. The proposed uppermost floor level (up to its ceiling) is almost exclusively within the 21m height limit and well within this height limit at the eastern corner of the building.
80. Having regard to the excess height essentially being limited to the roof structure, the moderate slope of the land and the perceived 6-7 storey scale of the building together with its 'stepped' built form, the overall height of the building is reasonable.
81. There are no other draft planning instruments that are applicable to this site.

**(iii) The Provisions of any development control plan**

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

82. The proposed development is subject to the provisions of Kogarah Development Control Plan 2013 (KDCP 2013). The following table outlines the proposal's compliance with the primary numerical controls contained within KDCP 2013.

<b>Control</b>	<b>Required</b>	<b>Proposed</b>	<b>Complies?</b>
Site Density	1.1m <sup>2</sup> of site area per 1m <sup>2</sup> of dwelling = 1780m <sup>2</sup> site area	0.8m <sup>2</sup> of site area per 1m <sup>2</sup> of dwelling = 1282m <sup>2</sup> site area	No – see below
No. of Storeys	3 storeys (max)	7 storeys	No – see below
Building Height - Outer wall - Roof top	10.5m (max) 12m (max)	21m 21.9m	No – see below No – see below
Street Setback - St. Georges Pde. - Railway Pde.	5m-7m (min) 5m-7m (min)	15.8m 4.5m+	Yes No – see below
Side Setback - North east - South west - South east	7.5m-7.7m (min) 7.1m-7.4m (min) 7.4m – 7.7m (min)	8m-9m 3.6m-9m 9m	Yes No – see below Yes
Resident parking	1 space per 1 bedroom unit 1.5 spaces per 2 bed unit = 27 spaces	22 spaces	No – see below
Visitor parking	1 space/5 units = 4 spaces	2 spaces	No – see below

83. The proposed variations to the controls as detailed above are acceptable having regard to the particular circumstances of the case. The subject site together with adjacent properties fronting Railway Parade and St. Georges Parade are currently designated in KDCP 2013 as being within a precinct for three (3) level residential flat buildings. The above controls were formulated on the basis of anticipated development for the purpose of low-rise three (3) storey residential flat buildings and not medium-rise six (6) storey residential flat buildings as in the case of the subject proposal.

84. Strict application of the above controls to the current proposal (particularly the building density and height controls) is not appropriate in this case given that the New City Plan permits 6-7 storey residential flat buildings with a floor space ratio of up to 2:1 on the subject site. In the absence of detailed controls to support the New City Plan, a merit based assessment having regard to the SEPP No. 65 design quality principles and the Apartment design Guide is appropriate.

### Building Setbacks

85. The proposed additional floor levels are setback from Railway Parade in keeping with the footprint of the lower floor levels, such that ample opportunities for tree and shrub planting to soften and complement the scale of the building are maintained. The proposed built form also remains generally consistent with the pattern of street setbacks that defines railway Parade to the east and west of the site.
86. The proposed dwellings generally satisfy the building separation requirements prescribed in the Apartment Design Guide. Whilst the balconies attached to units 15, 17 & 19 do not strictly comply with the prescribed 9m separation criteria, they are screened for the most part by solid form balustrades and substantially recessed into the built form such that visual and aural privacy impacts upon adjoining properties will not be unreasonable.
87. Whilst the fire escape stairwell is located only 3.6m from the south western side boundary of the site, it is relatively small in dimensions and designed and located such that no adverse overshadowing or visual bulk impacts upon the immediately adjoining residential property will arise. Visual and aural privacy impacts from this part of the building upon the adjoining property will also be negligible given its intended purposes.
88. Whilst the proposed rooftop common open space at third floor level adjacent to St. Georges Parade is within 6m distance of the adjoining residential properties either side, the visual and aural privacy of these properties will be adequately protected by virtue of the 1m high x 1m deep planter boxes including screen planting to be provided at the perimeter of this space.

### Car Parking

89. The subject site is within 800m walking distance of a railway station. On this basis and having regard to the provisions of Clause 30(1)(a) of SEPP No. 65 and the relevant design criteria in the Apartment Design Guide, the application can rely upon a lesser rate of car parking provision. Based on the Roads & Maritime Services Guide to Traffic Generating Developments, the overall development requires 26 car spaces (including 4 spaces for visitors).

90. The plans submitted upon lodgment of the application indicated provision of 22 basement car spaces allocated exclusively to residents of the building. No off-street car parking was proposed for visitors. The application was accompanied by a parking assessment prepared by a traffic engineer seeking to justify the deficiency in visitor parking on the basis of the precedent set by other residential flat buildings in the street and other circumstances.
91. The application together with the parking assessment was referred to council's traffic engineers for review. The response that followed did not support the arguments presented in the applicant's parking assessment and the deficiency in visitor parking as proposed.
92. The applicant has since submitted revised plans providing for two (2) car spaces for visitors just inside the property and immediately adjacent to the on-site driveway. Council's traffic engineers have reviewed these revised plans and are satisfied with the amount of visitor parking now being provided along with the layout and design of these car spaces. It is also recommended that these car spaces be signposted as visitor parking only. This may be addressed by a suitable condition of consent.
93. Whilst the visitor car spaces are forward of the building line, their visual impact can be suitably mitigated by use of surface treatments that give the appearance of soft landscaping (such as a combination of pavers and groundcover planting). This may be readily addressed by a suitable condition of consent.
94. Having regard to the favourable response from council's traffic engineers, the close walking distance proximity of the site to a range of public transport options and the trends towards sustainable transport options and reducing private car use, the minor deficiency in visitor parking is acceptable.

#### **Section 94 Contributions**

95. The proposed development requires payment of \$66,042.24 in Section 94 contributions based on the provisions of Council's Section 94 Contributions Plans for Open Space, Libraries and Road and Traffic Management. The contribution amount is based on 6 x 2 bedroom units. No concession is available in this case as the currently approved residential flat building on the site would have already benefitted from such a concession.

***(iv) Any matters prescribed by the regulations that apply to the land to which the development application relates***

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***

96. The proposed development is of a scale and character that is in keeping with the emerging character of the area based on the planning context being established under the New City Plan. 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***

97. 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***

98. In accordance with the public notification provisions of KDCP 2013, the application was placed on neighbour notification for a period of fourteen (14) days and adjoining and nearby property owners were notified in writing of the proposal and invited to comment. Four (4) submissions including a petition objecting to the proposal were received as a result.

99. The amended plans that were submitted during the course of assessment of the application were not formally notified to adjoining and nearby property owners having regard to the public participation provisions of KDCP 2013. In this regard, the changes to the plans are partly in response to the design issues raised by council officers and the St. George Design Review Panel and partly in response to issues raised by surrounding residents and do not significantly increase the impacts of the proposal.

100. The issues raised in the submissions are outlined and addressed as follows:

**Building height**

101. Many of the objectors are concerned about the height of the building being out of character with the prevailing scale of existing buildings in the immediate locality. A few objectors whom occupy the residential flat buildings across the road in St Georges Parade are also concerned about their easterly outlook being obstructed by the proposed additions.

**Comment:**

102. Whilst it is accepted that the proposed building will be much higher than surrounding buildings, it is generally in compliance with the proposed 21m height limit and in keeping with the future character of the locality as envisaged by the New City Plan. The retention of the existing easterly views across the site is neither feasible or reasonable given the density and height envisaged for the site under the New City Plan and the proposal's general compliance with these controls.

103. It is also relevant to consider that the building is generally in keeping with the building separation guidelines prescribed by the Apartment Design Guide. The impact of the built form in terms of obstruction of views from adjacent properties is therefore reasonable.

#### Traffic and parking impacts

104. Many of the objectors are concerned about existing traffic and kerbside parking congestion in surrounding streets being exacerbated by the proposal. Two (2) objectors take particular issue with the proposal's deficient off-street car parking provision when assessed against council's controls.

#### Comment:

105. The proposal will have a negligible impact in terms of traffic generation and associated impacts, particularly given its relatively small scale, residential character and floor space being well within the maximum permissible for the site. The issue of car parking provision is addressed in detail elsewhere in this report. It is also relevant to consider that the proposal has been modified since lodgement of the application such that it is now only deficient by two (2) visitor spaces when assessed against the relevant RMS guidelines.

#### Overshadowing impacts

106. Some of the objectors are concerned about increased overshadowing impacts.

#### Comment:

107. The shadow diagrams submitted with the application indicate that the adjacent side wall of the three (3) storey residential flat building located on the adjoining property immediately to the south east of the site will be affected by increased overshadowing, particularly at mid-winter. The adjacent rear wall of the two (2) storey residential building immediately to the south west of the site will also be affected by increased overshadowing, but to a much lesser extent and only for a minor portion of the wall concerned. Other residential flat buildings in the vicinity of the site, including those on the opposite side of St. Georges Parade, will be negligibly affected at worst.
108. Due to the location and orientation of the subject site and the general direction of its slope, overshadowing impacts on the adjoining residential properties immediately to the south east and south west are largely unavoidable. In coming to this conclusion, it is important to recognise that the proposal has not taken full advantage of the maximum floor space ratio available under the New City Plan. It is also relevant to consider that the proposed built form comprising the upper floors has been designed in accordance with the building separation guidelines prescribed by the Apartment Design Guide where it abuts adjoining residential properties and is confined to a relatively compact and narrow building footprint. It is also noted that the dwellings within the residential flat building immediately to the south east of the subject site are generally orientated towards the street and rear boundary of that adjoining site and the side wall of that residential flat building contains no major windows. Given the scale of development anticipated by the New City Plan, such overshadowing impacts are not unreasonable.

### Visual privacy impacts

109. Some of the objectors are concerned about increased visual privacy impacts.

Comment:

110. The proposed upper floors will not generate any unreasonable visual privacy impacts on the adjoining residential complexes immediately to the south east and south west of the site, particularly given that the proposed dwellings comply with the building separation guidelines as prescribed by the Apartment Design Guide as relevant to the boundaries concerned. It is also noted that the indoor and outdoor living areas of these proposed dwellings are generally orientated towards the street to the northwest and adjacent swimming pool complex to the north east.
111. Any potential visual privacy impacts from use of the proposed rooftop communal open space at third floor level are adequately mitigated by the planter boxes and associated screen planting to be provided at its perimeters.

### Other issues

112. Other issues raised by individual objectors include increased noise from future residents; adverse impacts from a longer construction period; the capacity of existing foundations to support the additional floor levels; the development potential of the site; and procedural matters.

Comment:

113. The site is zoned for higher density, residential apartment development and therefore any increased noise as a result of the occupation of the proposed dwellings is not unreasonable.
114. Whilst it is accepted that the development will take longer to build, adequate regulatory controls will be in place and may be enforced to ensure that impacts during construction (such as noise and air pollution) can be contained to a reasonable degree.
115. The application is accompanied by an engineer's report that certifies the structural adequacy of the existing building under construction to accommodate the additional floor levels. The opportunity to propose a six (6) storey building was not available at the time of lodgment of the original development application for the building currently under construction, hence the timing of the current application now before council.
116. The development potential of the site under the New City Plan is limited to a maximum floor space ratio of 2:1 and a maximum building height of 21m. The proposal is well within the floor space ratio limit and generally within the height limit.

117. The interests of adjoining residents, the general public and the environment are all represented by the heads of consideration under Section 79C of the Environmental Planning & Assessment Act 1979. However, council is also obliged to consider the rights of individual property owners to develop their land within reasonable limits, as against the expectations of adjoining residents for reasonable residential amenity.

**(e) *The public interest***

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

**Conclusion**

119. The application has been assessed having regard to the relevant heads of consideration under Section 79C(1) of the Environmental Planning and Assessment Act 1979 and the provisions of KLEP 2012 and KDCP 2013. Following detailed assessment, it is considered that Development Application No. 110/2016 should be approved subject to the conditions included in this report.

**Recommendation**

120. That Council as the consent authority and pursuant to Section 80(1)(a) of the Environmental Planning & Assessment Act 1979 grant consent to Development Application No. 110/2016 for an additional 3 levels (6 units) on the residential flat building under construction at No. 4 St Georges Parade, Hurstville subject to the conditions included in this report.

**Attachments**

- A4 Plans

**SPECIFIC DEVELOPMENT CONDITIONS**

**SECTION A - General Conditions**

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

## **(1) Approved Plans of Consent**

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

- (i) Architectural plans – Drawing No. DA 02, Issue C, dated 17 August 2016, as prepared by Cornerstone Design (but limited to the amendments relating to the planter boxes, garbage area and visitor spaces, as encircled on the drawing and referenced as 'B' & 'C') and Drawing Nos. DA 03, DA 04, DA 05, DA 06, DA 07, DA 08, DA 09, DA 10 & DA 11, all Issues B and dated 15 August 2016, as prepared by Cornerstone Design.
- (ii) Landscape plans – Drawing No. L-01, Issue B, dated 12 August 2016, as prepared by Ray Fuggle & Associates.
- (iii) Stormwater plans – Drawing Nos. SW 1A, SW 2A, SW 3A, SW 4A, SW 5, SW 6, SW 7, SW 8, SW 9 & SW 10, all dated May 2016 and Drawing No. SW 11B dated 30 August 2016, as prepared by Barry Smith Engineers.

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

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

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

## **(2) Asset & Building Fees**

Payment of the following amounts as detailed below:

- \*Builders Long Service Levy of \$5,101.00

\*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) 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.

**(4) 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	\$ 610.44
No.5 – Open Space 2007	\$62,907.60
No.9 – Kogarah Libraries – Buildings	\$ 1,360.32
No.9 – Kogarah Libraries – Books	\$ 1,163.88
TOTAL	\$66,042.24

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

**(5) 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.

**(6) 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.

**(7) 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.

## **(8) 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.

## **(9) Noise from Road and Rail**

Prior to issuing the construction certificate, an acoustic report prepared by a suitably qualified and experience acoustic consultant shall be provided to Principle Certifying Authority (PCA).

The acoustic report shall demonstrate that noise and vibration from the use of plant and equipment including but not limited to mechanical equipment will comply with the relevant provisions of the *Protection of Environment Operations Act 1997*, *Protection of Environment Operations (Noise Control) 2008*, NSW EPA's Industrial Noise Policy and relevant state and local policies and guidelines.

The acoustic report shall also demonstrate that appropriate measures will be taken to ensure that external road traffic noise and vibration will not exceed levels within the building in accordance with the State Environmental Planning Policy (Infrastructure) 2007 and relevant state and local policies and guidelines.

Construction and operational recommendations should be incorporated into the acoustic report to ensure compliance.

## **(10) Accessibility**

The common open space at third floor level together with the path of travel between this space and the lift at this level is to be designed to be accessible in accordance with the provisions of AS4299 – Adaptable Housing and AS1428 – Access and Mobility. Such details are to be indicated on the plans accompanying the construction certificate for the development.

## **(11) Detailed Landscape Plan**

The approved landscape plan is to be amended to include the following design changes:

- (i) The inclusion of the two (2) visitor car spaces as detailed on the approved architectural plans.
- (ii) Treatment of the surface of the visitor car spaces by way of a combination of groundcover planting and permeable paving (such as 'Turfgrid').
- (iii) Screen planting including shrubs and groundcovers between the garbage room and street frontage, to form dense hedge planting at maturity.
- (iv) Screen planting including shrubs and groundcovers between the visitor car spaces and street frontage, to form dense hedge planting at maturity.

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

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

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

### **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.

#### **(12) 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.

#### **(13) 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.

## **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.

### **(14) 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

### **(15) 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.

## **(16) Use of Crane on Public Road**

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

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

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

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

## **(17) 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.

## **(18) 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.

### **(19) 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.

### **(20) 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.

### **(21) 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.

### **(22) 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.

### **(23) Allocation of Car Parking Spaces**

A minimum of 24 off street car parking spaces shall be constructed, drained, marked and maintained at all times in accordance with the approved plans. These spaces shall be allocated as follows:

- a) 22 spaces are to be allocated to the residential units.
- b) 2 spaces are to be allocated as visitor parking spaces.

### **(24) Residential Car Parking Spaces**

A minimum of one (1) unrestricted car parking space shall be allocated to each residential unit.

**(25) Street Tree Planting**

Street tree planting is to be provided in accordance with the approved landscape plan. All costs associated with the planting of these trees are to be met by the applicant/owner and paid to council. Kogarah City Council works is to undertake all works associated with the planting of these trees. These trees are to be planted prior to issue of any occupation certificate for the development.

**(26) External Building Finishes**

The external building finishes are to be in accordance with the schedule of finishes and colour perspectives received by council on 16 August 2016.

**(27) Visitor Parking**

A directional sign is to be provided at the front of the site indicating the availability of visitor parking on site. Each visitor space is to be signposted as "Visitor Parking Only" or similar.

**(28) Stormwater Connection**

The connection to Council's stormwater pit is to be made as high within the pit as practical. The connection is to be neat and shall not protrude into the pit. The applicant is required to contact Council's Stormwater Section on 9330 9400 to inspect the connection to Council's stormwater pit prior to backfilling. A minimum of 24 hours notice is required for inspections. The applicant is responsible for the full reinstatement of all areas disturbed due to the connection works. A Road Opening Permit will need to be lodged with Council prior to commencement of works outside of the property boundary.

**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.

**(29) 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.

**(30) 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.

### **(31) 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.

### **(32) 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.

### **(33) 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.

**(34) Acoustic Validation Report**

Prior to interim/final occupation certification, an acoustic validation report prepared by a suitably qualified and experience acoustic consultant shall be submitted to Principle Certifying Authority (PCA) that the development complies with the requirements of development consent and recommendations provided by the acoustic consultant.

The report shall include post construction validation assessment results to ensure that the development complies with the *Protection of Environment Operations Act 1997*, *Protection of Environment Operations (Noise Control) 2008*, NSW EPA's Industrial Noise Policy, State Environmental Planning Policy (Infrastructure) 2007 and relevant state and local policies and guidelines.

**(35) Accessibility**

Certification shall be provided by a person suitably accredited by the Association of Consultants in Access Australia, verifying that the common open space at third floor level together with the path of travel between this space and the lift at this level has been constructed to be accessible in accordance with the provisions of AS4299 – Adaptable Housing and AS1428 – Access and Mobility.

**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.

**(36) Compliance with the Building Code of Australia**

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

**(37) 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.

### **(38) 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.

### **(39) 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.

### **(40) 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.

#### **(41) Council Notification of Construction**

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

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

#### **SECTION G – Demolition Conditions**

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

nil

#### **END CONDITIONS**

#### **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) Disability Discrimination Act**

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

**(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.

### **(viii) Building Code of Australia**

A preliminary review of the proposal against the provisions of the Building Code of Australia (BCA) has identified the following issues:

1. Fire Resisting Construction - The proposed composite aluminium cladding located on the external walls of the building is to comply with the Fire Resistance Levels (FRL) required by Specification C1.1 of the BCA.
2. Stretcher Facilities in Lift - The internal passenger lift must be adaptable as a stretcher lift, pursuant to the requirements of Part E3.2 of the BCA.
3. Protection of openable bedroom windows - Window openings to all bedrooms where the floor level below the window is 2m or more above the surface beneath, are to be protected or comply with the provisions of Part D2.24 of the BCA.
4. Protection of other openable windows - Window openings to all other rooms where the floor level below the window is 4m or more above the surface beneath, are to be protected or comply with the provisions of Part D2.24 of the BCA.
5. Exit travel distances – The entrance doorways from each unit must not be more than 6m from an exit, pursuant to the requirements of Part D1.4 of the BCA.
6. Light and Ventilation – Light and ventilation is to be provided to the internal laundries and bathrooms, in accordance with the requirements of Part F4 of the BCA.
7. Travel via Fire-Isolated exits – Pursuant to the requirements of Part D1.7 of the BCA, where a path of travel from a point of discharge of a fire isolated exit necessitates passing within 6m of any part of the external wall of the building, measured horizontally at right angles to the path of travel, that part of the wall must have either
  - i) An FRL of not less than 60/60/60, and any openings protected internally in accordance with Part C3.4 of the BCA.