

REPORT TO GEORGES RIVER COUNCIL IHAP MEETING OF 25 August 2016

IHAP Report No	2	Development Application No	DA2016/0066
Site Address & Ward Locality	17 Endeavour Street, Sans Souci Kogarah Bay		
Proposal	Demolition of existing dwelling and construction of a childcare centre comprising of 47 places with basement level car parking		
Report Author/s	Greg Hansell – Senior Planner		
Zoning:	E4 Environmental Living		
Date of Lodgement	13/04/16		
Owner	Mr G & Mrs S Iskander		
Applicant	Ridge Designs		
Submissions	21 Submissions of objection and one (1) submission of support		
Cost of Works	\$1,046,063		
Issues	<ul style="list-style-type: none"> • Traffic and on-street carparking impacts • Pedestrian and traffic safety risks • Noise impacts • Suitability of the site and locality 		
Recommendation	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 dwelling and construction of a child care centre on the subject site.

Site and Locality

2. The site is located off the north western corner of Endeavour Street and The Boulevarde at Sans Souci. Currently existing on the site is a single storey red brick dwelling with a pitched tile roof. Immediately to the north and west and across the road to the south are detached dwelling houses. Across the road to the east is Sans Souci Public School.

Zoning and KLEP 2012 Compliance

3. The site is zoned E4 Environmental Living 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)

4. The proposal involves variations to several controls in KDCP 2013 including most notably the locational criteria, centre size and building setback controls. The proposed variations are acceptable on merit having regard to the underlying objectives and circumstances of the case.

Submissions

5. 21 submissions of objection were received raising the following key issues:
 - Traffic and on-street car parking impacts
 - Pedestrian and traffic safety risks
 - Noise impacts
 - Suitability of the site and locality
6. One (1) submission in support of the proposal was also received.

Conclusion

7. 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. 66/2016 should be approved subject to conditions

Report in Full

Proposal

8. Council is in receipt of an application for the demolition of the existing dwelling and construction of a child care centre on the subject site.
9. Specifically, the proposal involves construction of a child care centre over two (2) floor levels and includes a basement car park with 12 car spaces accessed off The Boulevard. The child care centre is to accommodate up to 47 children within the 2-5 year age group at any one time and operate from 7am to 7pm, Mondays to Fridays (excluding public holidays).

The Site and Locality

10. The site comprises of a parallelogram shaped allotment located off the north western corner of Endeavour Street and The Boulevard at Sans Souci. It has an area of 862.9m² and street frontages of 20.115m and 45.11m to Endeavour Street and The Boulevard respectively. The site slopes away in a north westerly direction.
11. Currently existing on the site is a single storey red brick dwelling with a pitched tile roof. There is a large tree in the front yard to Endeavour Street and another large tree in the adjacent footpath verge fronting the site.
12. The immediate streetscape is characterised by 2-3 storey detached dwelling houses along the western side of The Boulevard and northern side of Endeavour Street. Across The Boulevard from the site is Sans Souci Public School. There are numerous street trees along Endeavour Street and The Boulevard in the vicinity of the site.



Background

13. A brief history of the proposal is provided as follows:

- Development Application No. 268/2014 for demolition of the existing dwelling and construction of a two (2) storey child care centre including basement car parking and a capacity for 74 children was refused by council on 12 March 2015.
- An application for review of the determination of the development application under Section 82A of the Environmental Planning & Assessment Act 1979 was subsequently submitted, but later withdrawn on 3 September 2015.
- Development Advisory Service Application No. 35/2015 for a proposal along the lines of the current application was subsequently submitted and written comments followed via letter dated 5 February 2016.
- The current application was submitted on 13 April 2016.
- The application was placed on exhibition, with the last date for public submissions being 10 May 2016. 21 submissions of objection and one (1) letter of support were received.
- The applicant was requested by email dated 6 June 2016 to address a range of issues concerning built form, vehicular access and manoeuvrability, landscaping, trees and stormwater drainage.
- Revised plans and further information addressing the above issues were received on 29 June 2016.

Section 79C Assessment

14. 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

15. The subject site is zoned E4 Environmental Living and the proposal is a permissible form of development with Council's consent. The proposed development does not conflict with the objectives of the zone.



Part 5 – Miscellaneous Provisions

Clause 5.9 – Preservation of Trees or Vegetation

- 16. The proposed development involves the removal of three (3) trees subject to the provisions of this clause including a large Red Mahogany Gum tree located within the front yard of the existing dwelling and individual specimens of Italian Cypress and Weeping Bottlebrush trees located nearer to the dwelling. The large Tallow Wood tree located within the footpath verge of Endeavour Street immediately adjacent to the site is to be retained.

- 17. The application is accompanied by an arboricultural assessment report prepared by ‘Growing My Way’ Tree Consultancy addressing the qualities and condition of the three (3) trees that are proposed for removal. This report recommends that all three (3) trees be removed, subject to replacement tree planting being provided within the site using plant species suited to the local conditions and with a minimum six (6) month maintenance period to ensure their proper establishment. This report also concludes that the large Tallow Wood tree located adjacent to the site in Endeavour Street is now able to be retained in a manner whereby its useful life expectancy is not compromised.

- 18. Council’s tree assessment officer has reviewed the proposal along with the arboricultural assessment report and raises no significant concerns with respect to the proposed removal of the three (3) trees, subject to the provision of replacement tree planting in appropriate locations on the site. A detailed landscape plan including provision for on-site tree planting has since been submitted and subsequently endorsed by Council’s tree assessment officer as being generally satisfactory.

19. Council's tree assessment officer also recommends the imposition of conditions of consent including requirements for the maintenance of the landscaping over an initial 12 month period following completion of the development to ensure its proper establishment and the retention and protection of the Tallow Wood tree in Endeavour Street in the event of approval of the proposal.

Clause 5.10 – Heritage Conservation

20. 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

21. 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

22. 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

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

State Environmental Planning Policy No. 55 – Remediation of Land

24. A site inspection and search of council's records indicates that the subject site is unlikely to be contaminated and therefore fit for its intended use. Conditions of consent addressing the appropriate removal and disposal of excavated soils and other sub-surface materials are recommended in the event of approval of the proposal.

State Environmental Planning Policy No. 64 – Advertising and Signage

25. The proposal includes two (2) business identification signs, on the southern and eastern elevations of the building respectively. These signs are relatively small in size, integrated with the built form and not illuminated by internal means. Having regard to the above circumstances and the characteristics of the site and locality, the proposed signage satisfies the objectives and relevant assessment criteria of this state policy. The merits of the proposed signage are addressed in more detail later in this report.

Deemed State Environmental Planning Policy – Georges River Catchment

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

(a)(ii) The provisions of any exhibited draft environmental planning instrument

27. 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.
28. Specifically, the New City Plan proposes to rezone the subject site to an R2 Low Density Residential zone. The proposal being for the purpose of a child care centre will remain permissible with consent under this proposed zone. The proposal is not inconsistent with the objectives and standards of the New City Plan, apart from a minor (3%) variation to the proposed 8.5m height limit. The portion of roof exceeding this standard is minimal in extent and of little consequence in terms of contributing to visual bulk and overshadowing impacts. It is also relevant to consider that the proposal fully complies with the currently applicable building height controls for low density housing as prescribed in KDCP 2013.
29. There are no other draft planning instruments that are applicable to this site.

(a)(iii) The provisions of any development control plan

Kogarah Development Control Plan 2013 (KDCP 2013)

30. The proposed development is subject to the provisions of Kogarah Development Control Plan 2013 (KDCP 2013). The following comments are made with respect to the proposal satisfying the relevant objectives and controls prescribed in Part D4 – Child Care Centres and Part C1 – Low Density Housing.

Siting, Layout and Design

31. The proposal reasonably satisfies the objectives and controls for the siting, layout and design of child care centres. Due to its corner location at the junction of two (2) public roads, the subject site shares common boundaries with only two (2) residential properties. There are no residential properties directly opposite the site in The Boulevarde. The relatively wide road reserve of Endeavour Street to the south of the site provides a substantial buffer to the residential properties on the opposite side of that street.

32. Potential disturbance to the adjoining properties to the north and west has been minimised by a combination of design and operational measures including the siting of the outdoor play area towards the northern end of the site consistent with the neighbouring rear yard to the west; the siting of the basement driveway access adjacent to the northern boundary of the site such that it provides a buffer between the adjacent house and the outdoor play area; the provision of a 1.8m high acoustic fence on the northern and western perimeters of the outdoor play area; and limitations on the duration of child play within the outdoor play area.
33. The indoor play areas and associated amenities for children attending the child care centre are confined to the ground floor level of the building.
34. The child care centre is designed such that it is reasonably in character with the surrounding residential streetscape. The building is located on the subject site generally in keeping with the established pattern of built forms in the street, albeit with a slightly closer setback to its primary street frontage. The outdoor play area is also located generally in keeping with the established pattern of locations of rear yards.
35. The proposal also achieves a reasonable 'fit' within the residential context of the site by providing for a landscaped setback to Endeavour Street and locating the car parking area 'out of sight' beneath the building rather than outside the building at grade.
36. The proposed building is largely domestic in scale and character, consistent with the surrounding residential streetscape. The front façade of the building addresses the street in a similar fashion to a dwelling by incorporating a main entry and a reasonable balance of fenestration and other forms of building articulation. The scale, proportions and external finishes of the building are atypical of contemporary dwellings and not dissimilar to the scale, proportions and external finishes of many dwellings recently constructed in the locality.

Location

37. The proposal reasonably satisfies the objectives and controls for the location of child care centres. The subject site meets the desired locational criteria in that it is a corner site and located in an area of high environmental quality. Being a corner site, it has the advantages of a more generous street frontage and sharing common boundaries with fewer properties, compared to more conventional mid-street block lots. Being located in a predominantly low density residential area and well away from major roads, the site offers a high quality environment for child care.
38. The locational controls also prescribe circumstances where child care centres are not appropriate including sites that are located on roads with carriageways less than 8m in width. The road carriageway of The Boulevard immediately adjacent to the site is approximately 7m wide. The road carriageway of Endeavour Street immediately adjacent to the site is approximately 10m wide.

39. Although the road carriageway in The Boulevarde immediately adjacent to the site is less than 8m in width, kerbside parking restrictions on the opposite side of this road (including a combination of a 'no parking' zone and indented parking bays) ensure that two (2) way traffic movement along this section of the roadway is reasonably maintained. Further, no specific concerns have been raised by council's traffic engineer with respect to the width of the road carriageways adjacent to the site. It is also important to recognise that the child care centre provides for the requisite number of off-street parking spaces such that overflow parking into surrounding streets would be most unlikely.
40. On balance, the subject site is inherently suitable for a child care centre, particularly given its location on a street corner and within a high quality, low density residential setting.

Size of Centres

41. The proposed child care centre is to accommodate up to 47 children at any one time, contrary to the 40 place limit that applies to child care centres located on sites previously or currently used for residential purposes, as in the case of the subject site.
42. The underlying objective of this control is to ensure that child care centres are of a manageable size in terms of various age groups and overall numbers of children. Subject to appropriate staff/child ratios being provided in accordance with the relevant state legislation and appropriate management being in place, the child care centre at the capacity proposed will not be of an unmanageable size.
43. Although not explicit in the underlying objectives, another important rationale for limiting the size of child care centres in low density residential areas is to ensure that they are of a scale that is compatible with such residential settings and maintain reasonable amenity for nearby residents. The development application and supporting information including the noise impact assessment and traffic and parking impact assessment demonstrates that the site can reasonably accommodate a 47 place child care centre without adversely affecting the amenity of the neighbourhood in terms of traffic generation, overflow parking in surrounding streets, noise emissions and visual bulk and scale. In coming to this conclusion, it is relevant to consider that the child care centre is not reliant upon surrounding streets for its staff and visitor parking requirements and the subject site is a corner lot with a considerable street frontage and only immediately adjoins two (2) residential properties.

Off-Street Car Parking & Traffic Movements

44. The proposal reasonably satisfies the objectives and controls relating to off-street parking and traffic movements. Most importantly, the basement car park accommodates the requisite number of car spaces for both staff and parents of children attending the child care centre and has been designed in accordance with the dimensional requirements of the relevant Australian Standard for the design of parking facilities.

45. Sufficient manoeuvring space (including a sign-posted turning area) is provided in the car park so that all vehicles can exit the basement and site in a forward direction. The basement car park also includes a separate pedestrian path to allow parents and children to move safely between the car spaces and the lift/stairs without having to traverse the manoeuvring/driveway areas.
46. The proposal does not make provision for a one-way drive through facility including car spaces in accordance with the relevant controls. This facility is not warranted in this case given that a sufficient number of off-street car parking spaces are already provided within the basement of the building and a reasonable proportion of these car spaces are specifically designated for use by parents to collect/drop off children. Further, these car spaces are conveniently accessible to both staff and patrons of the child care centre.

Outdoor Play Areas

47. The proposal reasonably satisfies the objectives and controls relating to outdoor play areas. The outdoor play area is appropriately located on the northern side of the building such that it will benefit from high quality solar access throughout the day at all times of the year. It is also adequately separated from habitable rooms of adjoining residential properties by virtue of its northerly location within the site, together with its substantial setback from the northern boundary beyond the driveway access and enclosure by 1.8m high fencing on its northern and western perimeters. The outdoor play area has also been designed to include a variety of surface finishes and an appropriate balance of shaded, semi-shaded and sunlit spaces.

Facilities Provision

48. A compliance checklist has been provided in the statement of environment effects accompanying the application indicating that the child care centre has been designed in accordance with the equipment standards and service requirements prescribed by the relevant education and care services regulation. The future operator of the child care centre will need to comply with this regulation and obtain the necessary licence from the relevant state authority prior to commencement of the business.

Landscaping

49. The proposal reasonably satisfies the objectives and controls relating to landscaping. Based on the landscape plan submitted with the application, 40% of the site is to be devoted to 'soft' landscaping in accordance with the relevant control, including a combination of mass planted garden beds, screen planting and turf at its perimeters and predominantly synthetic grass throughout the outdoor play area. Council's tree assessment officer has also reviewed the landscape plan and advises that it generally meets the relevant requirements in the development control plan.

50. Most importantly, the landscape plan includes screen planting adjacent to the western boundary of the site to soften the visual impact of the basement protrusion and fence above when viewed from the adjoining property and mass planting including trees adjacent to Endeavour Street to help integrate the proposed building into the streetscape and soften its bulk and scale. The landscape plan also includes screen planting along the northern boundary in the form of a post and wire trellis structure with climbing vegetation so as to soften the visual impact of the built form as viewed from The Boulevard and the adjoining property.

Noise

51. The proposal reasonably satisfies the relevant objectives and controls relating to noise notwithstanding its capacity exceeding the 40 place limit and close proximity to sensitive residential receivers.
52. The application was accompanied by a noise impact assessment prepared by SLR Global Environmental Solutions addressing the impact of external noise sources on the amenity of the child care centre and the impact of noise sources from the child care centre itself upon adjacent residential properties. More specifically, this assessment focussed on noise emissions from the use of the outdoor play area; noise emissions from the cumulative operation of indoor activities, mechanical plant and on-site traffic; traffic noise from vehicular movements generated by the development onto surrounding public roads; and external noise impacts from road traffic on surrounding roads upon the amenity of the outdoor and indoor play areas and sleeping areas.
53. The noise impact assessment concludes that noise emissions from outdoor play activities to nearby residential receivers will not exceed relevant noise criteria, subject to the inclusion of a 1.8m high solid, continuous barrier along the northern and western perimeters of the outdoor play area as recommended in the assessment. The recommendations also provide for a choice of lapped and capped timber, masonry or sheet metal in the construction of the noise barrier at the perimeter of the outdoor play area.
54. The assessment also concludes that noise emissions from mechanical services plant can comply with the relevant noise criteria subject to the air conditioning units being selected on the basis of their quiet operation and acoustic attenuation being implemented where necessary. Noise intrusion from road traffic on surrounding roads will not exceed the relevant criteria for both indoor and outdoor play and sleeping areas. Road traffic noise generated by vehicular movements from the child care centre will also be within the relevant noise criteria.

55. Council's Environmental Health & Regulation Unit has reviewed the proposal along with the noise impact assessment and raises no significant issues with respect to noise impacts, subject to a range of noise related conditions being imposed in the event of approval of the proposal. These recommended conditions include post construction acoustic testing and validation; limitations on the use of the outdoor play area; restrictions on plant and equipment noise emissions; and limitations on delivery times.
56. Whilst not specifically raised as an issue by Council's Environmental Health & Regulation Unit, it is recommended that the options for materials of construction of the acoustic fencing not include sheet metal. It is noted from the plans that the applicant has elected to use this option. The use of sheet metal fencing at the perimeter of the outdoor play area and adjacent to other residential properties is not appropriate given the potential for noise disturbance to neighbours from it being accidentally struck by objects used in the child care centre. This requirement should be reinforced by a suitable condition in the event of approval of the proposal.

Health and Safety

57. The proposal reasonably satisfies the relevant objectives and controls relating to health and safety. The child care centre proposal makes appropriate provision for access and facilities for people with disabilities including an accessible parking space within the basement car park; lift access throughout all levels of the building; accessible paths of travel from the primary street frontage to and through the main entrance; and an accessible toilet. These requirements are reinforced through the provisions of the Building Code of Australia and will need to be addressed in any subsequent construction certificate for the development.

Hours of Operation

58. The proposal reasonably satisfies the relevant objectives and controls relating to hours of operation. The proposed hours of operation of the child care centre are from 7am up to 7pm on Mondays to Fridays, excluding public holidays. These hours of operation are consistent with the relevant control and will meet the varying needs of prospective parents and children whilst at the same time ensuring that the amenity of adjoining residents is not unreasonably impacted. Most importantly, the proposed hours of operation avoid times of the day when residents have a reasonable expectation of peace and quiet, such as later in the evening when they are preparing for sleep.

Signage

59. The proposal reasonably satisfies the relevant objectives and controls relating to signage. The proposal includes two (2) business identification signs, on the southern and eastern elevations of the building respectively. Both signs are of perspex construction and affixed flush to the walls of the building. Having regard to their relatively small size, minimal scale in relation to the overall facades, locations below the roof eaves and lack of any means of internal illumination, the existing streetscape character and amenity of adjacent residents will not be adversely affected.

60. Given that the site is a corner allotment having two (2) street frontages, the proposed building is able to accommodate two (2) business identification signs in the manner proposed without creating a sense of visual clutter or detracting from the built form. A variation to the limit of one (1) business identification sign is acceptable in the circumstances.

Buildings Setbacks

61. The proposed building setbacks are reasonable having regard to the context of the site and particular circumstances of the case, notwithstanding that they depart from the relevant controls.
62. The proposed variation to the front boundary setback control is reasonable in this case, particularly given the location of the site at a road junction with generous footpath verges and immediately opposite a large parcel of open space associated with Sans Souci Public School and devoid of built form. The generous width of the footpath verge fronting the site (being some 9m distance) together with the imposing scale of the large Tallow Wood tree located within this verge substantially mitigates any perceived visual intrusiveness resulting from the proposal's deficient front boundary setback.
63. The pattern of building setbacks along the northern side of Endeavour Street is significantly interrupted by a large parcel of open space associated with Sans Souci Public School, located opposite the site and on the north eastern corner of Endeavour Street and The Boulevarde. As a result, there are no nearby buildings eastwards of the site that can be used as reference points in establishing an appropriate front setback. The site essentially forms a 'book end' to the existing dwellings located westwards along the northern side of Endeavour Street. This group of dwellings are aligned at an oblique angle to the street frontage and exhibit varying front setbacks. Having regard to the characteristics of the streetscapes immediately to the east and west of the site, the 'stepped' alignment of the front façade of the proposed building, reducing from a 5.5m front setback at its western extremity to a 3m front setback at its eastern extremity, is an appropriate outcome.
64. The proposed variation to the secondary street setback control relates to the basement level only. Given that the basement is essentially below ground level where it adjoins The Boulevarde, no adverse visual impacts on the existing streetscape character arise from this encroachment.
65. The proposed variation to the side boundary setback control relates to the ground floor level only. The 300mm deficiency in setback at this level has negligible impact in terms of increased overshadowing, overlooking and visual bulk impacts upon the adjoining property to the west.

66. The proposed variation to the rear boundary setback control relates to a very minor portion of the basement structure located towards the north western corner of the site. Due to its scale being comparable to a single storey structure (when factoring in the fence above) and having regard to the proposed screen planting between the basement and the adjacent boundaries, no adverse impacts on the amenity of adjacent properties in terms of visual bulk and overlooking will arise.

Kogarah Development Control Plan 2013 Compliance Table

67. The following table outlines the proposal's compliance with the primary controls contained within KDCP 2013.

Control	Required	Proposed	Complies?
Section D4 – Child Care Centres			
Child Placement Capacity	40 (max)	47	No – See Report
Car Parking	1 space/4 children = 12 spaces (min)	12 spaces	Yes
Soft Landscaping	40% or 345.2m ² (min)	40% or 345.2m ²	Yes
Section C1 – Low Density Housing			
Floor Space Ratio	415.08m ² or 0.48:1 (max)	413m ² or 0.48:1	Yes
Height to Ceiling	7.2m (max)	7.2m (max)	Yes
Height to Roof	9m (max)	8.75m (max)	Yes
Two (2) Level Depth	60% (max)	46% (max)	Yes
Front Setback	To be assessed on merit	3m-5.5m	See Report
Secondary Setback	1.2m (min)	0.25m (basement) 1.2m+ (ground/first)	No – See Report Yes
Side Setback	1.2m (min)	0.9m (ground) 1.2m (first)	No – See Report Yes
Rear Setback	6.8m (min)	5.5m+ (basement) 16m+ (ground)	No – See Report Yes

Section 94 Contributions

68. The proposed development requires payment of \$10,460.63 of Section 94A levies based on the provisions of Kogarah City Council - Section 94A Development Contributions Plan 2014. The contribution amount is based on 1% of the overall cost of the development.

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

69. 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*

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

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

71. 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*

72. 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. A total of 21 submissions objecting to the proposal and one (1) submission in support of the proposal were received.

73. The submission in support of the proposal makes reference to ongoing unmet demands from the local community for additional child care places. It also points out that the traffic generated by long day care centres as opposed to pre-schools or before and after school care is not concentrated within relatively short periods but spread out over several hours, thus avoiding any risk of traffic chaos.

74. The amended plans that were submitted during the course of assessment of the application were not formally notified to neighbours having regard to the public participation provisions of KDCP 2013. In this regard, the changes to the plans are minimal and of a minor nature and in response to issues raised by council officers and generally reduce the impacts of the proposal on adjoining properties. The changes relate to a reduction in the floor to ceiling heights of the building and consequently its overall height, landscaping detail including tree and screen planting and inclusion of a designated turning area in the basement car park.

75. The issues raised in the submissions objecting to the proposal are summarised and addressed as follows:

Traffic and Parking

76. All of the objectors raise significant concern over the proposal's traffic generation and car parking demands and associated impacts on the surrounding road network. A common theme throughout the submissions is that the streets adjacent to Sans Souci Public School (including The Boulevard and Endeavour Street) already experience considerable traffic congestion and kerbside parking impacts at school opening and closing times and the proposal would exacerbate these impacts.

Comment:

77. Whilst it is not disputed that the school has a significant impact on the surrounding road network in terms of traffic congestion and kerbside parking demand at its opening and closing times, the proposed child care centre will not compound these issues to any significant extent. In coming to this position, it is important to recognise that the peak drop-off and pick-up times associated with the child care centre will not generally coincide with those of the school. Further, the traffic generation of the child care centre during its peak periods is relatively minimal, averaging out to approximately one (1) vehicular trip per three (3) minutes at worst. The child care centre is also provided with the requisite number of off-street car parking spaces and therefore not reliant upon adjacent streets to satisfy its car parking demands.

78. The application was accompanied by a traffic and parking impact assessment prepared by McLaren Traffic Engineering. This assessment concludes as follows:

- *The supply of 12 off-street spaces in accordance with AS2890.1 complies with Kogarah Council's DCP parking requirements.*
- *The site provides one (1) on-site disabled space in accordance with AS2890.6 which has been approved by an accessibility consultant.*
- *The expected traffic generation of the proposed child care centre will not have a noticeable impact on the performance of the existing road network and the Level of Service of nearby intersections. It is noted that the intersection of Rocky Point Road/Endeavour Street is currently performing poorly, however Rocky Point Road is a major arterial road in Southern Sydney known for its congestion in peak commuter periods, and the additional turning movements at this intersection to/from the minor road will have a negligible effect on the overall performance of this T-junction with no delays experienced along the major road.*
- *It is also noted that the activation of the existing pedestrian signals on Rocky Point Road fronting Sans Souci Public School (north of Endeavour Street) is not reflected in the SIDRA analysis such that the average delay for the right turn out of Endeavour Street will be much less than reported.*

79. Council's traffic engineer has reviewed the application along with the accompanying traffic and parking impact assessment and concludes that there are no reasons to justify refusal of the proposal based on its expected traffic generation and off-street car parking provision.

Pedestrian and Traffic Safety

80. The majority of the objectors are concerned that the proposed traffic and parking demand and resultant dropping off and picking up of children will have potential safety impacts on children using the child care centre and those attending Sans Souci Public School. An objector is also concerned about pedestrian safety being compromised during construction of the development, if the adjacent footpath area in The Boulevarde is required for these purposes.

Comment:

81. No concerns have been raised by council's traffic engineer in this respect. As outlined earlier, the peak drop-off and pick-up times associated with the child care centre will not generally coincide with those of the school, thus minimising pedestrian and traffic safety risks. Further, a sufficient number of off-street car parking spaces are provided within the basement car park on the site and a reasonable proportion of these spaces are specifically designated for use by patrons of the child care centre and are conveniently accessible to those patrons. Any potential impacts on pedestrian safety during construction of the development can be readily addressed by suitable conditions of consent in the event of approval of the proposal.

Residential Amenity Impacts

82. Some of the objectors are concerned about impacts upon their amenity including noise, overshadowing and visual privacy impacts. Noise emissions from the day to day operations of the child care centre including noises associated with the use of the outdoor play area, traffic movements, car parking, waste collection and construction of the development are raised in particular.

Comment:

83. As outlined earlier in this report, Council's Environmental Health & Regulation Unit has reviewed the proposal along with the noise impact assessment accompanying the application and raises no significant issues with respect to noise impacts, subject to a range of noise related conditions being imposed in the event of approval of the proposal. These recommended conditions include post construction acoustic testing and validation; limitations on the use of the outdoor play area; restrictions on plant and equipment noise emissions; and limitations on delivery times. Any potential noise impacts during construction of the development can be readily addressed by suitable conditions of consent in the event of approval of the proposal.
84. Having regard to the shadow diagrams submitted and the generally north-south orientation of the subject site, the proposed building results in minimal overshadowing of adjoining residential properties during the critical 9am-3pm period at mid-winter. Any potential illumination and glare impacts from external lighting associated with the proposed building (including its signage) can be readily addressed by a suitable condition of consent enforcing compliance with the relevant Australian Standard, in the event of approval of the proposal.

Suitability of the site

85. Several objectors question the suitability of the site for a commercial use, particularly given its residential context.

Comment:

86. Child care centres are permissible with consent on land zoned E4 Environmental Living, as is the case with the subject site. The site is suitable for a child care centre having regard to the locational criteria controls prescribed in KDCP 2013 and, more specifically, its favourable street corner position and location within a low density residential area offering a high quality environment.

Siting and design

87. A number of objectors are concerned about the siting and design of the proposal including its commercial/industrial appearance and associated impact on the streetscape; bulk and scale in relation to the site area; lack of separation including screen planting to buffer the outdoor play area from the adjacent house to the north; visual bulk generated by the basement structure as viewed from the adjoining property to the north; inadequate driveway setback relative to the northern boundary; and removal of trees from the site.

Comment:

88. The proposed building is largely domestic in scale and character, consistent with the surrounding residential streetscape. The front façade of the building addresses the street in a similar fashion to a dwelling by incorporating a main entry and a reasonable balance of fenestration and other forms of building articulation. The scale, proportions and external finishes of the building are atypical of contemporary dwellings and not dissimilar to the scale, proportions and external finishes of many dwellings recently constructed in the locality.
89. The bulk and scale of the proposal is reasonable given that the building complies with the relevant floor space ratio control and is atypical of more recent dwelling construction in the surrounding locality.
90. The outdoor play area is screened at its northern and western perimeters by a 1.8m high fence and setback a minimum distance of 5.5m from the northern boundary, thus providing adequate separation from the adjacent house to the north.
91. The visual bulk generated by the basement structure as viewed from the adjoining property to the north is adequately mitigated by its substantial setback from the northern boundary and proposed screen planting in the north western corner of the subject site.

92. The minimal setback of the driveway access relative to the northern boundary is acceptable in this case given that the adjacent house to the north is primarily orientated east-west and its southern side wall facing the subject site contains minimal window openings. Screen planting is to be provided along the northern boundary in the form of a post and wire trellis structure with climbing vegetation so as to soften the visual impact of the built form.
93. Council's tree assessment officer has reviewed the proposal along with the arboricultural assessment report and raises no significant concerns with respect to the proposed removal of the three (3) trees, subject to the provision of replacement tree planting in appropriate locations on the site.

Other Issues

94. Other issues raised by individual objectors include the potential for increased litter in the council playground opposite; the adequacy of the outdoor play area for the number of children/staff proposed; increased air pollution from traffic generated by the premises; non-compliances with council controls including the capacity, off street parking and location controls; and devaluation of surrounding properties.

Comment:

95. The likelihood of the proposal resulting in increased litter in the playground opposite the site cannot be substantiated with any degree of certainty. Based on the information submitted, the outdoor play area appears to be of a sufficient size for the number of children proposed. A small balcony is provided adjacent to the staff and lunch rooms at first floor level for use by staff. Emissions from vehicles associated with the use will have a negligible impact on air quality in the locality given its relatively low traffic generation. The proposal includes a sufficient number of off-street car parking spaces in accordance with the relevant control. The non-compliances relating to the location and capacity of the premises are addressed in detail elsewhere in this report.

(e) *The public interest*

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

Conclusion

97. The application has been assessed having regard to the Heads of Consideration under Section 79C (1) of the Environmental Planning and Assessment Act 1979 and the provisions of KLEP 2012 and KDCP 2013.
98. Following detailed assessment, it is considered that Development Application No. 66/2016 should be approved subject to conditions.

Attachments

1. A4 Set of Plans
2. Submissions

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. 66/2016 for demolition of the existing dwelling and construction of a childcare centre comprising of 47 places with basement level car parking at No. 17 Endeavour Street, Sans Souci subject to the conditions included in this report.

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 – Job No. 15122, Drawing Nos. DA01 Revision C dated 23 June 2016, DA02 Revision C dated 23 June 2016, DA03 Revision C dated 23 June 2016, DA04 Revision C dated 23 June 2016, DA05 Revision C dated 23 June 2016, DA06 Revision C dated 23 June 2016, DA07 Revision C dated 23 June 2016, DA07-A Revision C dated 23 June 2016, DA08 Revision C dated 23 June 2016 & DA09 Revision C dated 23 June 2016, as prepared by Ridge Designs
- (ii) Landscape plan – Drawing No. 253.16(14)/103'B' Revision B dated 21 June 2016, as prepared by Iscape Landscape Architecture
- (iii) Stormwater drainage plans – Drawing Nos. 788-S1/3 Revision B dated 20 June 2016, 788-S2/3 Revision B dated 20 June 2016 & 788-S3/3 Revision B dated 20 June 2016, as prepared by TAA Consulting 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:

- Damage Deposit of \$1,900.00
- *Builders Long Service Levy of \$3,661.00
- Driveway and Restoration Works
Design Inspection Fee of \$ 750.00
- Asset Inspection Fee of \$ 110.00
- Section 94A Contributions of \$ 10,460.63

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

(3) Section 94A Contributions

As at the date of Development Consent a contribution of \$10,460.63 has been levied on the subject development pursuant to Section 94A Contributions Plan. The amount to be paid is to be adjusted at the time of the actual payment, in accordance with the provisions of the Section 94A Development Contributions Plan. The amount payable of monetary Section 94 contributions will be indexed on 1 July each year in accordance with the Contribution Plan.

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

(4) Dilapidation Report

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

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

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

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

(5) Soil and Water Management

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

(6) Sydney Water (DA Only)

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

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

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

(7) Certification of Food Premises

To ensure that adequate provision is made for the cleanliness and maintenance of all food preparation areas all building work in connection with the occupation or use of the premises intended for the preparation and storage of food shall be designed and implemented in accordance with the requirements of:-

- a) Food Act 2003;
- b) Food Regulation 2010;
- c) Food Safety Standards 3.1.1, 3.2.2 and 3.2.3;
- d) Australian Standard AS 4674 – 2004 (*Design, construction and fit-out of food premises*);
- e) Sydney Water Corporation;
- f) Australian Standard AS 1668 Part 1 – 1991;
- g) Australian Standard AS 1668 Part 2 – 1991;
- h) The Building Code of Australia.

Certification to this effect shall be provided by an appropriately qualified person.

(8) Detailed Stormwater Plan

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

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

A suitably qualified engineer is to certify that appropriate design measures have been taken to ensure that the building is protected from flooding in the case of the On-site Detention systems malfunctioning.

(9) 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.

(10) On-Site Detention

A 25.7m³ On-Site Detention system with a Maximum Site Discharge of 15.1 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.

(11) Boundary Alignment Levels

The finished level at the property boundary of the northern driveway edge on The Boulevard shall be RL 12.155. The finished level at the property boundary of the southern driveway edge on The Boulevard shall be RL 12.145. These details shall be shown on the plans accompanying the construction certificate.

(12) Outdoor Play Area Fencing

The 1.8m high fence located on the northern and western perimeters of the outdoor play area (as detailed on the architectural drawings) is not to be constructed of sheet metal or the like. This fence is to be designed and constructed such that it is solid in form and has no gaps between its base and the surface of the outdoor play area. These details shall be shown on the plans accompanying the construction certificate.

(13) Filling

No filling is to occur between the building and western boundary of the site. These details shall be shown on the plans accompanying the construction certificate.

(14) Driveway Fencing

The fence located on the outer northern perimeter of the vehicular access ramp (outside the basement) is not to exceed a height of 1.8m above the surface of the driveway for that portion of the driveway that is at or above the existing ground levels. These details shall be shown on the plans accompanying the construction certificate.

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.

(15) 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.

(16) 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.

(17) 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.

(18) 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.

(19) 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.

(20) 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.

(21) 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.

(22) 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.

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.

(23) Inspections

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

- (a) at the commencement of building works
- (b) after excavation for, and prior to the placement of, any footings, and
- (c) prior to pouring any in-situ reinforced concrete building element, and
- (d) prior to the covering of the framework for any floor, wall, roof or other building element, and
- (e) prior to covering waterproofing in any wet areas, and
- (f) prior to covering any stormwater drainage connections, and

- (g) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
- (h) in the case of a swimming pool, as soon as practicable after the barrier (if one is required under the Swimming Pools Act 1992 has been erected.

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

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

- Erosion Control
- Earthworks/Excavation
- Building setout
- Driveways
- Landscaping
- Pool Fencing
- Other

(24) 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.

(25) 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.

(26) 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 basement floor slab and boundary clearances shall be submitted prior to inspection of the steel reinforcement.

(27) 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.

(28) 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'*.

(29) 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.

(30) Work within Road Reserve

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

(31) Damage within Road Reserve & Council Assets

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

(32) Public Utility & Telecommunication Assets

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

(33) Hours of Operation

The hours of operation shall be limited to the following:-

Monday to Friday 7.00 am to 7.00 pm (excluding public holidays)

(34) 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.

(35) 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.

(36) 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.

(37) 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.

(38) Designated Parking Area

The areas designated as parking areas, loading/unloading areas, and the access to such areas are not to be used at any time for the purposes of storage, or for other commercial uses, or leased to any person, company or organisation not directly associated with the subject site.

(39) 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.

(40) OSD Markers

All on-site stormwater storages that experience permanent or temporary ponding shall be indicated on the site by fixing a marker plate.

(41) Impact of Noise

The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and Regulations.

In this regard, the operation of the premises and plant and equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background $L_{A90, 15min}$ noise level, measured in the absence of the noise source/s under consideration by 5dB(A). The source noise level shall be assessed as $L_{Aeq, 15min}$ and adjusted in accordance with the NSW Industrial Noise Policy.

(42) Noise from the use of the premises

To minimise the impact of noise from the use of premises on the neighbouring premises, the proposed development is to be constructed in accordance with the recommendation of the acoustic report ref No. 610.14352-R2 prepared by SLR Global Environmental Solutions, titled "*DA Noise Impact Assessment – Proposed Child Care Centre 17 Endeavour Street, San Souci*" dated 4 April 2016 as a part of the development application (with the exception that the fence located on the northern and western perimeters of the outdoor play area is not to be constructed of sheet metal or the like).

(43) Stormwater Drainage

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

(44) On-Site Detention Basin Fencing

A fence in accordance is to be installed along the full extent of the perimeters of the On-site Detention basins. The fence is to comply with the requirements for a safety barrier as defined in *AS 1926.1-2012 Swimming pool safety Part 1: Safety barriers for swimming pools*.

(45) On-Site Detention Basin Mulching

Bark chips, mulch and other floatable materials are not to be used in the gardens forming the above ground On-site Detention stormwater basins.

(46) Basement Access

Vehicular access into and out of the basement car park and between the basement car park and the road reserve of The Boulevarde is to be completely unobstructed and freely available at all times during the hours of operation of the child care centre.

(47) Capacity of Child Care Centre

The number of children enrolled and/or cared for at the premises at any one time is not to exceed 47 children.

(48) Use of Outdoor Play Area

To minimise the noise impacts on nearby sensitive noise receivers, outdoor/play areas must not be used for more than 2 hours per day. Children are to play in the outdoor/play areas for a maximum of 2 hours per day. Use of outdoor play areas is not permitted during the evening period between 6:00 pm to 7:00 pm.

(49) Deliveries and Service Vehicles

No deliveries, loading or unloading associated with the premises are to take place between the hours of 7pm and 7am on any day.

(50) Avoid Annoyance from Lighting

Any lighting of the premises shall be installed in accordance with Australian Standard AS 4282-1997: Control of the Obtrusive Effects of Outdoor Lighting so as to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. Flashing, moving or intermittent lights or signs are prohibited. The intensity, colour or hours of illumination of the lights shall be varied at Council's discretion if Council considers there to be adverse effects on the amenity of the area.

(51) Stop Sign

A STOP sign and line be installed on the exit side of the driveway within the property for added pedestrian safety to exiting vehicles.

(52) Wheel Stops

Wheel stops shall be installed in parking spaces 7 – 12 in accordance with *AS/NZS 2890.1:2004 - Off Street Car Parking, Section 2.4.5.4.*

(53) Safety Mirror

A convex safety mirror shall be installed at the bottom of the driveway ramp to assist safe two-way vehicle movements.

(54) Driveway Centre Line

A centre line shall be painted along the driveway ramp from the street boundary on The Boulevard to the basement slab to keep drivers on the correct side of the ramp.

(55) 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 Zones (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 Zones (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.

(56) Tree Retention

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

Tree Species	Location of Tree/Tree No	TPZ
Eucalyptus microcorys	Street tree outside 17 Endeavour Street/ Tree 1	7.2 metres

(57) Tree Preservation

No trees are 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 Local Environmental Plan 2012.

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.

(58) 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.

A twelve (12) month landscape maintenance period shall commence from the issue of the occupation certificate.

(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 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) Acoustic Validation

A report prepared by accredited Acoustic Consultant shall be submitted to the Principle Certifying Authority (PCA) certifying that the development complies with the acoustic conditions of the development consent and recommendations of the acoustic report ref No. 610.14352-R2 prepared by SLR Global Environmental Solutions, titled "*DA Noise Impact Assessment – Proposed Child Care Centre 17 Endeavour Street, San Souci*" dated 4 April 2016. The acoustic report shall include post construction validation test results.

(65) Plan of Management

A plan of management shall be submitted to Council which details measures to be implemented to:

- Ensure compliance with the relevant operational conditions of approval,
- Minimise the potential impact of the operation of the premises on nearby residents,
- Minimise noise emissions and associated nuisances,
- Discourage kerbside parking by child care centre staff and visitors in surrounding streets, and
- Effectively manage and respond to resident complaints

(66) Food Business Registration

Prior to the issue of the Interim/Final Occupation Certificate the proprietor of a food business must notify Georges River Council. A notification form is available on Council's website or by contacting Council on (02) 9300 6400.

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.

(67) Compliance with the Building Code of Australia

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

(68) 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.

(69) Notification Requirements (Other)

In relation to non-residential work, prior to the commencement of construction the Principal Certifying Authority must be informed in writing of:-

- (i) the name and contractor licence number of the licensee who has contracted to do or intends to do the work;
- (ii) the name and permit number of the owner-builder who intends to do the work, with a copy of the permit submitted; and
- (iii) the date of their intention to commence the erection of the building.

Further, if a contract is entered into for the work to be done by a different licensee or arrangement for doing the work are otherwise changed, the Principal Certifying Authority is to be immediately informed in writing of sufficient particulars for it to update its records.

(70) 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.

(71) 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.

(72) Demolition Conditions-Asbestos

- (a) Demolition of buildings where asbestos is determined to be present should only occur 7am – 5pm Monday to Saturdays, and must not occur on Sundays or Public Holidays, to ensure that the persons carrying out the work have access to WorkCover professionals if required.
- (b) All asbestos removal shall be undertaken in accordance with the requirements of WorkCover’s ‘How to Safely Remove Asbestos’ Code of Practice and Council’s Asbestos Policy.
- (c) Written notice must be provided to Georges River Council five (5) working days (excluding public holidays) prior to commencement of any works.

Written notice is to include the following details:

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

Work must not commence prior to the nominated demolition date.

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

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

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

- (f) Demolition sites that involve the removal of asbestos must display a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent visible position on the site to the satisfaction of Council's officers. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos has been removed from the site to an approved waste facility.
- (g) All asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations (Waste) Regulation 2005. All receipts detailing method and location of disposal must be submitted to Council as evidence of correct disposal.
- (h) A Clearance Certificate or Statement, prepared by a suitably qualified occupational hygienist must be provided to Council upon completion of demolition and asbestos related works, which confirms that the relevant legislative requirements in relation to safe removal and disposal have been satisfied.
- (i) A Work Cover Licensed Demolisher is to be engaged to carry out any demolition works using mechanical equipment where the structure is over 4 metres in height or to carry out any manual demolition works on a structure over 10 metres in height.
- (j) The provision of temporary fences and footpath crossing pads prior to commencement of demolition operations. Further, no waste materials or bins are to be placed on Council's roadways or footpaths.
- (k) No waste materials are to be burnt on site.
- (l) No trees as defined by Council's Tree Preservation Order being removed or damaged on the site without the prior written approval of Council.

- (m) Compliance with the provisions of Australian Standard AS 2601-1991:"The Demolition of Structures", which requires notification of demolition to be submitted at least seven (7) days prior to demolition to the NSW Workcover Authority.
- (n) Effective erosion and sediment control measures are to be undertaken during the course of demolition and building works in accordance with Council's 'Environmental Site Management Policy'. Failure to implement appropriate measures may result in a \$750 Penalty Infringement Notice (individual) and/or \$1,500 (corporation) being issued and/or the incurring of a maximum penalty of \$250,000 (corporation) or \$120,000 (individual) through the Land and Environment Court.
- (o) Appropriate measures are to be implemented on site to control dust and other air borne matter and demolition material is to be stored and stacked in a manner so as to minimise the risk of damage or nuisance to neighbouring properties.
- (p) Council being notified upon completion of the demolition works so that an inspection can be made of the roadway and footpath.
- (q) All non-recyclable demolition material being disposed of at an approved waste disposal depot. Details as to the method and location of disposal of demolition materials (weight dockets, receipts, etc.) should be kept as evidence of approved method of disposal.
- (r) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (a) showing the name, address and telephone number of the principal certifying authority for the work, and
 - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (c) stating that unauthorised entry to the work site is prohibited.

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

END CONDITIONS

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.

(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.

(iii) 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.

(iv) 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*.

(v) 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.

(vi) Property Address

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