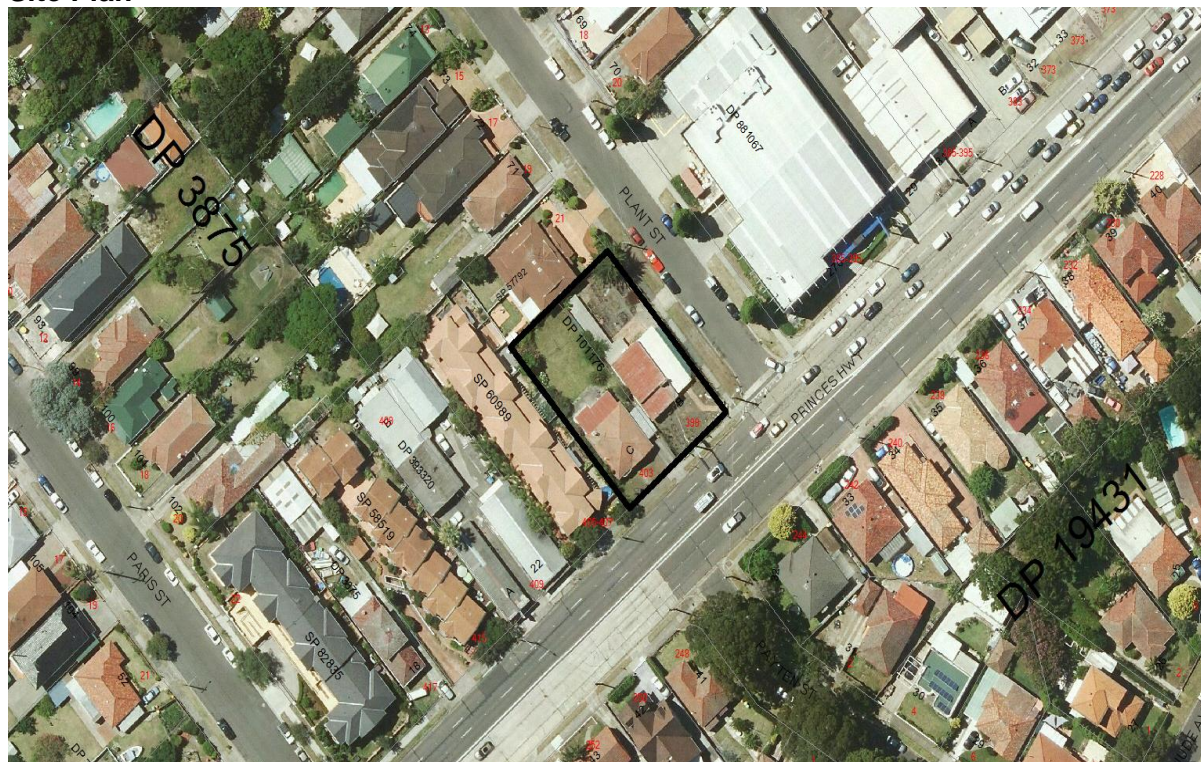


## REPORT TO GEORGES RIVER COUNCIL IHAP MEETING OF 8 September 2016

<b>IHAP Report No</b>	1	<b>Development Application No</b>	DA2016-0075
<b>Site Address &amp; Ward Locality</b>	399-403 Princes Highway, Carlton Kogarah Bay Ward		
<b>Proposal</b>	Demolition of existing buildings and construction of a five (5) storey residential flat building with basement car parking and strata subdivision		
<b>Report Author/s</b>	Greg Hansell – Senior Planner		
<b>Zoning:</b>	R3 Medium Density Residential		
<b>Date of Lodgement</b>	28 April 2016		
<b>Owner</b>	Hwyflora Pty Ltd		
<b>Applicant</b>	Mr M Murr		
<b>Submissions</b>	20 submissions of objection		
<b>Cost of Works</b>	\$4,400,000.00		
<b>Issues</b>	Site isolation; potential site contamination; density, bulk and scale; urban design quality; residential amenity impacts		
<b>Recommendation</b>	That the application be approved in accordance with the conditions included in the report.		

### Site Plan



## **Executive Summary**

### **Proposal**

1. Council is in receipt of an application for demolition of existing buildings and construction of a five (5) storey residential flat building with basement car parking and strata subdivision on the subject site.

### **Site and Locality**

2. The site is located off the western corner of Princes Highway and Plant Street at Carlton. A vacant building and yard area previously used as a retail plant nursery is located on the north eastern half of the site. A single storey, brick clad/tile roofed dwelling is located on the south western half of the site.
3. Immediately to the south west of the site is a small townhouse complex. Immediately to the north west is an attached dual occupancy. Across the road to the north east is an Office Works retail outlet. Across the highway to the south east are detached dwelling houses.

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

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

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

5. The proposal involves variations to several controls in KDCP 2013 including most notably the building height, density and setback controls. The proposed variations are acceptable on merit having regard to the relevant objectives and circumstances of the case. The bulk, scale and density of the proposal are generally consistent with council's vision for future development of the site and locality as expressed in the New City Plan.

### **Submissions**

6. 20 submissions of objection were received raising the following key issues:
  - Site isolation
  - Potential site contamination
  - Density, bulk and scale
  - Residential amenity impacts
  - Traffic and parking impacts

### **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. 75/2016 should be approved subject to conditions.

## **Report in Full**

### **Proposal**

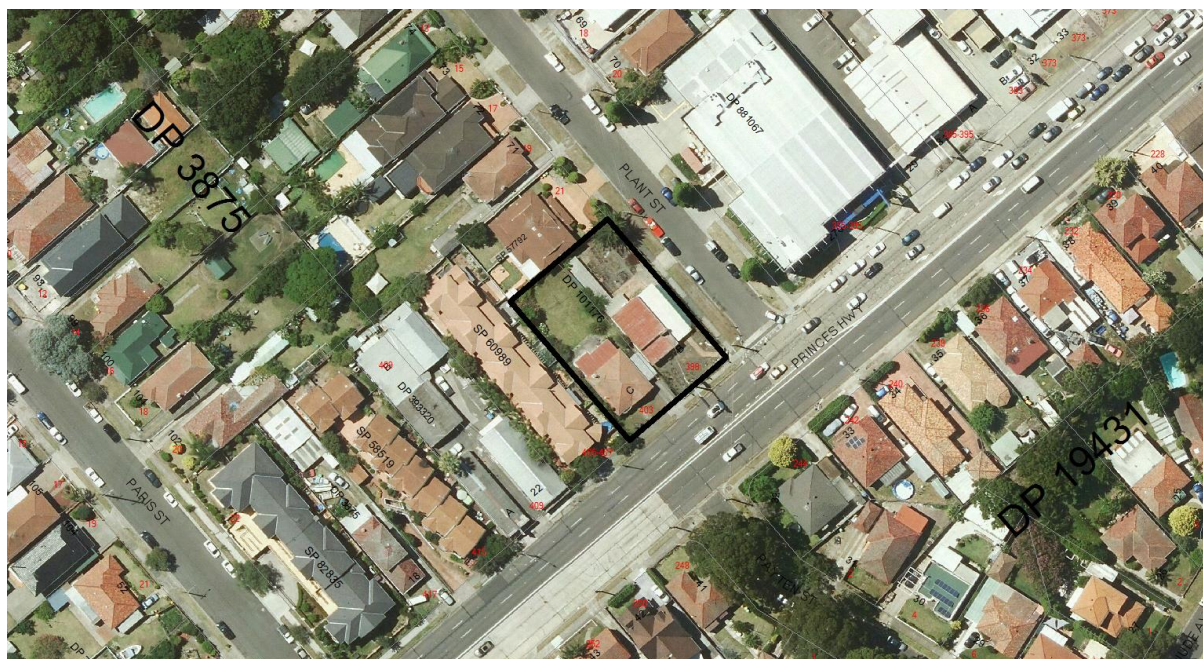
8. Council is in receipt of an application for demolition of existing buildings and construction of a five (5) storey residential flat building with basement car parking and strata subdivision on the subject site.
9. The proposed building includes 22 x 2 bedroom units distributed over five (5) floor levels. The units are characterised by a variety of apartment design typologies including corner, maisonette, single aspect and cross-through apartments. The associated car parking area is provided over two (2) basement levels and includes 34 resident car spaces and five (5) visitor car spaces. A communal open space area is provided on the rooftop above the uppermost floor level.
10. Vehicular access to and from the basement car park is provided via a single driveway access point in Plant Street. The main pedestrian access into the building is provided via a common lobby accessed from Plant Street. The building includes lift access from the basement car parking levels to all but two (2) apartments and the rooftop communal open space.
11. The uppermost floor level is well setback from the majority of the perimeter of the floor level immediately below such that the proposed building takes on a 'stepped' built form and its five (5) storey scale is less pronounced. The external walls of the building include a mixture of face brickwork, rendered and painted concrete, timber feature panelling and different forms of fenestration and acoustic/privacy screening. The roof of the building is comprised of a flat concrete slab.

### **Site and Locality**

12. The site is located off the western corner of Princes Highway and Plant Street at Carlton. It comprises of two (2) rectangular shaped lots sharing a common boundary that divides it into north eastern and south western halves. It has an overall area of 1256.3m<sup>2</sup> and street frontages of 29.87m and 42.06m to Princes Highway and Plant Street respectively.
13. A vacant building and yard area previously used as a retail plant nursery is located on the north eastern half of the site. A single storey, brick clad/tile roofed dwelling is located on the south western half of the site. The landform of the site is moderately sloped and falls away in a south easterly direction towards the highway. There is no substantial vegetation on the site apart from two (2) Norfolk Island pine trees located in its northern corner adjacent to Plant Street.
14. Immediately to the south west of the site is a townhouse complex. Immediately to the north west is an attached dual occupancy. Across the road to the north east is an Office Works retail outlet. Across the highway to the south east are detached dwelling houses.



15. The site is exposed to significant road traffic noise due to its direct frontage onto Princes Highway. It is also located within relatively short walking distance of a small retail/commercial strip, centred around the intersection of Princes Highway and Park Road to the north east. The wider locality is characterised by a mix of land uses and building types including detached dwelling houses, townhouses and a variety of commercial/retail activities.



## Background

16. Development Advisory Service Application No. 24/2012 for construction of a four (4) storey residential flat building including 20 units and basement car parking was submitted on 14 November 2012 and written comments followed via letter dated 30 November 2012. The written advice concluded that the proposal resulted in significant departures from council's requirements and also demonstrated design deficiencies and issues with amenity, both internally and to adjoining neighbours and that any development application lodged in the form as currently submitted would not be supported.
17. Development Advisory Service Application No. 36/2015 for construction of a five (5) storey residential flat building including 22 units and basement car parking (along the lines of the current application) was submitted on 21 December 2015 and written comments from the St. George Design Review Panel followed via email dated 10 February 2016. The written advice raised several design quality issues over the context, built form, scale, density, landscaping, amenity and aesthetics of the proposal and concluded that the design could not be supported in its present form and should be amended in line with the panel's comments for its reconsideration.
18. A brief history of the current development application is provided as follows:
- The application was submitted on 28 April 2016.
  - The application was placed on exhibition, with the last date for public submissions being 25 May 2016. 20 submissions of objection were received.

- The application was reviewed by the St. George Design Review Panel (DRP) at its meeting held on 2 June 2016 and the relevant minutes of the DRP were forwarded to the applicant by email dated 10 June 2016.
- The applicant was requested by letter dated 24 June 2016 to address a range of issues related to site isolation/amalgamation, potential site contamination, floor space ratio, building height, urban design quality, car park and vehicular access design, waste management and building code requirements.
- Revised plans and further information addressing the above issues were received on 20 July 2016 and 1 August 2016.
- The detailed site investigation report addressing potential site contamination was received on 5 August 2016.
- Final revised plans were received on 16 August 2016. These revised plans are the subject of the assessment in this report.

## Section 79C Assessment

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

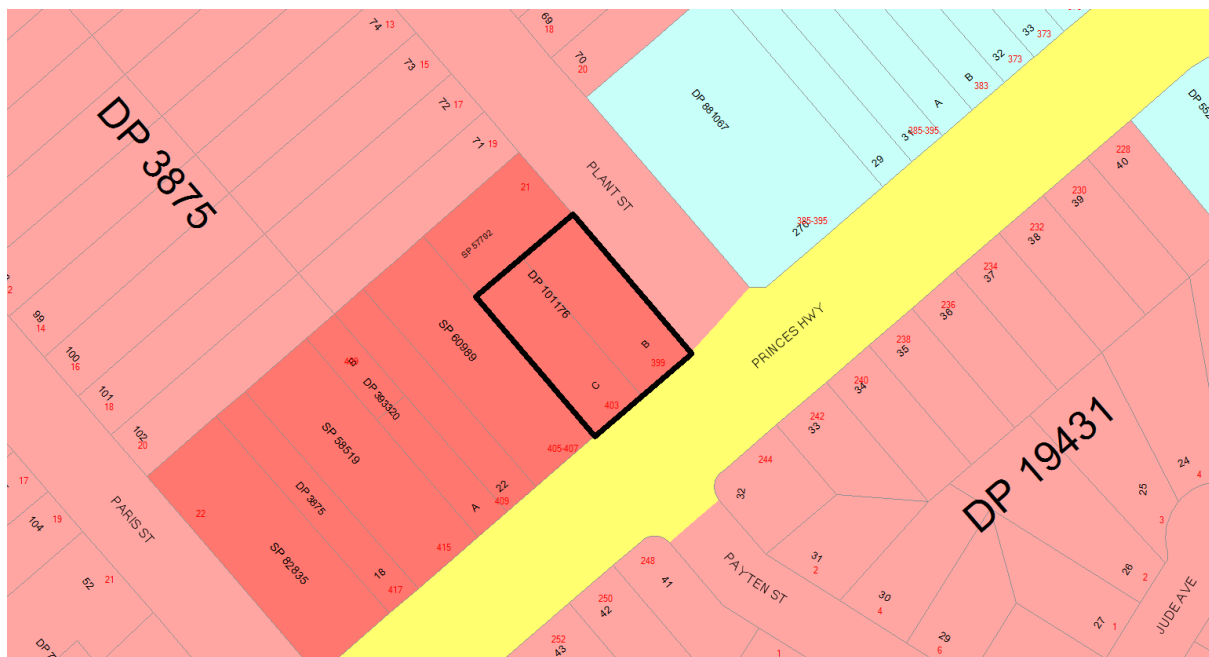
### ***(a)(i) The provisions of any environmental planning instrument***

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

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

##### **Clause 2.1 – Land Use Zones**

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



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

### Clause 4.1A - Minimum Lot Sizes

21. A minimum lot size of 1000m<sup>2</sup> is prescribed for development for the purpose of residential flat buildings in R3 Medium Density Residential zones (as in the case of the subject site). The subject site has an overall site area of 1256.3m<sup>2</sup> thus readily satisfying this development standard.

## **Part 5 – Miscellaneous Provisions**

### Clause 5.9 – Preservation of Trees or Vegetation

22. The proposed development involves the removal of two (2) Norfolk Island pine trees located in the northern corner of the site adjacent to Plant Street. Council's tree assessment officer has reviewed the proposal and raises no significant concerns with respect to the removal of these trees, subject to the provision of replacement tree planting in appropriate locations on the site. More specifically, these trees are considered inappropriate for a development site, noting that they have not reached full maturity. The requirement for replacement tree planting may be addressed by suitable conditions of consent.

### Clause 5.10 – Heritage Conservation

23. 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

24. 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

25. The proposed earthworks are considered acceptable having regard to the provisions of this clause, as the works are not likely to have any detrimental impacts on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. Given the depth and extent of the proposed excavation works and close proximity of these works to adjoining properties, a range of conditions aimed at minimising risks of damage to those properties during such works are recommended in the event of approval of the proposal.

### Clause 6.3 – Flood Planning

26. The subject site is identified as flood planning land on the Flood Planning Maps. Council's stormwater drainage engineer has reviewed the proposal and raises no significant concerns in terms of the matters for consideration under this clause including flood compatibility, effect on flood behaviour, risk to life, impact on the environment and social and economic costs, subject to the imposition of suitable conditions of consent. Most importantly, the habitable floor levels of the residential flat building are above the relevant flood planning levels.

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

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

## State Environmental Planning Policy (Infrastructure) 2007

28. Due to the location of the subject site immediately adjacent to a classified road carrying significant traffic volumes and the residential nature of the proposal, the provisions of Clauses 101 and 102 of State Environmental Planning Policy (Infrastructure) 2007 relating to traffic impact and road traffic noise are relevant. These matters are discussed as follows.

### Traffic Impacts on Princes Highway

29. Clause 101(2) sets out provisions relating to development with frontage to classified roads, including the following:

*The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:*

*(a) where practicable, vehicular access to the land is provided by a road other than the classified road, and*

*(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*

*(i) the design of the vehicular access to the land, or.....*

*(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land.....*

30. Princes Highway adjacent to the site is a state (classified) road and therefore the above provisions are triggered. All vehicular access to and from the site is confined to a combined ingress/egress driveway located off Plant Street. Further, this access point is located as far as practicable from the Highway. Given the proposed location of the access point well away from the highway and the residential character and relatively low traffic generating potential of the proposal, it is concluded that the safety, efficiency and ongoing operation of Princes Highway will not be adversely affected.

### Road Traffic Noise

31. Clause 102(3) sets out provisions relating to development for the purposes of a building for residential use on land adjacent to a road with an annual average daily traffic volume (AADT) of more than 40,000 vehicles, including the following:

*If the development is for the purposes of a building for residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:*

*(a) in any bedroom in the building—35 dB(A) at any time between 10 pm and 7 am,*

*(b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

32. Princes Highway adjacent to the site has an AADT of more than 40,000 vehicles and therefore the above provisions are triggered. The traffic noise impact assessment prepared by Alan Parks Consulting (as submitted with the application) indicates that a satisfactory level of internal amenity in line with the above noise criteria can be achieved, subject to incorporation of various acoustic attenuation measures including the use of double glazing on proposed windows subject to greatest noise exposure. The traffic noise impact assessment was referred to Council's Environmental Health & Regulatory Services Unit (EH&RS Unit) for review and comment. No issues have been raised in terms of the content and conclusions of that assessment, subject to its recommendations being reinforced by suitable conditions of consent.

### **State Environmental Planning Policy No. 55 – Remediation of Land**

33. Council's records and visual inspections of the site indicate that it has been used as a retail plant nursey from the 1980's and as a motor vehicle sales premises prior to that use. Horticultural activities are listed amongst the activities that may cause contamination as outlined in Table 1 of the contaminated land planning guidelines accompanying State Environmental Planning Policy No. 55 – Remediation of Land (SEPP No. 55).
34. In accordance with the provisions of Clause 7 of SEPP No. 55, the applicant was required to carry out a preliminary investigation of the land concerned in accordance with the contaminated land planning guidelines and provide council with a report specifying the findings of this investigation. The applicant was also advised that following council's consideration of this report, they may be required to carry out and provide a report on a detailed investigation (as referred to in the contaminated land planning guidelines) if it is considered that the findings of the preliminary investigation warrant such an investigation.
35. The applicant has since submitted a detailed site investigation report prepared by EIA Australia in accordance with the contaminated land planning guidelines. This report concludes as follows:

*The property located at 399 Princes Highway, Carlton NSW was the subject of a Detailed Site Investigation that was conducted in order to assess the nature and degree of on-site soil contamination associated with current and former uses of the property. Based on the findings of this assessment it was concluded that:*

- *The site covers a total area of approximately 660m<sup>2</sup>. At the time of investigation, the site was an unoccupied nursery/retail garden centre, consisting of one building in the central west and outdoor roofed areas in the north west and central east portions of the site. The remaining area comprised of largely exposed (accessible) soils.*
- *Review of historical information indicated the site was used for grazing purposes prior to 1930, with commercial site use (including a car yard, car sales showroom, caravan showroom and nursery) commencing from at least 1943 and continuing until recent years.*
- *A search of SafeWork NSW Authority records from the Dangerous Goods Licensing Section confirmed that no records pertaining to the site were held.*
- *The site and surrounding properties (within 350m) were not identified on the contaminated land public record of EPA Notices, List of NSW Contaminated Sites notified to the EPA or POEO Act public register.*



- *Site inspection found no evidence of underground petroleum storage systems at the site.*
- *During this investigation, fill and natural soils were sampled from six boreholes located in a notional grid-based pattern across the site and drilled to a maximum depth of 1.5m below ground level. Sub-surface layers encountered during drilling consisted of shallow fill soils comprising primarily of sand, overlying natural, residual sand. Bedrock was not encountered during drilling, however the site is anticipated to overlay Hawkesbury Sandstone.*
- *Fill and natural soil samples were analysed by laboratory. In regards to heavy metals, reported concentrations were below both the health based and ecological based criteria. In regards to TRHs (including BTEX), PAHs, asbestos, OCPs, OPPs and PCBs, reported concentrations were below the laboratory practical quantitation limit (PQL) and therefore also below both the adopted criteria for human health and ecology.*
- *Overall, contamination was not identified in soil as part of this DSI. The likelihood of impact to underlying groundwater from site soil was low. Previously known data gaps based on the potential contamination sources have largely been addressed. However, the following data gaps remain:*
  - *Possible presence of hazardous materials in existing site structures.*
  - *Soil conditions beneath the existing site structures.*

*Based on the findings of this report and with consideration of the Statement of Limitations (Section 12), EI concludes that contamination was not identified on the site. EI considers the site to be suitable for the proposed development for land use of residential with minimal opportunities for soil access, subject to the recommendations provided in Section 11. In addition, it is understood that during site development, most areas of the site will be either removed during the basement excavation phase or retained under concrete pavement. Soils beneath the existing site structures are within the footprint of the proposed basement.*

Note: The meanings of the acronyms referred to in the second last dot point of the above conclusions are as follows-

TRH	total recoverable hydrocarbons
BTEX	monocyclic aromatic hydrocarbon compounds (benzene, toluene, ethylbenzene and xylenes)
PAH	polycyclic aromatic hydrocarbons
OCP	organochlorine pesticides
OPP	organophosphate pesticides
PCB	polychlorinated biphenyls

36. Based upon its conclusions, the detailed site investigation report prepared by EIA Australia recommends as follows:

*In view of the above findings and in accordance with the NEPM 2013 guidelines, it is considered that the site can be made suitable for the proposed development on completion of the following recommendations:*

- *Prior to any site demolition works, carry out a Hazardous Materials Survey on existing site structures to identify potentially hazardous building products that may be released to the environment during demolition and prepare an appropriate HazMat management plan for the works, if hazardous materials are identified.*
  - *Following site demolition and removal of site structures (including ground slabs), carry out a site inspection to ensure any potential contamination sources beneath existing site structures (e.g. buried asbestos) are identified and managed in accordance with the NSW EPA legislation and guidelines.*
  - *Any material being removed from site (including virgin excavated natural materials or VENM) should be classified prior to off-site disposal in accordance with the EPA (2014) Waste Classification Guidelines.*
  - *Any material being imported to the site should be assessed for potential contamination in accordance with NSW EPA guidelines as being suitable for the intended use or be classified as VENM.*
37. The detailed site investigation report was referred to Council's Environmental Health & Regulatory Services Unit (EH&RS Unit) for review and comment. No issues have been raised in terms of the form, content and conclusions of that report.
38. Based on the detailed site investigation report and the response from Council's EH&RS Unit, council may be satisfied that the site is suitable for residential use in the manner proposed, subject to the precautions as recommended in that report being implemented.

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

39. The proposed development is subject to the provisions of SEPP No. 65 which aims to improve the quality of residential apartment design in New South Wales.
40. The application was accompanied by a design verification statement from a suitably qualified designer and supporting information demonstrating that the proposal has been designed in accordance with the SEPP No. 65 design quality principles and relevant provisions of the Apartment Design Guide.
41. The initial plans that accompanied the application were referred to the St. George Design Review Panel (DRP) for consideration at its meeting of 2 June 2016. These plans were reviewed against the previous DRP comments relating to preliminary drawings submitted to council for review in conjunction with Development Advisory Service Application No. 36/2015 (refer to background section of this report). The DRP raised several design quality issues and concluded that the proposal could not be supported in its present form and should be amended as outlined in its report for reconsideration by the panel.
42. Having regard to the DRP comments, the applicant was requested to address the following urban design quality issues:

- The setback of the building relative to the highway frontage is inadequate, particularly having regard to its residential use and the residential zoning and context of the site and existing building setbacks of adjacent properties along the highway to the north-east and south-west of the site. The building including its basement levels is to be setback to better fit the existing context and allow for canopy tree planting so that the built form integrates with its surrounding residential setting.
- The height of the basement structure above ground level particularly at its southern corner is excessive and visually intrusive. The basement structure is to be reduced in height to no more than 1m above ground level.
- The common open space at ground floor level is problematic in size, dimension and functionality. The design of this space is to be reconsidered with a view to improving its amenity and usability. The main common open space is to be provided on the rooftop. This space should be located at the eastern corner of the roof, well away from adjacent residents and with a good outlook.
- The capacity of the deep soil zones for large trees is compromised by proposed on-site detention basins. On-site detention requirements are to be accommodated wholly outside the deep soil zones by way of storage tanks located beneath the driveway or within the basement car park. Any required substation should be included in the building footprint and not within landscaped areas.
- Some of the winter gardens appear to simply be internal rooms and only serve to increase the bulk of the building and the density of the development. The number and extent of winter gardens needs to be reconsidered with a view to their more judicious use. This concern particularly applies to units 4, 5 & 9 and, as a minimum, the winter gardens to these units should be deleted.
- Several of the apartments include excessive internal corridors and entry passages that provide little benefit for future residents and only serve to increase the footprint of the building. The internal layout should be reviewed so as to eliminate these excessive corridor spaces whilst at the same time achieve greater building setbacks to the highway. In particular, the long fire passages providing access to single units at the eastern corner of the building over four (4) of the floor levels could be eliminated by a review of the design of the adjoining corner units.
- The proportion of tandem car parking spaces is excessive and should be reduced given the practical issues associated with such parking arrangements. The majority of car spaces should be directly accessible from the vehicular access ways.
- Visual and acoustic privacy of the bedrooms, living rooms and courtyard areas immediately adjacent to the common open space need to be considered further in the detailed design of this space.
- The main pedestrian entry door off Plant Street should be relocated north eastwards to align with the front façade of the adjacent basement stairway access. As proposed, the deeply recessed building entry raises personal safety and security concerns.

- The proposal should include a mix of 1, 2 & 3 bedroom units so as to promote housing choice and social mix.
  - The building aesthetics need to be reconsidered with a view to achieving a more ordered and solid built form including a more simplified roofline.
43. The latest revised plans address the majority of the above issues to a reasonable degree. Where issues have not been addressed by design changes, the applicant has in some cases provided a reasonable written response. Most importantly, the revised plans have responded to the key concerns relating to building setbacks, deep soil zones, tree planting and communal open space provision.

The proposal, whilst not of superior design quality, is adequate in terms of meeting the SEPP No. 65 design quality principles, particularly taking into consideration the subsequent design changes such as the inclusion of a rooftop communal terrace and increased building setbacks to the highway to allow for deep soil, tree canopy planting.

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

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

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

45. 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.
46. Specifically, the New City Plan maintains the R3 Medium Density Residential zone that currently applies to the site and introduces development standards enabling larger scale residential development on the site including a 15m building height limit and a 1.5:1 floor space ratio limit.
47. The proposal being for the purpose of a residential flat building remains permissible with consent. Based on the floor space calculations submitted by the applicant, the proposal complies with the 1.5:1 floor space ratio limit, although it is noted that the garbage storage room has not been included in those calculations. If the garbage storage room was included in the floor space calculations, the proposal would exceed the floor space ratio limit by a negligible amount (less than 1%), but this would have little effect in terms of contributing to the perceived density of the development.

48. Based on the building height information submitted by the applicant, the proposed building generally complies with the 15m building height limit, apart from some minor rooftop elements including a lift overrun providing access to the communal rooftop terrace and balustrades and planter boxes that enclose this terrace. These rooftop elements are limited in height and footprint and located towards the eastern corner of the building such that they will not be readily perceived from immediately adjoining residential properties. Viewed from the street frontages, these rooftop elements do not create the impression of an additional storey such that the building maintains its five (5) storey appearance.
49. 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)**

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

Control	Required	Proposed	Complies?
Height from natural ground level to upper ceiling	7.2m (max)	15m+	No – see below
Height from natural ground level to roof ridge	10m (max)	15m+	No – see below
No. of Storeys	2 (max)	5	No – see below
Site Density	135m <sup>2</sup> site area per dwelling (min)	57.1m <sup>2</sup> per dwelling	No – see below
Building setback to highway frontage	5m (min)	2.5-3m to basement 2-3m to floors above	No – see below
Building setback to secondary frontage	3m (min)	1.8-3m to basement 2-3m to floors above	No – see below
Building setback to rear boundary	3m (min)	2.2m to basement 5.5m+ upper levels	No – see below
Resident parking	1.5 spaces per dwelling (33 spaces)	34 spaces	Yes
Visitor parking	1 space per 5 dwellings (5 spaces)	5 spaces	Yes
Landscaping	37% (min)	<37%	No – see below

51. The proposed variations to the controls as detailed above are acceptable having regard to the particular circumstances. The subject site together with adjacent properties fronting the highway to the south is currently designated in KDCP 2013 as a precinct for multi-dwelling housing in the form of townhouses. The above controls were formulated on the basis of anticipated development for the purpose of townhouses and not residential flat buildings.



52. Strict application of the above controls to the current proposal (particularly the building density, height and setback and landscaping controls) is not appropriate in this case given that the New City Plan permits 4-5 storey residential flat buildings with a floor space ratio of up to 1.5:1 on the site. In the absence of detailed controls to support the New City Plan, a merit based assessment having regard to the SEPP No. 65 design quality principles and the Apartment design Guide is appropriate.

#### Site Isolation Requirements

53. The site isolation requirements in KDCP 2013 are relevant to the proposal given that it excludes adjoining property No. 21 Plant Street from the development site. This property is occupied by a strata title dual occupancy and each dwelling on this property is owned separately. This adjoining property is zoned similarly to the subject site and allows for residential flat development of up to 12m in height and having a floor space ratio of up to 1:1.
54. Submissions were received during the public participation process which indicated a willingness of adjoining property owners to participate in a consolidated redevelopment. Ideally, the development site should include property No. 21 Plant Street immediately to the north west of the site so as to promote the orderly and economic development of land in keeping with the planning controls in the exhibited draft LEP (New City Plan) which increase the development potential of both sites. This adjoining property would be isolated through redevelopment of the subject site.
55. The applicant was subsequently advised to demonstrate that amalgamation of the sites is not feasible and orderly and economic use and development of the separate sites can be achieved, based on the planning principles established by the Land & Environment Court in *Melissa Grech v Auburn Council* [2004] NSWLEC 40 and *Cornerstone Property Group Pty Ltd v Warringah Council* [2004] NSWLEC 189.
56. The applicant has since submitted correspondence indicating that negotiations with the adjoining property owners have taken place both prior to and following the lodgement of the development application and reasonable attempts have been made to incorporate the adjoining property into the development site. From this documentation, it would appear that amalgamation of the sites is not feasible.
57. As mentioned earlier, the adjoining property is occupied by a strata title dual occupancy development. Whilst the controls in the New City Plan allow for a greater amount of floor space than is currently permitted, it could be argued that the adjoining property has already been developed to a reasonable extent and orderly and economic use and development of that site has already been achieved. If the adjoining property was occupied by a modest dwelling house, council's position would be entirely different and isolation of the site would be unacceptable.
58. Having regard to the circumstances of the case, the exclusion of the adjoining property from the development site is not unreasonable.

#### **Section 94 Contributions**

59. The proposed development requires payment of \$207,950.26 in Section 94 contributions based on the provisions of Council's Section 94 Contributions Plans for Open Space, Libraries and Road and Traffic Management.

60. The contribution amount is based on 22 x 2 bedroom units. A concession is given for the two (2) residential lots comprising the site.

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

61. The requirements of Australian Standard 'AS 2601-1991: The Demolition of Structures' are of relevance to the application as the proposal includes demolition of existing buildings on the site. The requirements of this standard including the management of asbestos containing materials may be readily addressed by the imposition of suitable conditions of consent.

**(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**

62. The proposed development is of a scale and character that is in keeping with the emerging character of the area based on the planning context being established under the New City Plan. Accordingly, the proposal is not considered to have a significant impact on the natural and built environment of the locality.

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

63. 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**

64. 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. 20 submissions objecting to the proposal were received as a result.
65. 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 partly in response to the design issues raised by council officers and the St George Design Review Panel and partly in response to issues raised by neighbouring property owners/occupants and generally reduce the impacts of the proposal on those properties.

66. The issues raised in the submissions are summarised and addressed as follows:

- *Non-compliance with current DCP controls for townhouses*

Comment:

67. Whilst this is correct, the proposal is acceptable on merit having regard to the more generous building height and density standards prescribed in the New City Plan. The current controls for the site are directed towards townhouse development whereas the New City Plan is now encouraging residential flat development.

- *The New City Plan (NCP) is a draft plan and therefore no consents should be given to developments that rely on the NCP until it has been gazetted*

Comment:

68. Council has recently resolved to accept and determine applications that rely upon the more generous building height and floor space ratio standards prescribed by the New City Plan provided that the land use is already permitted in the relevant zone (as in the case of the subject proposal).

- *The adjoining property in Plant Street is isolated from redevelopment and the process for addressing this issue has not been followed by the applicant*

Comment:

69. The applicant has since provided documentation to demonstrate that reasonable attempts have been made to incorporate the adjoining property into the development site. This matter is addressed in more detail elsewhere in this report.

- *The development site should include the adjoining property in Plant Street*

Comment:

70. Whilst this is the most ideal outcome in terms of achieving orderly development in accordance with the direction of the New City Plan, it is not necessarily fatal to the application, particularly considering the adjoining property has already been redeveloped for the purpose of a dual occupancy. This matter is addressed in more detail elsewhere in this report.

- *Two storey townhouses consistent with adjacent development is preferable*

Comment:

71. In the past, townhouses were the more likely anticipated form of residential development for the site. Residential flat buildings are permitted with consent on the site and the New City Plan allows these buildings to exceed two (2) storeys.

- *Illogical location for the development given its distance from public transport options*

Comment:

72. It is agreed that the site is not particularly convenient to the full range of public transport options, however the site is on a public bus route which accessed the rail system. Nonetheless, development for the purpose of a residential flat building at the density and scale proposed is anticipated by the New City Plan.

- *Site is potentially contaminated due to previous retail plant nursery use*

Comment:

73. A detailed site investigation report has been submitted and concludes that no contamination was identified on the site. This matter is addressed in more detail elsewhere in this report.

- *Soil contamination testing is required*

Comment:

74. The detailed site investigation carried out by specialists engaged by the applicant included testing of the soil for contaminants. This matter is addressed in more detail elsewhere in this report.
- *Asbestos material may be present in the buildings and under the ground surface.*

Comment:

75. Suitable conditions of consent addressing the management of asbestos during demolition and excavation are recommended.
- *A traffic impact assessment is required*

Comment:

76. As the proposal does not constitute 'traffic generating development' for the purposes of State Environmental Planning Policy (Infrastructure) 2007 and envisages no direct vehicular access onto Princes Highway, a traffic impact assessment is not required in this case.
- *Increased traffic generation and congestion in Plant Street*

Comment:

77. The proposal will have a negligible impact on Plant Street in these respects given its residential character and the small number of dwellings in the complex. Further, council's traffic engineer has not raised any significant issues in these respects.
- *Increased kerbside parking in Plant Street*

Comment:

78. The proposal includes the requisite number of resident and visitor car spaces in accordance with the relevant controls. Any overflow parking as a result of the proposal is therefore likely to be minimal and infrequent.
- *Plant Street is already congested due to Office Works, kerbside parking and the narrowness of its road carriageway allowing for only one lane of traffic when cars are parked either side*

Comment:

79. The proposal will have a negligible impact on Plant Street in these respects given its residential character and the small number of dwellings in the complex. Further, council's traffic engineer has not raised any significant issues in these respects.
- *The driveway access should be off the highway and not Plant Street*

Comment:

80. Vehicular access off the highway is not an option given that a safer alternative is available via the secondary street frontage of Plant Street. It is also most unlikely that NSW Roads & Maritime Services would grant its concurrence to such an arrangement.
- *The driveway should be relocated to the centre of the building*

Comment:

81. Although this option would reduce the visual impact of the driveway access and increase opportunities for deep soil planting around the perimeter of the site, it would bring the driveway closer to the intersection of Princes Highway and Plant Street. The current location of the driveway is the most optimum arrangement from a traffic safety perspective.
- *Plant Street is used as a 'rat run' by highway traffic to avoid the traffic lights*

Comment:

82. This is a broader issue, beyond the assessment of the merits of the proposal and its impacts.
- *The location of the driveway opposite that of Office Works and close to that premises loading dock will increase traffic congestion and conflict at that location*

Comment:

83. No issues have been raised by council's traffic engineer in this respect. If anything, the location of the proposed driveway opposite the driveway into Office Works could be beneficial in terms of providing more space for manoeuvres in and out of both sites.
- *Car parking provision beyond the minimum requirements should be considered given the existing kerbside parking and narrow street width constraints imposed by Plant Street*

Comment:

84. The proposal provides the requisite number of off-street resident and visitor car spaces in accordance with council's controls. The provision of car spaces beyond the minimum requirement is also contrary to sustainable transport objectives in that it only serves to encourage private motor vehicle use.
- *Car ownership rates of residents will exceed car parking provision leading to increased demands on already limited available kerbside parking*

Comment:

85. There is no evidence submitted to substantiate this claim. If anything, prospective residents will purchase a unit in the complex only if it suits their needs including their needs or otherwise for secure off-street parking.
- *Bicycle parking should be provided in the basement*

Comment:

86. The revised plans make provision for bicycle parking in the basement.
- *Tandem car parking is not practical and will lead to increased kerbside parking*

Comment:

87. It is agreed that tandem parking is not the most practical car parking arrangement. However, it is also not certain that this arrangement will lead to increased kerbside parking. It is only a minority of units (8 out of 22) that will have tandem car parking.



- *Noise from operation of driveway security access door impacting on adjoining property in Plant Street at all hours*

Comment:

88. These noise events will be of such an intermittent nature that they are unlikely to create significant disturbance. Suitable conditions of consent aimed at mitigating such noise may be imposed.
- *Close proximity of driveway to the existing driveway of the adjoining property in Plant Street is dangerous to children that may be playing in the front yard of that property*

Comment:

89. The location and design of the driveway is acceptable from a pedestrian safety perspective. The width and grade of the driveway where it meets the street frontage provides for adequate sight distances. No issues are raised by council's traffic engineer in this respect.
- *The proposal is a considerable distance from public transport options and shopping centres and there will be a heavy reliance on car usage*

Comment:

90. This comment is concurred with.
- *The building should be stepped down in height from the highway frontage to minimise visual bulk, overshadowing and overlooking impacts on neighbours and not a sheer 4 storey wall with balconies and sunrooms overlooking neighbours*

Comment:

91. The proposal generally satisfies the building separation requirements prescribed in the Apartment Design Guide. The proposed building setbacks to the south western and north western boundaries ensure that reasonable amenity in terms of outlook and solar access is maintained for those adjoining property owners.
- *The building should be stepped down gradually from 15m to 9m*

Comment:

92. An appropriate transition in scale with respect to the adjoining residential properties is achieved through the application of building separation requirements as prescribed in the Apartment Design Guide.
- *The building is too high considering other sites in the vicinity are limited to 12m in height under the New City Plan*

Comment:

93. The building generally complies with the 15m building height standard that applies to the site under the New City Plan.
- *The building exceeds the 15m height limit in the New City Plan*

Comment:

94. The revised plans generally comply with the 15m height limit except for some minor rooftop elements including a lift overrun providing access to the communal rooftop terrace and balustrades and planter boxes that enclose this terrace. This matter is addressed in detail elsewhere in this report.
- *The flooding constraint should not be used to justify a breach of the New City Plan height limit*

Comment:

95. The flooding constraint is no longer a factor as the proposed building generally complies with the 15m building height limit.
- *The balconies off the sunrooms/garden rooms overlooking adjacent properties should be removed or redesigned to not encroach on neighbour's privacy*

Comment:

96. This concern is warranted with regard to the substantial balconies proposed adjacent to units 21 & 22 at the fourth floor level. These balconies should be no closer than 9m from the adjacent side boundaries for the purposes of visual privacy in accordance with the building separation guidelines prescribed in the Apartment Design Guide. A suitable condition of consent requiring design changes to this effect is recommended.
- *Overlooking of adjoining properties in Plant Street from multiple levels of balconies and windows*

Comment:

97. Apart from overlooking impacts from the substantial balconies located on the fourth floor level, the visual privacy of adjoining residential properties in Plant Street will be adequately protected. The proposed building setbacks together with the generally northerly orientation of the dwellings at the north western end of the building will ensure that overlooking of those adjoining properties is reasonably minimised.
- *The height and sheer scale of the building will create adverse overshadowing impacts on neighbouring residents*

Comment:

98. Due to the location and orientation of the site, overshadowing impacts on the adjoining residential properties are largely unavoidable. The proposal has sought to reduce these impacts by adopting increased boundary setbacks in the north western half of the site. Given the scale of development anticipated by the New City Plan, such overshadowing impacts are reasonable.
- *The proposal is an overdevelopment of the site*

Comment:

99. The proposal complies with the floor space ratio standard prescribed in the New City Plan and does not represent an overdevelopment of the site.
- *The building footprint is excessive*

Comment:

100. The building footprint is not excessive as it is setback off all boundaries thus allowing for ground level open space including deep soil zones.

- *The building bulk is excessive*

Comment:

101. The proposal complies with the floor space ratio standard prescribed in the New City Plan. It also generally complies with the building height standard.

- *The bulk and scale of the building is out of character with neighbouring buildings in the street block*

Comment:

102. This comment is concurred with. However, the bulk and scale of the building is in keeping with the future character of the locality as envisaged by the New City Plan.

- *The dwelling density is excessive*

Comment:

103. The proposal complies with the floor space ratio standard prescribed in the New City Plan and hence its dwelling density is acceptable.

- *Setbacks to neighbouring properties are inadequate*

Comment:

The proposed building setbacks to neighbouring properties are adequate having regard to the building separation guidelines prescribed in the Apartment Design Guide.

- *The large pine tree should be retained as a visual buffer to the neighbouring property*

Comment:

104. The pine trees are considered by council's tree assessment officer as inappropriate for a development site, noting that they have not reached full maturity. The proposal includes screen planting along the north western boundary.

- *Fronting a major arterial road necessitates a greater setback to this frontage*

Comment:

105. The proposed building setbacks to the highway are adequate taking into account the proposed acoustic attenuation measures including double glazing.

- *Inadequate setback between driveway and neighbouring property for purposes of limiting noise and fumes from vehicles and increasing sight distances and pedestrian safety*

Comment:

106. The location and design of the driveway allows for adequate sight distances to ensure pedestrian safety and traffic safety risks are sufficiently minimised. The frequency of vehicle movements is such that associated noise and air pollution impacts will be minimal.

- *Health impacts from vehicle exhaust emissions due to proximity of driveway to adjoining property in Plant Street*

Comment:

107. The nature and frequency of vehicle movements is such that associated air pollution impacts will be minimal.

- *Proximity of waste storage room to neighbouring dwelling*

Comment:

108. This concern is concurred with. The garbage storage room has since been relocated well off the common boundary between the subject site and No. 21 Plant Street.

- *Odour impacts and vermin from waste storage room*

Comment:

109. This concern is concurred with. The garbage storage room has since been relocated well off the common boundary between the subject site and No. 21 Plant Street and well away from the front window of the adjacent duplex.

- *Visual impact of bin store forward of the building line*

Comment:

110. This concern is concurred with. The garbage storage room has since been relocated well off the common boundary between the subject site and No. 21 Plant Street and to the rear of the proposed residential flat building.

- *The bin store should be underground*

Comment:

111. Informal discussions with council's waste services officer indicate that this option is not favoured over the siting of such facilities at ground level.

- *Impact of numerous bins at kerbside and difficulties of access to the bins by waste collection vehicles due to vehicles parked at the kerb*

Comment:

112. The street frontage in Plant Street is the only suitable location for waste service collections to take place in this case.

- *The extent of neighbour notification was inadequate*

Comment:

113. Neighbour notification was carried out in accordance with KDCP 2013. The extent of notification was adequate for the scale of development proposed.

- *The information provided on-line in DA tracking was inadequate*

Comment:

114. The information provided on DA tracking was in accordance with council's protocol.

- *Inadequate information on proposed building materials*

Comment:

115. The application was accompanied by a schedule of external finishes together with a photomontage, thus providing sufficient information to enable an understanding of proposed building materials.

- *The building should use face brick finish and not cement render due to prevalence of building defects associated with render coming off*

Comment:

116. Although this issue arises from time to time, there is no evidence to suggest that it will arise in this case. Cement render is an accepted form of external treatment.

- *The issues raised by the design review panel should be addressed*

Comment:

117. Revised plans addressing most of the issues raised by the panel have been submitted in the course of assessment of the application.

- *The statement of environmental effects is biased*

Comment:

118. The statement of environmental effects is prepared on behalf of the proponent and accompanies the development application and hence may seek to present the proposal in the best light possible. The statement of environmental effects in its own right, is not solely relied on and is subject to assessment by council officers.

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

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

**Conclusion**

120. 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. Following detailed assessment, it is considered that Development Application No. 75/2016 should be approved subject to the conditions included in this report.



## Conditions of Approval

### **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:

Architectural drawings prepared by Nelson Architecture -

Drawing No. 1301-01 Amendment No. 05 dated 16 August 2016  
Drawing No. 1301-02 Amendment No. 05 dated 16 August 2016  
Drawing No. 1301-03 Amendment No. 05 dated 16 August 2016  
Drawing No. 1301-04 Amendment No. 04 dated 1 August 2016  
Drawing No. 1301-05 Amendment No. 04 dated 1 August 2016  
Drawing No. 1301-06 Amendment No. 04 dated 1 August 2016  
Drawing No. 1301-07 Amendment No. 04 dated 1 August 2016  
Drawing No. 1301-08 Amendment No. 04 dated 1 August 2016  
Drawing No. 1301-09 Amendment No. 04 dated 1 August 2016  
Drawing No. 1301-10 Amendment No. 04 dated 1 August 2016  
Drawing No. 1301-11 Amendment No. 04 dated 1 August 2016  
Drawing No. 1301-12 Amendment No. 05 dated 16 August 2016  
Drawing No. 1301-28 Amendment No. 04 dated 1 August 2016  
Drawing No. 1301-29 Amendment No. 04 dated 1 August 2016  
Drawing No. 1301-30 Amendment No. 04 dated 1 August 2016  
Drawing No. 1301-31 Amendment No. 04 dated 1 August 2016  
Drawing No. 1301-32 Amendment No. 04 dated 1 August 2016  
Drawing No. 1301-33 Amendment No. 04 dated 1 August 2016  
Drawing No. 1301-34 Amendment No. 05 dated 16 August 2016  
Drawing No. 1301-35 Amendment No. 05 dated 16 August 2016  
Drawing No. 1301-36 Amendment No. 04 dated 1 August 2016

#### **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:

- Restoration/Damage Deposit of \$30,000.00
- Builders Long Service Levy of \$15,400.00
- Driveway and Restoration Works Design Inspection Fee of \$750.00
- Asset Inspection Fee of \$110.00

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

## **(3) Restoration Deposit**

A restoration/damage deposit of \$30,000 shall be lodged with Council to ensure the completion of the following works and restoration of Council's assets damaged during the course of construction. These works are to be completed at the applicant's expense:

- Construction of a new 1.5m wide concrete footpath across the full street frontage in Plant Street.
- Installation of turf as required across all full street frontages in Plant Street and Princes Highway.

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

## **(4) Section 94 Index**

Section 94 Contributions are to be paid as detailed below in the following condition, and until paid all contributions will be indexed four (4) times a year (on the following dates) to allow for the cost increases: 31 January, 30 April, 31 July and 31 October.

## **(5) Section 94 Contributions**

As at the date of Development Consent the following contributions have been levied on the subject development under Section 94 of the Environmental Planning and Assessment Act, 1979 and the nominated Section 94 Contributions Plans:

No.1 – Roads and Traffic Management – Residential	\$1,892.36
No. 5 – Open Space 2007	\$197,459.99
No. 9 – Kogarah Libraries – Buildings	\$4,330.34
No. 9 – Kogarah Libraries - Books	\$4,267.56
<b>TOTAL</b>	<b>\$207,950.26</b>

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

**(6) Dilapidation Report**

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

- (i) All neighbouring buildings likely to be affected by the excavation as determined by the consulting engineer.
- (ii) And 405-407 Princes Highway, Carlton and 21 Plant Street, Carlton

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

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

**(7) Soil and Water Management**

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

**(8) Detailed Site Investigation Report Recommendations**

To ensure that the land is suitable for the proposed development, the site demolition and removal of site structures is to be carried out in accordance with the recommendations of the "Detailed Site Investigation Report" prepared by EI Australia (report ref: E23059 AA\_ Rev 0) dated 4 August 2016.

**(9) SEPP No 65 Certification**

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

**(10) Adaptable Housing Compliance**

The proposed development including the nominated adaptable units shall comply with the adaptable housing provisions of AS4299 – Adaptable Housing and AS1498 – Access and Mobility (Parts 1 and 2). The Adaptable Housing checklist and circulation diagram demonstrating compliance shall be submitted.

**(11) Detailed Landscape Plan**

A detailed landscape plan shall be prepared by a landscape designer or landscape architect. This plan is to be based on the approved concept landscaping drawing and is to incorporate additional tree planting in lieu of the existing pine trees to be removed from the site.

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

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

**(12) Ausgrid Sub Station**

The applicant is to confer with Ausgrid to determine if an electricity distribution substation is required. If so, shall be incorporated within the Construction Certificate and it will be necessary for the final film survey plan to be endorsed with an area having dimensions 5m x 4m over the location of the proposed electricity distribution substation to be dedicated to Council as public roadway, or as otherwise agreed with Ausgrid. Ausgrid's requirements are to be met prior to release of the occupation certificate.

**(13) Clearances to Overhead Mains**

If any part of the proposed structure, within 5m of a street frontage, is higher than 3m above footway level, the applicant is to confer with Ausgrid to determine if satisfactory clearances to any existing overhead mains will be affected. If so, the applicant is to make arrangements with Ausgrid for any necessary modification to the electrical network in question.

These works to be at the applicant's expense and Ausgrid's requirements are to be met prior to actual construction commencing on site or as agreed with Ausgrid.

**(14) Sydney Water (DA Only)**

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

Please refer to the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) for;

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

**(15) Car Park Design**

- a) The columns within the car park area shall be designed in accordance with "AS/NZS 2890.1:2004 - Off Street Car Parking. Section 5.2".
- b) The car parking spaces, aisles and driveway ramp widths and grades shall comply with the requirements of "AS/NZS 2890.1:2004 - Off Street Car Parking".

## **(16) Traffic Management Plan**

Prior to the issue of any construction certificate and any demolition or earthworks on the site, the applicant shall submit for Council's approval a "Management Plan" detailing the following elements, to safely manage vehicular and pedestrian traffic during the works at the site:

- Traffic Control Plans and details of how the company proposes to place, erect, dismantle and/or undertake the works at the site.
- All works on the road or road related areas are to be clearly delineated and designed in accordance with the relevant standards (refer to "AS 1742.3 – 2009" and the Roads and Maritime Services "Traffic Control at Worksites (TCAWS) Manual, Version 4.0, 2010").
- The Traffic Control Plans and the works must be prepared/undertaken by RMS accredited (ticketed) personnel.
- Where heavy vehicles associated with the site will be parked whilst waiting to enter the site.
- Location of loading and unloading areas for trucks.
- The route of all trucks conveying materials to and from the site.
- Demonstration that pedestrian access past the site is maintained during demolition and construction works.

## **(17) 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.

The Detailed Stormwater Plan is to address the following issues:

- a) A suitably qualified engineer is to certify that appropriate design measures have been taken to ensure that the basements are protected from flooding in the case of the on-site detention systems malfunctioning.
- b) As the maximum ponding depth within the above ground on-site detention basin is greater than 300mm, detail is to be shown how the design has allowed for safe exiting out of the basin. This is to allow for the instances of the storage being both full and empty. Certification is to be provided by a suitably qualified engineer that the design of the on-site detention system has been assessed for safety in terms of the provision of safe egress and/or the installation of fencing in accordance with the Building Code of Australia.
- c) Certification from a suitably qualified hydraulic engineer is to be prepared providing evidence and stating that adequate design measures have been adopted to ensure that the basement levels of the building are protected against flooding to the Design 1 in 100 year flood level of RL 15.5 (AHD).



**(18) 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.

**(19) On-Site Detention**

A 30.3m<sup>3</sup> On-Site Detention system with a Maximum Site Discharge of 22 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.

**(20) Garbage Room**

- a) Low level lighting is to be installed along the pathway between the bin room and the street frontage of Plant Street for occupational health and safety reasons.
- b) Two (2) external access doors are to be installed in the bin room including a door adjacent to the side pathway and a door adjacent to the common open space.

**(21) Noise from Road Traffic**

To minimise the impact of traffic noise from the adjoining major road on the occupants, the proposed development is to be constructed in accordance with the recommendations of the acoustic report 03-165 prepared by Alan Parks Consulting, entitled "Traffic Noise Impact Assessment 399-403 Princes Highway Carlton" submitted on 5 August 2016 as a part of the development application.

**(22) Setback of Balconies**

The balconies located on the fourth floor level as depicted on the above drawings shall be modified so that they are setback a minimum distance of 9m from the north western and south western boundaries of the site. The remaining roof areas are to be non-trafficable. These details are to be included on the plans accompanying any future construction certificate for the development.

**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.

**(23) 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.

**(24) Certification by Mechanical Engineer**

To ensure that adequate provision is made for ventilation of the building, mechanical and /or natural ventilation shall be provided. These systems shall be designed in accordance with the provisions of:-

- a) The Building Code of Australia;
- b) Australian Standard AS 1668 Part 1 - 1998;
- c) Australian Standard AS 1668 Part 2 - 2002;
- d) The Public Health Act 2010;
- e) The Public Health Regulation 2012;
- f) Australian Standard 3666.1 - 2002;
- g) Australian Standard 3666.2 - 2002;
- h) Australian Standard 3666.3 - 2000.

Details of all mechanical and /or natural ventilation systems, along with specific certification, provided by an appropriately qualified person, verifying compliance with the abovementioned requirements.

**(25) 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.

**(26) 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.

**(27) Ground Anchors**

Should the proposed development require the installation of ground anchors to a road reserve the following must be complied with:

- The appropriate Roads Act 1993 approvals shall be obtained.
- The anchoring is to be de-stressed once no longer required.
- The work is to be clear of all services contained within the public roadway and the required dial before you dig investigations are to be undertaken in relation to any services that may be in the proposed anchor locations.
- Public liability insurances being held by the builder/ developer with a copy being submitted to Council.
- A works-as-executed plan showing the exact location of all anchoring points being submitted to Council upon their installation.

**It is to be noted that if anchoring into adjacent private properties is required any such approval would need to be obtained from the owners of this property.**

**(28) 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.

**(29) 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.

**(30) 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.

**(31) 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.

### (32) 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.

### (33) Unexpected Finds Protocol

Any new information revealed during demolition and/or excavation works that has the potential to alter the previous findings of the Detailed Site Investigation Report shall be immediately notified to Georges River Council and the Principal Certifying Authority prior to further commencement of works.

## **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.

### (34) Inspections -Multi Unit

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

- at the commencement of building works
- prior to covering waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within a building, and
- prior to covering any stormwater drainage connections, and
- after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

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

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

- ☐ Erosion Control
- ☐ Earthworks/Excavation

- ☐ Building setout
- ☐ Concrete reinforcement
- ☐ Timber and/or steel framework
- ☐ Mechanical/Hydraulic work
- ☐ Driveways
- ☐ Landscaping
- ☐ External Finishes

**(35) 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.

**(36) 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.

**(37) Building Height - Surveyors Certificate**

The proposed building is not to be erected at a height greater than that indicated on the approved plan. A certificate from a Registered Surveyor verifying the correct Reduced Level of the ground floor slab and boundary clearances shall be submitted prior to inspection of the steel reinforcement.

**(38) 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.

**(39) 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'*.

**(40) 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.

**(41) 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.

**(42) 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.

**(43) 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.

**(44) Garbage Room**

The proposed garbage room being provided with the following:-

- a) A smooth concrete floor graded and drained to a floor waste connected to the sewer of the Water Board.
- b) The walls being cement rendered with the intersection of the walls and floor being coved to a radius of not less than 25mm.
- c) The door being close fitting to prevent the access of rats and mice.
- d) A cold water hose cock being provided for the cleaning of containers and the room itself.
- e) Ventilation being provided by means of direct connection to the outside air to the satisfaction of Council.

- f) A sign, minimum size 600mm x 600mm, directing residents not to place recyclables in garbage carts and encouraging residents to recycle. Details of an acceptable wording for the sign are available from Council.

**(45) Hours of Construction**

Construction may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no construction is to be carried out at any time on a Sunday or a public holiday.

**(46) Restriction on Hours of Excavation (other than single residential dwelling)**

Despite the general hours of construction above,

- a) The hours where rock breaking, cutting, hammering and drilling occur shall be limited to 9:00am – 4:00pm on weekdays only.
- b) A noise management plan for the above works, prepared by a suitably qualified acoustical practitioner in accordance with the Interim Noise Construction Guidelines prepared by the Department of Environment & Climate Change NSW, must be submitted to Council prior to commencement of any excavation works.

**(47) Provision of Amenities**

Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site or as specified by Workcover requirements .

- each toilet provided must be a standard flushing toilet and must be connected:
- to a public sewer; or
- if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council; or
- if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

The provision of toilet facilities must be completed before any other work is commenced.

**(48) Letter Boxes**

Suitable letter box facilities (including Owner's Corporation in the case of strata units) shall be provided in accordance with Australia Post specifications.

**(49) Oil/Silt Separator**

An oil/silt separator sized to the catchment area must be specified on the Stormwater Detailed Plans and located downstream of the proposed basement car park and prior to discharge to councils stormwater system.

**(50) Flood Compatible Materials**

All building material used to construct this addition must be made using flood proof materials up to the Flood Planning Level and this must be specified by the manufacturer. All electrical services must also be located above this level. The applicant should refer to the NSW Government Publication "Reducing Vulnerability of Buildings to Flood Damage - Guidance on Building in Flood Prone Areas", Chapter 4.3.

**(51) Car Wash**

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

**(52) Basix Certificate Details – DA Only**

Construction of building works given Development Consent must be carried out in accordance with a valid and current BASIX certificate and all required commitments must be satisfied.

**(53) Air Conditioning / Offensive Noise**

Air conditioning plant and equipment shall be installed and operated so as to not create an offensive noise as defined under the Protection of the Environment Operations Act 1997 and Protection of the Environment Operations (Noise Control) Regulation 2008.

**(54) Building Finishes**

The building finishes are to be constructed generally in accordance with the schedule of external finishes and perspective submitted with the Development Application.

**(55) Allocation of Car Parking Spaces**

A minimum of 39 off street car parking spaces shall be constructed, drained, marked and maintained at all times in accordance with the approved plans. These spaces shall be allocated as follows:

- a) 34 spaces are to be allocated to the residential units.
- b) 5 spaces are to be allocated as visitor parking spaces.

**(56) Residential Car Parking Spaces**

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

**(57) Visitor Parking**

A directional sign shall be provided at the front of the site indicating the availability of visitor parking on site. Those visitor spaces shall be marked or signposted.

**(58) OSD Markers**

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



**(59) Turning Bay**

The turning bay on the Basement 2 level shall be signposted as "Turning Bay – No Parking" or similar.

**(60) Road Occupancy Licenses**

A Road Occupancy License (ROL) shall be obtained from the Roads and Maritime Services Transport Management Centre for any works that may impact on traffic flow on the Princes Highway during demolition and construction at the site.

**(61) Works Zones**

The installation of a "Works Zone" for the site will require the approval from the Local Traffic Committee. As a result, the applicant shall provide a formal request to Council's Traffic Section with the duration and exact location of the required "Works Zone" at least 6 weeks prior to its required installation date. All costs associated with the installation of a "Works Zone" will be at the applicant's expense.

**(62) Road Closures**

A Road Closure Application form and associated documents shall be submitted to Council for approval at least 5 business days prior to any proposed lane closure for concrete pours, cranes or other activities involved in the demolition, excavation and construction on the site.

**(63) Verification of Levels**

For flood affected properties, a registered surveyor shall verify the levels of the design overland runoff path and finished floor levels to AHD and according to the approved plans.

**(64) On-Site Detention Treatment**

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

**(65) 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. The line must pass through a silt arrestor pit.

**(66) Tree Protection – Excavation**

Excavations around the trees to be retained on site or the adjoining properties shall be supervised by the Project Arborist to ensure that the root system will not adversely be affected.

Where the Tree Protection Zone (TPZ) of trees on site or adjoining sites become compromised by any excavation works, the Project Arborist shall be consulted to establish the position of any major roots and determine the necessary measures to protect these roots. The recommendations of the Arborist shall be submitted to Council prior to any further demolition or construction works taking place.

Tree Protection Zone (TPZ) around the trees to be retained are not to have soil level changes or services installed in this area. Any structures proposed to be built in this area of the trees are to utilise pier and beam or cantilevered slab construction.

**(67) 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
Syragrus romanzoffianum (Cocos Palm)	401 Princes Highway / Tree 3	1.5 metres

**(68) Tree Removal**

The trees identified in the table below may be removed:

Tree Species	Location of Tree/Tree No.	Work Required
Araucaria hetrophylla	399 Princes Highway / Tree 1	Removal
Araucaria hetrophylla	399 Princes Highway / Tree 1	Removal

All tree removals are to be carried out by a certified Tree Surgeon/Arborist to ensure that removal is undertaken in a safe manner and complies with the AS 4373-2007 - Pruning of Amenity Trees) and Tree Works Industry Code of Practice (Work Cover NSW 1.8.98).

No trees are to be removed on the site or neighbouring properties without the prior written approval of Council.

**(69) Tree Replacement**

Two (2) canopy trees are to be planted within the subject site and not within 3 metres of any existing or proposed structures. The replacement tree/s should have a minimum pot size of 75 litres.

All replacement trees are to be planted, protected and maintained prior to the issue of the final occupation certificate.

**(70) 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.

**(71) Health and Public Nuisance**

The use of the premises shall not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and Regulations. The use of the premises and the operation of plant and equipment shall not give rise to the transmission of a vibration nuisance or damage other premises.

**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.

**(72) Adaptable Housing Certification**

Certification shall be provided by a person suitably accredited by the Association of Consultants in Access Australia, verifying that the development has been constructed in accordance with the requirements of AS4299 - *Adaptable Housing* and AS1428 - *Design for Access and Mobility* and in accordance with the report and checklist submitted with the Construction Certificate.

**(73) SEPP No 65 Certification**

A design verification statement from a qualified designer shall be submitted verifying that the development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to the design quality principals of State Environmental Planning Policy No. 65.

**(74) 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.

**(75) Consolidation of Lots**

The lots covered by this development consent shall be consolidated into one lot and proof of registration of the consolidation shall be submitted to Council.

**(76) 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.sydneypwater.com.au](http://www.sydneypwater.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.

#### **(77) 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.

#### **(78) 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.

#### **(79) 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.

#### **(80) 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.

**(81) BASIX Completion Receipt**

In accordance with clause 154C of the Environmental Planning and Assessment Regulation 2000, prior to issuing a final occupation certificate the certifying authority must apply to the Director-General for a BASIX completion receipt.

**(82) Acoustic Validation**

A report prepared by an accredited Acoustic Consultant shall be submitted to the Principal Certifying Authority (PCA) certifying that the development complies with the requirements of State Environmental Planning Policy (Infrastructure) 2007, acoustic conditions of this development consent and recommendations of the acoustic report 03-165 prepared by Alan Parks Consulting, entitled "Traffic Noise Impact Assessment 399-403 Prince Highway Carlton" submitted on 5 August 2016. The acoustic report shall include post construction validation test results.

**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.

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

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

**(84) Insurance Requirements under Home Building Act 1989**

The builder or person who does the residential building work must comply with the applicable requirements of Part 6 of the Home Building Act, 1989. This means that a contract of insurance must be in force in accordance with Part 6 of that Act before any building work authorised to be carried out by the consent commences.

It is the responsibility of the builder or person who is to do the work to satisfy Council that they have complied with the applicable requirements of Part 6 of the Home Building Act, 1989.

If Council is the Principal Certifying Authority it will not carry out any inspections until a copy of the insurance certificate is received.

**(85) 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.

#### **(86) Notification of Home Building Act 1989 Requirements**

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

- (a) in the case of work for which a principal contractor is required to be appointed:
  - (i) the name and licence number of the principal contractor, and
  - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
- (b) in the case of work to be done by an owner-builder:
  - (i) the name of the owner-builder, and
  - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified above becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

#### **(87) 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.

#### **(88) 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.

### **(89) Demolition Conditions-Asbestos**

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

Written notice is to include the following details:

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

Work must not commence prior to the nominated demolition date.

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

- (d) The owner is to notify all owners and occupiers of premises on either side, opposite and at the rear of the development site five (5) working days prior to demolition. Such notification is to be clearly written on A4 size paper stating the date the demolition will commence and is to be placed in the letterbox of every premises (including every residential flat or unit, if any). The demolition must not commence prior to the date and time stated in the notification.
- (e) A demolition or asbestos removal contractor licensed under the *Work Health and Safety Regulations 2011* must undertake removal of more than 10m<sup>2</sup> of bonded asbestos (or otherwise specified by WorkCover or relevant legislation).

Removal of friable asbestos material must only be undertaken by a contractor that holds a current 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](http://www.workcover.nsw.gov.au).

#### **(ii) Worksite Safety Scaffolding**

Council is committed to worksite safety and requiring that all scaffolding is installed by competent and qualified professionals with the relative appropriate standards. The applicable Australian Standards for the scaffolding is AS/NZS1576 in respect of the design of the scaffolding and AS/NZS4576 with respect to the erection of the scaffolding. Also, you should ensure that those erecting scaffolding are appropriately qualified and have the appropriate qualifications to erect scaffolding. For further information regarding this please see [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au).

#### **(iii) Kid Safe NSW**

Kidsafe NSW has produced Safer Homes for Children Design and Construction Guidelines for builders, renovators and home owners. The guidelines identify common hazards for children and recommended practical design applications to improve child safety for all areas of the home. Free copies of the Guidelines are available from Council's Customer Service Centre, or contact Kidsafe on (02) 9845 0890 or their website <http://www.kidsafensw.org/homesafety/index.htm> for more information.

**(iv) Dial Before You Dig**

Underground pipes and cables may exist in the area. In your own interest and for safety, telephone 1100 before excavation or erection of structures. Information on the location of underground pipes and cables can also be obtained by fax on 1300 652 077 or through the following website [www.dialbeforeyoudig.com.au](http://www.dialbeforeyoudig.com.au).

**(v) Disability Discrimination Act**

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

**(vi) Demolition Waste**

Sorting your construction and demolition waste will save you money. For pricing and disposal options for sorted loads of tiles, bricks, timber concrete or asphalt call Waste Service NSW on 1300 651 116.

**(vii) Property Address**

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

**(viii) Flood Related Development Controls**

The property is identified as flood liable in the Kogarah Bay Creek Flood and Overland Flows Risk Management Study and Plan (June 2009) and as such Flood Related Development Controls will apply. For Lot B of DP 101176, the Flood Planning Level (FPL) was identified at 16.0m (AHD) and this includes a freeboard of 500 mm. The Design 100 year flood level was identified at 15.5m (AHD). For Lot C of DP 101176, the Flood Planning Level (FPL) was identified at 15.3m (AHD) and this includes a freeboard of 500 mm. The Design 100 year flood level was identified at 14.8m (AHD). The proposed ground floor level of 16.25m (AHD) is above both Flood Planning Levels and therefore acceptable with respect to flood controls. The basements have been approved below the 100 year flood levels subject to their protection from flooding up to RL 15.5m (AHD) as specified in this consent.