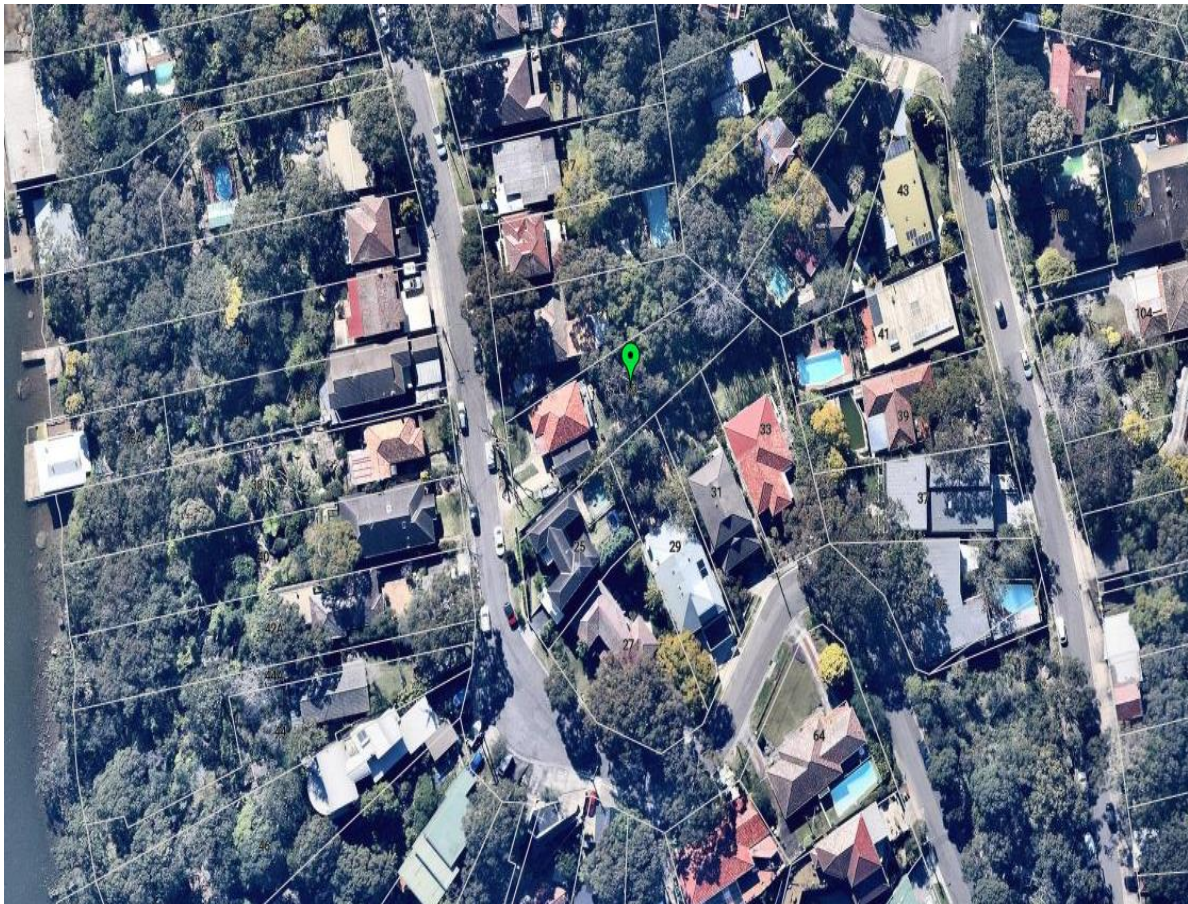


## REPORT TO GEORGES RIVER COUNCIL IHAP MEETING OF 27 OCTOBER 2016

<b>IHAP Report No</b>	4	<b>Development Application No</b>	DA2015/0355
<b>Site Address &amp; Ward Locality</b>	23 Marine Drive Oatley Peakhurst Ward		
<b>Proposal</b>	Demolition of existing, tree removal, construction of new two-three storey dwelling with swimming pool and detached outbuilding to rear		
<b>Report Author/s</b>	Senior Development Assessment Officer, Ms T Gizzi		
<b>Zoning:</b>	Zone R2 - Low Density Residential		
<b>Date of Lodgement</b>	12 October 2015		
<b>Owner</b>	Mr M Moussa		
<b>Applicant</b>	Zoabi Tawadros Architecture		
<b>Submissions</b>	Originally – Ten (10) submissions received Amended plans - Four (4) submissions received		
<b>Cost of Works</b>	\$1,520,000.00		
<b>Issues</b>	Four (4) submissions received to amended plans		
<b>Recommendation</b>	That the application be granted deferred commencement approval in accordance with the conditions included in the report		

### Site Plan



## **EXECUTIVE SUMMARY**

1. Development consent is sought for the demolition of the existing buildings and construction of a new multi-level single dwelling house with swimming pool and outbuilding to the rear.
2. The proposal development has been assessed against the requirements of the relevant planning instruments and Development Control Plans. With the exception of a variation to parapet height, the application complies in full subject to conditions of consent.
3. The bulk and scale of the development would be compatible with the desired future character of the locality and the development would not result in any significant detrimental amenity impacts on adjoining properties.
4. The application was notified in accordance with Development Control Plan No 1 on three (3) occasions due to amended plans being received. Following the most recent notification of the proposal, four (4) submissions were received.

## **RECOMMENDATION**

THAT the application be granted deferred commencement approval in accordance with the conditions included in the report.

## **DESCRIPTION OF THE PROPOSAL**

1. Development consent is sought for demolition of the existing structures, tree removal, construction of new part two (2), part three (3) storey dwelling, with swimming pool and a detached outbuilding to rear.

## **HISTORY**

- |    |           |   |
|----|-----------|---|
| 2. | 12 Oct 15 | Application lodged                        |
|    | 31 Oct 15 | Application notified                      |
|    | 12 Apr 16 | Information requested                     |
|    | 5 May 16  | Information provided                      |
|    | 7 Jun 16  | Application renotified                    |
|    | 5 Jul 16  | Applicant advised of issues with drainage |
|    | 5 Sep 16  | Additional information provided           |
|    | 12 Sep 16 | Application renotified                    |

## **DESCRIPTION OF THE SITE AND LOCALITY**

3. The site is a regular shaped site located on the eastern side of Marine Drive in Oatley. The site has a frontage of 20.08m and narrows to a width of 10.985m at the rear. The site is also very steep with a fall of 11m from front to rear. The total site area is 864.50sqm and is located within the Foreshore Scenic Protection Area.

A dwelling house and garage are currently located at the front of the site. The remainder of the site is vegetated by eleven (11) significant trees.

The surrounding properties are occupied by single dwelling houses with outbuildings and swimming pools. The area is characterised by similar low density residential development.

## **COMPLIANCE AND ASSESSMENT**

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

## Environmental Planning Instruments

### **HURSTVILLE LOCAL ENVIRONMENTAL PLAN 2012**

5. The extent to which the proposal complies with the relevant standards of Hurstville Local Environmental Plan 2012 is outlined in the table below.

<b>Clause</b>	<b>Standard</b>	<b>Assessment Under HLEP 2012</b>
Part 2 – Permitted or Prohibited Development	R2 Low Density Zone	The proposal is defined as a dwelling house. Dwelling houses are permissible in the zone.
	Objectives of the Zone	The proposal complies with the objectives of the zone
4.3 – Height of Buildings	9m as identified on Height of Buildings Map	8.2m maximum
4.4 – Floor Space Ratio	Site = 864.5sqm 0.6:1 as identified on Floor Space Ratio Map	FSR = 0.53:1 (complies)
4.6 – Exception to Development Standards	Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard (Cl 4.6 variation)	N/A
5.9 – Preservation of Trees or Vegetation	Trees to be removed are specified in DCP No 1 Section 3.11 – Preservation of Trees and Vegetation	The application requires the removal of eleven (11) trees from the site. Council's Tree Management Officer has assessed the proposal and raised no objections subject to replacement planting of six (6) mature trees.
6.4 – Foreshore Scenic Protection Area	Council cannot grant consent to the carrying out of development on land within a Foreshore Scenic Protection Area unless consideration has been made of the following:  <i>(3)(a) affect the natural environment, including topography, rock formations, canopy vegetation or other significant vegetation, and (b) affect the visual environment, including the views to and from the Georges River, foreshore reserves, residential areas and public</i>	The proposal will not impact on views to the foreshore, given the site topography and location of the dwelling in relation to the surrounding developments. The proposal is not likely to result in any impacts on any significant topographical feature or environmental heritage subject to conditions of consent.

	<i>places, and (c) affect the environmental heritage of Hurstville, and (d) contribute to the scenic qualities of the residential areas and the Georges River by maintaining the dominance of landscape over built form.</i>	Significant vegetation removal is proposed, however this has been considered by Council's Tree Management Officer and no objections are raised subject to replacement planting. The proposal provides adequate useable landscaped areas on site. And maintains to the scenic qualities of the locality.
6.5 – Gross Floor Area of Dwelling House	> 630sqm ≤ 1000sqm  (Site Area minus 630) x 0.3 + 346.5 = 416.85sqm	GFA of dwelling house = 367.65sqm
6.7 – Essential Services	The following services that are essential for the development shall be available or that adequate arrangements must be made available when required: <ul style="list-style-type: none"> <li>• Supply of water, electricity and disposal and management of sewerage</li> <li>• Stormwater drainage or on-site conservation</li> <li>• Suitable vehicular access</li> </ul>	<ul style="list-style-type: none"> <li>• Adequate facilities for the supply of water and for the removal of sewage and drainage are available to this land.</li> <li>• Stormwater is to drain to absorption trenches or via an easement for drainage. Appropriate deferred commencement conditions relating to this issue are recommended.</li> <li>• Driveway access is accessed from Marine Drive and is satisfactory.</li> </ul>

**GREATER METROPOLITAN REGIONAL ENVIRONMENTAL PLAN NO 2 – GEORGES RIVER CATCHMENT**

6. The site is within the area affected by the Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment. The proposal, including the disposal of stormwater, is consistent with Council's requirements for the disposal of stormwater in the catchment.

**STATE ENVIRONMENTAL PLANNING POLICY NO 55 - REMEDIATION OF LAND**

7. The subject site is zoned residential and has a history of residential uses as a dwelling house. As such it is considered unlikely that the land is contaminated.

Based on Council's records, the subject site has not been used for any potentially contaminating activities. As such, it is considered unlikely that the land is contaminated.

**STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004**

8. A BASIX certificate has been submitted with the application. A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

**Draft Environmental Planning Instruments**

9. No Draft Environmental Planning Instruments affect the proposed development.

**Any other matters prescribed by the Regulations**

10. The Regulations prescribe the following matters for consideration for development in the Hurstville Council area:

Demolition

Safety standards for demolition and compliance with AS 2601 - 2001 apply to the demolition of any buildings affected by the proposal.

**Development Control Plans**

**DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE – SECTION 3.1 CAR PARKING**

11. Parking is provided for two (2) vehicles within a double garage in accordance with the Development Control Plan.

**DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE - SECTION 3.4 CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

12. The extent to which the proposal complies with the requirements of this section of Development Control Plan No 1 is outlined in the table below.

<b>Section 3.4</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Complies</b>
3.4.1.1 – Fencing	Front fence: preferred height of 1m	No details of front fencing have been proposed. Conditions recommended limiting any fencing to that permitted under exempt development.	Yes, subject to condition
3.4.1.4 – Entrances	Clearly visible and not confusing	Entrance is clearly visible	Yes
3.4.1.5 – Site and building layout	<ul style="list-style-type: none"> <li>• Provide surveillance opportunities</li> <li>• Dwelling addresses street</li> <li>• Habitable rooms are directed towards the front of the building</li> </ul>	Dwelling complies with these requirements	Yes
3.4.1.6 – Landscaping	Avoid medium height vegetation with concentrated top to bottom foliage	Landscape plan prepared by qualified landscape architect or consultant will be required as a condition of consent.	Yes
3.4.1.8 – Building identification	Dwellings to be clearly numbered	Yes, can be provided	Yes

**DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE - SECTION 3.5 ENERGY EFFICIENCY**

13. The proposal has achieved a BASIX Certificate and therefore complies with the objectives of Section 3.5 of Development Control Plan No 1. The proposed development also complies with the solar access requirements of Development Control Plan No 1 – LGA Wide.

**DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE - SECTION 4.1 SINGLE DWELLING HOUSES**

14. The proposal has been assessed against the requirements of Section 4.1 of Council’s Development Control Plan No 1 – LGA Wide as shown below.

Section 4.1	Standard	Proposed	Complies
4.1.3.1 Max. Floor Area	> 630sqm ≤ 1000sqm (Site Area minus 630) x 0.3 + 346.5 = 416.85sqm	GFA of dwelling house = 367.65sqm	Yes
4.1.3.2 Landscaped Areas (min. width 2m)	FSPA 25% of Site Area  15sqm of landscaped area to be provided in the front yard	28% (241.8sqm)  >15sqm	Yes  Yes
Private Open Spaces	Principal Private Open Space Min. dimension of 4m x 5m	7m x 13.2m	Yes
4.1.3.3 Building Height	Max. ridge height = 9m  Max. ceiling height to external wall = 7.2m  Max. parapet height 7.8m (for flat roof and other roof designs)	8.2m  7.2m  Max 8m	Yes  Yes  No (1)
4.1.3.4 Setback Controls	4.5m (to front wall of dwelling)	5.5m	Yes
Front Setback (Building Line):	5.5m to garage/carport or on-site parking space	7.44m	Yes
Side Boundary Setbacks:	900mm – ground floor level  1.5m – first floor level (FSPA)	0.9m – 1.5m  1.5m	Yes  Yes
Rear Setback:	Ground floor level – 3m  First floor level – 6m	>3m  >6m	Yes  Yes
Foreshore Building Line	May require greater setback. Refer to Clause 6.3 and associated maps in HLEP	N/A	N/A
4.1.3.5 Basements	Basements are < 1m above ground (otherwise assess as	Part basement only due to fall of the site	Yes



	ground floor)	to be used as habitable spaces. Where basement exceeds 1m above ground level, it has been assessed as ground floor level.	
	Within the footprint of the house	Yes	Yes
	Internal Floor to Ceiling min. 2.1m, max. 2.7m	2.7m	Yes
	> 1.5m excavation requires Geotech Report	Geotechnical report provided	Yes
4.1.3.6 Balconies & Terraces	Direct access from a habitable room (at same floor level)	Complies	Yes
	Overlooking impacts can be minimized with the use of privacy screens between 1.5m-1.8m high	Privacy screens provided	Yes
	Terraces must not be visible from the street	Rear terraces are not visible from the street	Yes
4.1.3.7 Façade Articulation	Dwellings must have a front door or window to a habitable room fronting the street.	Provided	Yes
	Garage doors facing the street max. 40% of site width (sites > 12m wide)	35%	Yes
	Must have two building elements of - Entry feature / portico - Awning / feature over window - Eaves and sun shading - Window planter box - Bay windows or similar features - Wall offsets, balconies, verandas, pergolas	Complies	Yes
4.1.3.8 Car Parking	Min. 2 spaces for 3 bedrooms or more	2 spaces provided	Yes
	Garages must not extend further towards the front	Due to the angle of the front boundary,	Yes

	boundary than the front wall	although on plan it appears the garage projects forward of the front wall, the wall of the proposed study is actually closer to the front boundary. Garage setback 7.44m, front study setback 5.46m.	
	Driveway / access lanes / car park spaces max.40% of site width (sites < 12m wide)	(20.08m frontage) 35%	Yes
	Driveway crossing width: between 2.7m and 4.5m	4.686m but conditioned to comply.	Yes, subject to condition
	AS2890.1 (2004) – Max. gradient of domestic driveway is 1 in 4 (25%)	Conditioned to comply	Yes, subject to condition
4.1.3.9 Visual Privacy	Windows to be offset by 1m. Neighbouring principal private open space is not overlooked by proposed living areas.	Satisfactory	Yes
4.1.3.10 Solar Design	Principal private open space of both the subject lot and adjoining lot must receive a minimum of 3hrs direct solar access between 9am and 3pm in mid winter (June)	Subject lot is satisfactory.  Only the property to the south of the site at 25 Marine Drive is affected by the development. The primary private open space receives more than the minimum requirement of three hours sunlight midwinter which complies with the controls. It is noted that the swimming pool is overshadowed from midday mid winter but in summer is only overshadowed from 3pm onwards.	Yes
4.1.3.11 Stormwater	Refer to Stormwater Assessment Table	Concept submitted	Yes



### (1) Building Height - Maximum Parapet/Flat Roof Height

15. At the rear of the building, the parapet height is 8m above natural ground level which exceeds the 7.8m requirement by 0.2m. The variation is a result of the topography of the site and does not result in any amenity impacts on adjoining properties. The variation is minor and is acceptable.

### Stormwater Assessment

<b>Stormwater Assessment</b>	
Existing Stormwater System	Gravity to Councils system
Proposed stormwater system	Dwelling charged to street Remainder of site to absorption trench at the rear
Stormwater objectives	Yes, subject to geotechnical information
Slope to rear (measured from centreline of site)	Yes
Gravity to street (from property boundary to street kerb)	Yes
Discharge to same catchment?	Partially
Easement required	Yes, if Council cannot be satisfied that the absorption trenches will work

16. The application proposes to charge the roof waters of the dwelling house to the street, the driveway surface waters are proposed to drain to an absorption trench in the middle of the site, and the roof and surface waters from the outbuilding are proposed to drain to a second absorption trench at the rear of the property. Council's Team Leader Subdivision and Development is satisfied with the proposal in principle, subject to sufficient geotechnical information being provided to demonstrate that the absorption trenches won't fail. To date, the geotechnical information provided is based on one (1) bore hole only, which is unsatisfactory.

If the absorption trenches cannot work, the alternative solution is an easement for drainage to the rear, to allow for drainage by gravity to Marine Drive.

To address the stormwater issue, a deferred commencement condition is recommended, providing two (2) options. The first option is to drain as per the current proposal with geotechnical information to be submitted to the satisfaction of Councils Team Leader Subdivision and Development, or alternatively, an easement for drainage to the rear is to be obtained.

### **DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE – SECTION 4.6 OUTBUILDINGS**

<b>Section 4.6 - Cabana</b>	<b>Standard</b>	<b>Proposed</b>	<b>Complies</b>
4.6.2.3 External Finishes	Low reflectivity	Complies	Yes
4.6.2.4 Maximum Height	3m from ceiling or top plate height to natural ground level	3m in south eastern corner	Yes
4.6.2.6	To comply with relevant	Conditioned to comply	Yes, subject

Stormwater	Council policy, BCA and Australian Standard		to condition
4.6.3.1 Garages, Gyms, Cabanas and Sheds	Must be setback 500mm from any boundary	Side setbacks: min 0.9m  Rear setback: min 5.36m	Yes

**DEVELOPMENT CONTROL PLAN NO 1 – LGA WIDE – SECTION 5.7 SWIMMING POOLS AND SPAS**

<b>Section 5.7</b>	<b>Standard</b>	<b>Proposed</b>	<b>Complies</b>
5.7.2.1 - Pool Siting	On steeply sloping sites, Council may consider allowing one point or along one side to extend up to 1m above NGL, provided that the exposed face of the pool is treated to minimise impact	Pool is up to 3m below ground level as it is excavated into the site	Complies
	Filling is not permitted between the swimming pool and property boundary	Complies	Yes
	Drainage not to affect natural environment or adjoining properties	Subject to condition	Yes, subject to condition
	Swimming pools are permitted on land affected by a foreshore building line subject to their design complementing the surrounding area and minimising visual impact from waterways	N/A	N/A
5.7.2.1 – Side Setbacks	Pool edge must be setback at least 1.5m from any side or rear boundary	Min.1.5m	Yes
5.7.2.2 - Noise Control and Nuisances	The position of the swimming pool and ancillary equipment must be minimised to reduce the impact of noise on adjoining neighbours	Pool equipment is to be located underneath the deck. Standard conditions have been included in this report for noise attenuation measures	Yes
5.7.3 – Landscaping	Tree and shrub planting is to be provided along the adjoining property boundary lines to achieve a reasonable level of privacy	As the pool is excavated into the site, there would be no unreasonable privacy impacts and planting is not required	N/A

17. As can be seen from the table above, the proposal complies with Section 5.7.

**Impacts**

**Natural Environment**

18. As discussed throughout this report, the proposed development requires significant vegetation removal. Even so, Council's Tree Management Officer is satisfied that six (6) replacement trees would be sufficient to mitigate the loss.

The application also requires significant excavation of the site at various points to provide functional outdoor spaces. This excavation is common throughout the locality and would not have any significant detrimental impact on the natural environment.

### ***Built Environment***

- 19 With the exception of the parapet height, the proposed development complies with all development standards and controls. The development would not result in any significant amenity impacts and is consistent with the changing character of the Oatley locality.

In this regard, the development would not result in any significant detrimental impacts on the building environment.

### ***Social Impact***

20. The proposal is for a residential purpose and will not have any adverse social impact.

### ***Economic Impact***

21. The proposal is for a residential purpose and no adverse economic impact is envisaged.

### ***Suitability of the Site***

22. For the reasons provided throughout this report, although the site is constrained by its topography, the site is found to be suitable for the proposed development.

## **REFERRALS, SUBMISSIONS AND THE PUBLIC INTEREST**

### **Resident**

23. The application was notified on three (3) occasions following receipt of amended plans. Adjoining residents were notified by letter and given fourteen (14) days in which to view the plans and submit any comments on the proposal.

Following the first notification period, ten (10) submissions were received and significant amendments were made to the development. The second notification period generated eight (8) submissions, and following the third and final notification period, four (4) submissions were received. It is noted that throughout the three (3) submission periods, the submitters comprised the same group of residents. The issues raised are addressed below.

### ***Asbestos Removal***

24. No details have been provided in relation to the removal of asbestos (fibro) from the site.

Comment: The removal of asbestos is regulated by WorkCover NSW and conditions of consent are recommended to ensure compliance.

### ***Air Conditioning***

25. Details of air conditioning have not been provided.

Comment: As no details of air conditioning have been provided, no approval is granted under this consent. As such, any future air conditioning must be provided in accordance with SEPP (Exempt and Complying Development Codes) 2008.

### ***Building Form***

26. The building is large and dominant.  
The development is not sympathetic to the character of the area.  
The development does not adequately respond to the topography of the site.  
The entertainment area is too high.

Comment: The development complies with both the height and floor space ratio development standards and generally complies with the relevant development controls that relate to bulk and scale including setbacks and external wall height.

The development has been amended to provide additional steps in the building in an attempt to follow the topography of the site and achieve compliance with the external wall height. The entertainment area has also been reduced in height so it does not exceed 3m above natural ground level.

The proposal is consistent with the type of development envisaged for the area by the Development Control Plan.

### ***Zoning***

27. The proposed development is for a dual occupancy which is not permissible in the zone.

Comment: The proposed development is for a single dwelling house with outbuilding which is permissible in the R2 Low Density Residential Zone.

### ***Landscape***

28. Insufficient landscaped area is provided.

Comment: The proposed development provides landscaped open space in excess of Council's requirements.

### ***Building Separation***

29. Insufficient building separation is provided impacting privacy and seclusion.

Comment: The proposal complies with all minimum setback requirements of Development Control Plan No 1.

### ***Noise***

30. The development will result in excessive noise.  
Noise will be spread out across the site as it will be generated from both the house at the front of the site and the BBQ area at the rear impacting all neighbours.

Comment: The proposal is for a single dwelling house and therefore the noise likely to be generated by the development would be consistent with other low density residential developments in the area. It is noted that concerns are raised about the location of the BBQ area. The BBQ area and pool are excavated up to 3m below natural ground level at the rear of the property which will buffer the properties that adjoin the side boundaries from any noise impacts. Further, the outbuilding has been designed to be primarily orientated towards the pool area which will further reduce noise to properties at the rear.

### **Number of Residents**

31. The development could result in up to three (3) families living on the same site.

Comment: The development is designed as a single dwelling house and no approval is given for the use of the property for any form of multi-dwelling house. The outbuilding at the rear is for entertainment purposes only, and is not to be used as a separate dwelling.

### **Privacy**

32. The development overlooks neighbouring properties.

Comment: Openings within the side elevations are minimal and would not result in any significant overlooking. Privacy screens have now been included on the sides of each balcony to also protect the amenity of the adjoining properties to the north and south. It is noted that the balconies to the rear of the dwelling will overlook the properties at the rear of the site due to the topography of the land, however there is significant separation of over 35m which is considered acceptable to prevent major impacts on privacy.

The proposed cabana is single storey and is excavated into the site to minimise any impacts. Subject to conditions to raise the sill levels of the windows in the rear elevation, it is not considered there would be any significant privacy impact arising from this building.

### **Stormwater**

33. In heavy rainfall, water currently flows from the site through the properties at the rear.

Insufficient details of drainage are provided.

Increased impervious area will exacerbate the existing runoff issue.

The Geotechnical information submitted to support the absorption trenches is inadequate.

Comment: Council's Team Leader Subdivision and Development has assessed the development. No objection has been raised in principle to the proposed drainage design including absorption trenches, subject to further geotechnical information being provided. As such, a deferred commencement condition is recommended for stormwater design, requiring the development to drain via a charged system and absorption trenches with supporting geotechnical information to the satisfaction of Council's Engineer, or alternatively, via an easement to Marine Drive at the rear.

### **Excavation and Construction**

34. Excavation will cause air and noise pollution.

Excavation will damage adjoining properties.

The geotechnical investigation is preliminary only and cannot appropriately guide excavation on site.

The extent of excavation and retaining walls is excessive, a risk to adjoining properties, and a civil engineering report should be provided.

Comment: A construction management plan will be required to be submitted prior to the issue of the Construction Certificate to address these issues. In addition, hours of work will be limited to between 7am and 5pm Monday to Saturday in accordance with Council's standard conditions.

Due to the level of excavation proposed, conditions are also recommended requiring a full geotechnical report to be completed prior to the issue of the Construction Certificate and dilapidation reports to be carried out on all adjoining properties pre and post works.

### **Trees**

35. Trees on the site should be retained.

The development will affect trees on adjoining properties.

The removal of trees will affect habitat for wildlife.

Comment: Council's Tree Management Officer has assessed the application and raised no objections to the removal of the trees from the site subject to replanting of six (6) Sydney Red Gum (*Angophora Costata*) on the property.

The trees on the adjoining sites have also been considered and an arborist report has been provided with the application. Council's Tree Management Officer is satisfied that the Sydney Red Gum on the adjoining site can be retained with tree protection measures in place including hand excavation. Separate consent has also recently been granted for the removal of the Jacaranda tree at 21 Marine Drive that would have been affected by the development.

The site is not identified as containing critical habitat or threatened species.

### **Outbuilding**

36. The outbuilding is of a size and design that could be used as a separate dwelling.

Comment: The application does not seek consent for use of the outbuilding as a separate dwelling. Consent will only be granted for the use of the site as a single dwelling house with entertainment area and gym. Any use of the outbuilding as a separate occupancy would be in breach of the consent and subject to enforcement.

### **Documentation**

37. The submitted documentation refers to dual occupancy and duplexes.

Comment: It is noted that some of the documentation including the Statement of Environment Effects makes reference to a dual occupancy development in error. The application has been assessed as a single dwelling house only and the submitted plans are consistent with the proposal. The description of development on the determination will refer to a single dwelling house and a

condition is recommended to ensure the site is used for single occupancy only.

### **Traffic and Parking**

38. Traffic and parking will be congested and Marine Drive does not have capacity for any increase.  
The proposed double garage is insufficient.

Comment: The site is currently occupied by a single dwelling house and a new replacement single dwelling house is proposed to be built. Although larger in size, the use of the site as a single dwelling will not intensify. A double garage is proposed providing parking in accordance with the Development Control Plan and a third car would be able to park within the driveway. Traffic and parking congestion is not envisaged to increase as a result of this development.

### **Council Referrals**

#### **Team Leader Subdivision and Development**

39. Council's Team Leader Subdivision and Development has no in principle objection to the proposed drainage system however the supporting geotechnical information to demonstrate the adequacy of the absorption trenches is insufficient.

To address these concerns, it is recommended that a deferred commencement condition be imposed as discussed under drainage earlier in this report.

#### **Tree Management Officer**

40. Council's Tree Management Officer has raised no objections to the proposed subject to replacement planting of six (6) *Angophora costata* on the site with a minimum pot size of 75 litres.

### **External Referrals**

41. None required.

### **CONCLUSION**

42. Development consent is sought for the demolition of the existing buildings, tree removal and construction of a new multi-level single dwelling house with swimming pool and detached outbuilding to the rear.

The proposal development has been assessed against the requirements of the relevant planning instruments and Development Control Plans. With the exception of a variation to parapet height, the application complies in full subject to conditions of consent.

The bulk and scale of the development would be compatible with the desired future character of the locality and the development would not result in any significant detrimental amenity impacts on adjoining properties.

The application was notified in accordance with Development Control Plan No 1 on three (3) occasions due to amended plans being received. Following the most recent notification of the proposal, four (4) submissions were received.



Subject to conditions of consent, the application is recommended for deferred commencement approval.

### **DETERMINATION**

43. THAT pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979, as amended, the Council grants a deferred commencement consent to Development Application DA2015/0355 for the demolition of existing structures, tree removal, construction of new two-three storey dwelling with swimming pool and detached outbuilding to rear on Lot 248 in DP 11934 and known as 23 Marine Drive Oatley, subject to the following:

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

This Development Application is a Deferred Commencement Consent under Section 80(3) of the Environmental Planning and Assessment Act (as amended) 1979. Strict compliance is required with **all conditions appearing in Schedule 1** within **twelve (12) months from the Determination Date of this consent**. Upon confirmation in writing from Hurstville City Council that the Schedule 1 Conditions have been satisfied, the consent shall commence to operate as a Development Consent for a period of five (5) years from the **Determination Date of this consent**.

### **Schedule 1**

- A. A Geotechnical Report prepared by a qualified Geotechnical Engineer is to be provided that demonstrates the ground conditions are suitable for the proposed absorption trenches for the driveway surface runoff and roof waters from the approved outbuilding, to the satisfaction of Council. The Geotechnical report must include the permeability of the soil at both absorption trench locations, and make recommendations for the use of the absorption trenches when the soil is saturated (K sat). Roof waters from the approved dwelling are to be charged to Council's kerb and gutter directly in front of the site.

OR

- B. (a) The applicant must acquire an Easement to Drain Water of 1 metre (minimum) width. The easement must allow for a piped, gravity fed system of drainage of stormwater from the subject site with direct, underground connection to Council's drainage system in Marine Drive to the rear of the site.

Evidence of registration of the easement to drain water benefitting the subject site and burdening the title of each such other property/ies is to be provided to Council.

- (b) The applicant must obtain separate Development Consent for all drainage works to be carried out within the Easement to Drain Water. The written consent of each of the owners of the property/ies burdened by the Easement will be required for each development application to carry out the drainage works on the burdened lot/s.

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

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

### **Schedule 2**

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

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

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

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

### **Schedule A – Site Specific Conditions**

#### **GENERAL CONDITIONS**

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

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

<b>Reference No.</b>	<b>Date</b>	<b>Description</b>	<b>Revision</b>	<b>Prepared by</b>
DA01	02.05.2016	Site Plan	A	ZTA Architects
DA02	02.05.2016	Site Analysis Plan	A	ZTA Architects
DA03	02.05.2016	Lower Ground Floor Plan	A	ZTA Architects
DA04	02.05.2016	Ground Floor Plan	A	ZTA Architects
DA05	02.05.2016	Ground Floor Plan (Entertainment Area)	A	ZTA Architects
DA06	02.05.2016	First Floor Plan	A	ZTA Architects

DA07	02.05.2016	Roof Floor Plan	A	ZTA Architects
DA08	02.05.2016	Roof Floor Plan (Entertainment Area)	A	ZTA Architects
DA09	02.05.2016	Northern Elevation	A	ZTA Architects
DA10	02.05.2016	Eastern Elevation	A	ZTA Architects
DA11	02.05.2016	Southern Elevation	A	ZTA Architects
DA12	02.05.2016	Western Elevation	A	ZTA Architects
DA13	02.05.2016	Elevations 01 (Entertainment Area)	A	ZTA Architects
DA14	02.05.2016	Elevations 02 (Entertainment Area)	A	ZTA Architects
DA16	02.05.2016	Section 2	A	ZTA Architects
DA20	02.05.2016	Schedule of Colours and Finishes	A	ZTA Architects
-	29.09.2015	Arboricultural Report and Construction Impact Assessment	-	NSW Tree Services Pty Ltd
-	28.04.2016	Addendum Arboricultural Report and Construction Impact Assessment	-	NSW Tree Services Pty Ltd

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

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

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

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

- (a) Fees to be paid:

**Fee types, bonds and contributions**

<b>Fee Type</b>
Long Service Levy (to Long Service Corporation)
Builders Damage Deposit
Inspection Fee for Refund of Damage Deposit

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

will apply)

PCA Services Fee	\$2,500.00
Construction Certificate Application Fee	\$2,500.00
Construction Certificate Imaging Fee	\$236.00

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

3. GEN1014 - **Long Service Levy** - Submit evidence of payment of the Building and Construction Industry Long Service Leave Levy to the Principal Certifying Authority. Note this amount is based on the cost quoted in the Development Application, and same may increase with any variation to estimated cost which arises with the Construction Certificate application. To find out the amount payable go to [www.lspc.nsw.gov.au](http://www.lspc.nsw.gov.au) or call 131441. **Evidence of the payment of this levy must be submitted with the Construction Certificate application.**
4. GEN1015 - **Damage Deposit - Minor Works** - In order to insure against damage to Council property the following is required:
  - (a) Payment to Council of a damage deposit for the cost of making good any damage caused to any Council property as a result of the development: **\$1,900.00.**
  - (b) Payment to Council of a non refundable inspection fee to enable assessment of any damage and repairs where required: **\$145.00.**
  - (c) At the completion of work Council will inspect the public works, and the damage deposit will be refunded in full upon completion of work where no damage occurs. Otherwise the amount will be either forfeited or partly refunded according to the amount of damage.
  - (d) Prior to the commencement of work a photographic record of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal, shall be submitted to Council
  - (e) Payments pursuant to this condition are required to be made to Council before the issue of the Construction Certificate.
  - (f) Fees and charges above are subject to change and are as set out in the version of Council's Schedule of Fees and Charges or as required by other Government Authorities, applicable at the time of payment.

#### **SEPARATE APPROVALS UNDER OTHER LEGISLATION**

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

5. APR6001 - **Engineering - Section 138 Roads Act and Section 68 Local Government Act 1993**

**Unless otherwise specified by a condition of this consent, this Development Consent does not give any approval to undertake works on public infrastructure.**

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

- (a) Placing or storing materials or equipment;
- (b) Placing or storing waste containers or skip bins;
- (c) Erecting a structure or carrying out work
- (d) Swinging or hoisting goods over any part of a public road by means of a lift, crane or the like;
- (e) Pumping concrete from a public road;
- (f) Pumping water from the site into the public road;
- (g) Constructing a vehicular crossing or footpath;
- (h) Establishing a “works zone”;
- (i) Digging up or disturbing the surface of a public road (e.g. Opening the road for the purpose of connections to utility providers);
- (j) Stormwater and ancillary works in the road reserve; and
- (k) Stormwater and ancillary to public infrastructure on private land
- (l) If any excavation is to be supported by the use of below ground (cable) anchors that are constructed under Council’s roadways/footways.

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

The relevant Application Forms for these activities can be downloaded from Georges River Council’s website at: [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au)

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

6. **APR6002 - Engineering - Vehicular Crossing - Minor Development -** Constructing a vehicular crossing and/or footpath requires a separate approval under *Section 138 of the Roads Act 1993* prior to the issue of the **Construction Certificate**.

To apply for approval, complete the *Driveway Crossing on Council Road Reserve Application Form* which can be downloaded from Georges River Council’s Website: [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au)

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

Please note, that an approval for a new or modified vehicular crossing will contain the approved access and/or alignment levels which will be required to construct the crossing and/or footpath. Once approved, all work shall be carried out by a private contractor in accordance with Council’s *Specification*

*for Vehicular Crossings and Associated Works* prior to the issue of the **Occupation Certificate**.

7. **APR6004 - Engineering - Road Opening Permit** - A Road Opening Permit must be obtained from Council, in the case of local or regional roads, or from the Roads and Maritime Services, in the case of State roads, for every opening of a public road reserve to access services including sewer, stormwater drains, water mains, gas mains, and telecommunications **before the commencement of work in the road**.

#### **REQUIREMENTS OF OTHER GOVERNMENT AGENCIES**

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

8. **GOV1007 - Sydney Water - Quick Check** - The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Care Centre to determine whether the development application will affect Sydney Water's sewer and water mains, storm water drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately stamped. For Quick Check agent details please refer to Sydney Water's website: [www.sydneywater.com.au](http://www.sydneywater.com.au)

#### **PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE**

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

9. **CC2006 - Development Assessment - Window Privacy** - The sill height of the window/s to the rear elevation of the outbuilding serving the gym, bar and powder room are to be increased to be a minimum height of 1.6m above floor level.
10. **CC2017 - Development Assessment - Design change - Driveway width** - The vehicular access driveway width must be reduced from the proposed 4.686m to achieve a maximum allowed width of 4.5m at the front boundary. Any front fence or gate opening adjustments required as a result of this reduction must be illustrated on the plans lodged with the application for the Construction Certificate.
11. **CC3018 - Development Engineering - Existing Sewer Main** - Council's records indicate that a Sewer main passes through the site.

The requirements of Sydney Waters shall be satisfied for the construction of the proposed building.

12. **CC7012 - Building - Swimming Pool Design and Construction** - The design and construction of the swimming pool and associated fencing and equipment must comply with:
  - (a) The Swimming Pools Act 1992 and Regulation 2008
  - (b) Building Code of Australia

- (c) Australian Standard 1926.1-2007 - Swimming Pool Safety
- (d) Council's Development Control
- (e) Protection of the Environment Operations Act 1997
- (f) AS1926.3-2010 - Water Recirculation Systems

No water must be placed in the pool/spa until the safety fences have been completed in accordance with the approved plans and specifications and satisfactorily inspected by the Principal Certifying Authority.

13. **CC7013 - Building - Swimming Pools - Use and Maintenance** - The following apply to the construction, use and maintenance of swimming pools and spas:
- (a) no ground level may be raised or filled except where shown specifically on the approved plans;
  - (b) all pool/spa waste water is to be discharged to the sewer according to the requirements of Sydney Water;
  - (c) the swimming pool must not be used for commercial or professional purposes;
  - (d) pool water quality must be maintained to Council's satisfaction;
  - (e) install a hydrostatic pressure relief valve in the base of the pool (in ground pools);
  - (f) provide permanently fixed depth markers at each end of the pool;
  - (g) drain paved areas to the landscaped areas;
  - (h) arrange any external pool/spa lighting to minimise glare nuisance to adjoining owners; and
  - (i) operation and sound emissions of swimming pool pump and filter equipment are to be in accordance with the POEO Act and Department of Environment and Conservation Guidelines.
14. **CC2001 - Development Assessment - Erosion and Sedimentation Control** - Erosion and sediment controls must be provided to ensure:
- (a) Compliance with the approved Erosion and Sediment Control Plan
  - (b) Removal or disturbance of vegetation and top soil is confined to within 3m of the approved building area (no trees to be removed without approval)
  - (c) all clean water run-off is diverted around cleared or exposed areas
  - (d) silt fences, stabilised entry/exit points or other devices are installed to prevent sediment from entering drainage systems or waterways
  - (e) all erosion and sediment controls are fully maintained for the duration of demolition, excavation and/or development works
  - (f) controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadway
  - (g) all disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar
  - (h) Compliance with Managing Urban Stormwater - Soils and Construction (Blue Book) produced by Landcom 2004.

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

15. **CC2009 - Development Assessment - Pre-Construction Dilapidation Report - Private Land** - A qualified structural engineer shall prepare a Pre-



Construction Dilapidation Report detailing the current structural condition of adjoining premises including but not limited to all properties with a boundary adjoining the site.

The report shall be prepared at the expense of the beneficiary of the consent and submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

A copy of the pre-construction dilapidation report is to be provided to the adjoining properties (subject of the dilapidation report), a minimum of five (5) working days prior to the commencement of work. Evidence confirming that a copy of the pre-construction dilapidation report was delivered to the adjoining properties must be provided to the Principal Certifying Authority.

16. **CC2002 - Development Assessment - Site Management Plan - Minor Development** - A Site Works Plan detailing all weather access control points, sedimentation controls, fencing, builder's site sheds office, amenities, materials storage and unloading arrangements must be submitted with the application for the Construction Certificate.
17. **CC2008 - Development Assessment - Landscape Plan** - A detailed landscape plan, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted prior to the issue of the Construction Certificate. The plan must include:
  - (i) Location of existing and proposed structures on the site including existing trees (if applicable);
  - (ii) Details of earthworks including mounding and retaining walls and planter boxes (if applicable);
  - (iii) Location, numbers and type of plant species;
  - (iv) Details of planting procedure and maintenance;
  - (v) Details of drainage and watering systems.
18. **CC2011 - Development Assessment - BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No. 641569S, must be implemented on the plans lodged with the application for the Construction Certificate.
19. **CC2033 - Development Assessment - Compliance with the Swimming Pool Act 1992** - The alterations and additions to the dwelling house and/or the construction of the new dwelling house subject of this consent must not generate any non-compliances with the Swimming Pools Act 1992, Swimming Pool Regulation 2008, Building Code of Australia and/or AS 1926.1-2007 - Swimming Pool Safety. Details of compliance to be illustrated on the plans lodged with the application for the Construction Certificate.
20. **CC5002 - Trees - Tree Protection and Retention** - All trees located at 21 and 25 Marine Drive, Oatley are to be retained, protected and maintained during demolition, excavation and construction of the site. The tree protection measures must be undertaken in accordance *AS4970-2009 Protection of trees on development sites*. Details of the tree protection measures to be implemented must be provided with the application for a Construction

Certificate by a suitably qualified Arborist (AQF Level 4 or above in Arboriculture) and must be retained thorough all stages of construction.

21. **CC5003 - Trees - Tree Removal and Replacement - Private Land** - Permission is granted for the removal of the trees as recommended by the 'Arboricultural Report and Construction Impact Assessment' prepared by NSW Tree Services Pty Ltd dated 29 September 2015.

The following replacement trees are to be incorporated into the landscape plan and planted prior to the issue of an Occupation Certificate.

- Three (3) x *Angophora costata* to be planted in the same location as T6, T7 and T8.
- Three (3) x *Angophora costata* to be planted 3m apart at the rear of the property behind the entertainment area located adjacent to T1.
- Two (2) x *Eucalyptus haemastoma*.are to be planted on the site within the front setback of the property.

The minimum pot size at time of planting will be equivalent to 75 litre (min) containerised stock. The trees are to conform to the NATSPEC guide for assessing the quality of and purchasing of landscape trees by Ross Clarke, 2003

Details of the species and planting locations of the replacement plants must be included on the landscape plan and site plan prior to the issue of a Construction Certificate.

If the replacement trees are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species. If the trees are found dead before they reach a height where they are protected by Council's Tree Management Controls, they must be replaced with the same species.

All advanced trees are to be planted in holes at least 450mm square and 450mm deep, containing good quality soil and humus. In lawn areas, grass is to be kept back for a radius of at least 450mm from stems and trunks, a depression should be formed for the collection of water and the area mulched. The mulch is to be installed to a depth of 75-90mm to all mass planted garden areas and around the base of the trees in lawn areas.

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

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

- (g) swimming pool design
  - (h) retaining walls
  - (i) stabilizing works
  - (j) structural framework
23. **CC7010 - Building - Geotechnical Reports** - The applicant must submit a Geotechnical Report, prepared by a suitably qualified Geotechnical Engineer who holds the relevant Certificate of accreditation as required under the Building Professionals Act 2005 in relation to dilapidation reports, all site works and construction. This is to be submitted **before the issue of the Construction Certificate** and is to include:
- (a) Investigations certifying the stability of the site and specifying the design constraints to be placed on the foundation, any earthworks/stabilization works and any excavations.
  - (b) Dilapidation Reports on the adjoining properties including all properties with a boundary adjoining the site, prior to any excavation or site works. The Dilapidation Report is to include assessments on, but not limited to, the dwellings at those addresses and any outbuildings, structure, swimming pools, external paths, grounds etc. This must be submitted to the Certifying Authority and the adjoining residents as part of the application for the Construction Certificate. Adjoining residents are to be provided with the report five (5) working days prior to any works on the site.
  - (c) On-site guidance by a vibration specialist during the early part of excavation.
  - (d) Rock breaking techniques. Rock excavation is to be carried out with tools such as rock saws which reduce vibration to adjoining buildings and associated structures.
  - (e) Sides of the excavation are to be piered prior to any excavation occurring to reinforce the walls of the excavation to prevent any subsidence to the required setbacks and neighbouring sites.
24. **CC3004 - Development Engineering - Stormwater Drainage Plans** - Stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a qualified practising hydraulics engineer (with details of qualifications being provided) in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (1987) and Council's Stormwater Drainage Guidelines, **shall accompany the application for the Construction Certificate.**

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

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

25. **PREC2001 - Building regulation - Site sign - Soil and Erosion Control Measures** - Prior to the commencement of works (including demolition and excavation), the durable site sign issued by Georges River Council in

conjunction with this consent must be erected in a prominent location on site. The site sign warns of the penalties which apply to pollution, storing materials on road or footpath and breaches of the conditions relating to erosion and sediment controls. The sign must remain in a prominent location on site up until the completion of all site and building works.

26. **PREC2002 - Development Assessment - Demolition and Asbestos** - The demolition work shall comply with the provisions of Australian Standard AS2601:2011 - Demolition of Structures, NSW Work Health and Safety Act 2011 and the NSW Work Health and Safety Regulation 2011. The work plans required by AS2601-2001 shall be accompanied by a written statement by a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the safety statement shall be submitted to the Principal Certifying Authority prior to the commencement of works.

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

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

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

27. **PREC2008 - Development Assessment - Demolition Notification Requirements** - The following notification requirements apply to this consent:

- a) The developer /builder must notify adjoining residents five (5) working days prior to demolition. Such notification is to be a clearly written note giving the date demolition will commence, contact details of the developer/builder, licensed asbestos demolisher and the appropriate regulatory authority. Notification is to be placed in the letterbox of every premises (including every residential flat or unit, if any) either side and immediately at the rear of the demolition site.
- b) Five (5) working days prior to demolition, the developer/builder is to provide written notification to Georges River Council advising of the demolition date, details of the WorkCover licensed asbestos demolisher and the list of residents advised of the demolition.
- c) On demolition sites where buildings to be demolished contain asbestos, a standard commercially manufactured sign containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm is to be erected in a prominent visible position (from street frontage) on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos material has been removed from the site to an approved waste facility.

28. **PREC2009 - Development Assessment - Demolition work involving asbestos removal** - Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 458 of the Work Health and Safety Regulation 2011.
29. **PREC6001 - Engineering - Dial before your dig** - The applicant shall contact “Dial Before You Dig on 1100” to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from “Dial Before You Dig” shall be forwarded to Council’s Engineers for their records.
30. **PREC7001 - Building - Registered Surveyor’s Report - During Development Work** - A report must be submitted to the Principal Certifying Authority at each of the following applicable stages of construction:
- (a) Set out before commencing excavation.
  - (b) Floor slabs or foundation wall, before formwork or commencing brickwork.
  - (c) Completion of Foundation Walls - Before any construction of flooring, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans.
  - (d) Completion of Floor Slab Formwork - Before pouring of concrete/walls construction, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans. In multi-storey buildings a further survey must be provided at each subsequent storey.
  - (e) Completion of any Pool Formwork - Before concreting of pool shell, detailing the location of the pool relative to the adjacent boundaries and its height relative to the datum shown on the approved plans.
  - (f) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries.
  - (g) Completion of all Work - Detailing the location of the structure (including eaves/gutters) relative to adjacent boundaries and its height relative to the datum shown on the approved plans. A final Check Survey must indicate the reduced level of the main ridge.
  - (h) Other.

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

## **DURING WORK**

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

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

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

32. **CON2002 - Development Assessment - Ground levels and retaining walls** - The ground levels of the site shall not be excavated, raised or filled, or retaining walls constructed on the allotment boundary, except where indicated on approved plans or approved separately by Council.

33. **CON2003 - Development Assessment - Swimming Pools - Filling with water** - No water must be placed in the pool/spa until the safety fences have been completed in accordance with the approved plans and specifications and inspected by the Principal Certifying Authority.

34. **CON2009 - Development Assessment - Removal & filling of Swimming Pools**

- (a) The site of the swimming pool must be filled (if necessary) so as to restore the site to the ground level (existing) adjacent to the pool, taking into account any sloping of the site, and
- (b) The swimming pool must not be filled with building demolition waste of any kind and if constructed as a concrete shell must be demolished so as to allow ground water to escape or drain to groundwater and
- (c) The fill must be certified clean imported soil or virgin excavated material (VENM) and compacted, and
- (d) Any piping or similar material must be removed from the site before the site is filled.

35. **CON6002 - Engineering - Obstruction of Road or Footpath** - The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste or skip bins, or any other matter is not permitted unless separately approved by Council under Section 138 of the Roads Act and/or under Section 68 of the Local Government Act 1993. Penalty Infringement Notices may be issued for any offences and severe penalties apply.

36. **CON8001 - Waste - Waste Management Facility** - All materials removed from the site as a result of demolition, site clearing, site preparation and, or

excavation shall be disposed of at a suitable Waste Management Facility. No vegetation, article, building material, waste or the like shall be ignited or burnt whatsoever or in association with the work on site. Copies of all receipts for the disposal, or processing of all such materials shall be submitted to the Principal Certifying Authority and a copy provided to the Manager Environmental Services, Georges River Council.

### **PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE**

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

37. **OCC4011 - Health - Public Swimming Pool/Spa - Registration** - Prior to the issue of any Occupation Certificate or occupation or use of any public pool/spa premises:

- (a) An inspection of the fit out of the public pool/spa premises must be arranged with Council's Environmental Health Officer;
- (b) a satisfactory final inspection must have been undertaken by Council's Environmental Health Officer; and
- (c) the public pool/spa premises must be registered with Georges River Council (Notification of conduct under Part 3, Clause 19 of the Public Health Regulation 2012 (as amended)).

38. **OCC2006 - Development Assessment - Post Construction Dilapidation report - Private Land** - At the completion of the construction works, a suitably qualified person is to be engaged to prepare a post-construction dilapidation report. This report is to ascertain whether the construction works associated with the subject development created any structural damage to the following adjoining premises:

- (a) All properties with a boundary adjoining the site.

The report is to be prepared at the expense of the beneficiary of the consent and submitted to the Principal Certifying Authority (PCA) prior to the issue of the Occupation Certificate. In ascertaining whether adverse structural damaged has occurred to the adjoining premises, the PCA, must compare the post construction dilapidation report with the pre-construction dilapidation report required by conditions in this consent.

Evidence confirming that a copy of the post construction dilapidation report was delivered to the adjoining properties subject of the dilapidation report must be provided to the PCA prior to the issue of the Occupation Certificate.

39. **OCC2004 - Development Assessment - BASIX Compliance Certificate** - A Compliance Certificate must be provided to the Principal Certifying Authority regarding the implementation of all energy efficiency measures as detailed in the BASIX Certificate No. 641569S, and in the plans approved with the Development Consent/ Construction Certificate, before issue of the Occupation Certificate.



40. OCC2005 - **Development Assessment - Completion of Landscape Works** - All landscape works must be completed before the issue of the Final Occupation Certificate.
41. OCC6001 - **Engineering - Vehicular crossing - Minor development** - The vehicular crossing and/or footpath works shall be constructed by a private contractor at the expense of the beneficiary of this consent, in accordance with the *Vehicular Crossing Approval* issued by Council's Engineering Services Division and in accordance with Council's Specification for Vehicular Crossings and Associated Works and the issued.

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

**Please Note:** No stencilled or coloured concrete may be used outside the boundary of the property.

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

#### **ONGOING CONDITIONS**

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

42. ONG2006 - **Development Assessment - Restriction as to use** - The approved entertainment area/gym is not to be used as a secondary dwelling at any time.
43. ONG2004 - **Development Assessment - Swimming Pools - Resuscitation Notice** - An expired air resuscitation warning notice complying with the Swimming Pools Act, 1992 must be affixed in a prominent position adjacent to the pool.
44. ONG4039 - **Health - Swimming Pools and Spas - Pump Noise** - The swimming pool/spa pump and associated equipment must be located so that the noise emitted does not exceed 5dB(A) above the background level.

If this cannot be achieved, a ventilated and sound-proofed enclosure must enclose the pump to achieve the required noise levels.

45. ONG4040 - **Health - Swimming Pools and Spas - Operation** - The operation of the pool/spa is to comply with the requirements of the:
  - (a) Public Health Act 2010 (as amended),
  - (b) Public Health Regulation 2012 (as amended),
  - (c) NSW Health Department Public Swimming Pool and Spa Pool Guidelines 1996 (as amended), and
  - (d) Australian Standard AS3633-1989 - Private Swimming Pools - Water quality (as amended).

46. **ONG2003 - Development Assessment - Maintenance of Landscaping** - All trees and plants forming part of the landscaping must be maintained on an ongoing basis. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilizing, pest and disease control and any other operations required to maintain healthy trees, plants and turfed areas.
47. **ONG4018 - Health - Amenity of the neighbourhood** - The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, dust, waste water, waste products, grit, oil or other harmful products.

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

### **ADVICE**

This advice has been included to provide additional information and where available direct the applicant to additional sources of information based on the development type.

48. **ADV2002 - Development Assessment - Site Safety Fencing** - Site fencing must be erected in accordance with WorkCover Guidelines, to exclude public access to the site throughout the demolition and/or construction work, except in the case of alterations to an occupied dwelling. The fencing must be erected before the commencement of any work and maintained throughout any demolition and construction work.

For more information visit [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

49. **ADV2008 - Development Assessment - Register your swimming pool** - Have you registered your Swimming Pool? All swimming pools in NSW are required to be registered. Fines apply for pools that are not registered. To register please visit: [www.swimmingpoolregister.nsw.gov.au/inspection](http://www.swimmingpoolregister.nsw.gov.au/inspection)

50. **ADV2009 - Development Assessment - Security deposit administration & compliance fee** - Under Section 97(5) of the Local Government Act 1993, a security deposit (or part) if repaid to the person who provided it is to be repaid with any interest accrued on the deposit (or part) as a consequence of its investment.

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

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

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

## Schedule B – Prescribed Conditions

Prescribed conditions are those which are mandated under Division 8A of the *Environmental Planning and Assessment Regulation 2000* and given weight by Section 80A (11) of the *Environmental Planning and Assessment Act 1979*.

Detailed below is a **summary** of all the prescribed conditions which apply to development in New South Wales. Please refer to the full details of the prescribed conditions as in force, at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au).

It is the responsibility of the beneficiary of this consent to determine which prescribed conditions apply.

51. **PRES1001 - Clause 97A – BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
52. **PRES1002 - Clause 98 – Building Code of Australia & Home Building Act 1989** - Requires all building work to be carried out in accordance with the Building Code of Australia. In the case of residential building work to which the Home Building Act 1989 relates, there is a requirement for a contract of insurance to be in force before any work commences.
53. **PRES1003 - Clause 98A – Erection of Signs** - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the Principal Certifying Authority and the Principal Contractor.
54. **PRES1004 - Clause 98B – Home Building Act 1989** - If the development involves residential building work under the Home Building Act 1989, no work is permitted to commence unless certain details are provided in writing to Council. The name and licence/permit number of the Principal Contractor or Owner Builder and the name of the Insurer by which work is insured under Part 6 of the Home Building Act 1989.
55. **PRES1007 - Clause 98E – Protection & support of adjoining premises** - If the development involves excavation that extends below the level of the base of the footings of a building on adjoining land, this prescribed condition requires the person who benefits from the development consent to protect and support the adjoining premises and where necessary underpin the adjoining premises to prevent any damage.

## Schedule C – Operational & Statutory Conditions

These conditions comprise the operational and statutory conditions which must be satisfied under the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning & Assessment Regulation 2000*. Please refer to the full details of the Act and Regulations as in force, at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au).

It is the responsibility of the beneficiary of this consent to determine which operational and statutory conditions apply.

56. OPER1001 - **Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued by the consent authority, the Council (if the Council is not the consent authority) or an accredited certifier.

An application form for a **Construction Certificate** is attached for your convenience.

57. OPER1002 - **Appointment of a Principal Certifying Authority** - The erection of a building must not commence until the beneficiary of the development consent has:

- (a) appointed a Principal Certifying Authority (PCA) for the building work; and
- (b) if relevant, advised the PCA that the work will be undertaken as an Owner-Builder.

If the work is not going to be undertaken by an Owner-Builder, then the beneficiary of the consent must:

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

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

58. OPER1003 - **Notification of Critical Stage Inspections** - No later than two (2) days before the building work commences, the PCA must notify:

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

59. OPER1004 - **Notice of Commencement** - The beneficiary of the development consent must give at least two (2) days notice to the Council and the PCA of their intention to commence the erection of a building.

A **Notice of Commencement Form** is attached for your convenience.

60. OPER1007 - **Critical Stage Inspections** - The last critical stage inspection must be undertaken by the Principal Certifying Authority. The critical stage inspections required to be carried out vary according to Building Class under the Building Code of Australia and are listed in Clause 162A of the Environmental Planning and Assessment Regulation 2000.

61. OPER1008 - **Notice to be given prior to critical stage inspections** - The principal contractor for a building site, or the owner-builder, must notify the principal certifying authority at least 48 hours before each required inspection needs to be carried out.

Where Georges River Council has been appointed PCA, forty eight (48) hours notice in writing, or alternatively twenty four (24) hours notice by facsimile or telephone, must be given to when specified work requiring inspection has been completed.

62. OPER1009 - **Occupation Certificate** - A person must not commence occupation or use of the whole or any part of a new building unless an Occupation Certificate has been issued in relation to the building or part.

Only the Principal Certifying Authority appointed for the building work can issue the Occupation Certificate.

An **Occupation Certificate** Application Form is attached for your convenience.

If you need more information, please contact the Senior Development Assessment Officer, below on 9330-6400 during normal office hours.