

**ELECTRONIC REPORT TO GEORGES RIVER LOCAL PLANNING PANEL
FOLLOWING DEFERRAL FROM MEETING OF PANEL ON 20 JUNE 2019**

LPP Report	LPP016-19A	Development Application No.	MOD2019/0005
Site Address and Ward	42 Carwar Avenue Carrs Park Kogarah Bay Ward		
Proposed Development	MOD2019/0005 seeks retrospective approval of unauthorised works and alterations and additions to the approved dwelling		
Owners	Angela and Triantrafilos Karaberas		
Applicants	Angela and Triantrafilos Karaberas		
Planner/Architect	Planner: Dreamscape Urban Planning Architect: Gelder Architects		
Date of Lodgement	11/01/2019		
Submissions	Four (4) submissions were received during re-notification of amended plans		
Cost of Works	N/A - The works are to remedy construction impacts – the development has not yet been completed.		
Local Planning Panel Criteria	Development that contravenes a development standard imposed by an Environmental Planning Instrument by more than 10%		
List of all relevant s4.15 matters	State Environmental Planning Policy (Building and Sustainability Index: BASIX) 2004, State Environmental Planning Policy 55 (Remediation of Land) Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment; State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, Draft Environmental State Environmental Planning Policy, Kogarah Local Environmental Plan 2012; Kogarah Development Control Plan 2013.		
List all documents submitted with this report for the Panel's consideration	Georges River Planning Local Panel Report 20 June 2019 Georges River Local Planning Panel Reason for Deferral 20 June 2019 Architectural Plans – amended Schedule of amendments Landscape Plan BASIX Certificate Schedule of Finishes		
Report prepared by	Senior Development Assessment Planner		
Recommendation	That the application be approved in accordance with the reasons contained within this report.		

Summary of matters for consideration under Section 4.15 Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
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<p>Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed and relevant recommendations summarised, in the Executive Summary of the assessment report?</p>	<p>Yes</p>
<p>Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?</p>	<p>Not applicable as this is a modification. The applicant has justified the non-compliances in the form of a Clause 4.6 variation.</p>
<p>Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (under s7.24)?</p>	<p>Not applicable</p>
<p>Conditions Have draft conditions been provided to the applicant for comment?</p>	<p>The conditions of consent will be made available at the time the report is published.</p>

EXECUTIVE SUMMARY

This report has been prepared following the deferral of the subject modification (MOD2019/0005) by the Georges River Local Planning Panel on 20 June 2019, which seeks consent to modify the plans approved under the original application to match the as-built works on site, as well as modifications to the yet to be built portions of the approved development on land known as 42 Carwar Avenue, Carss Park.

The DA was considered by the Georges River Local Planning Panel (LPP) on 20 June 2019. The Panel resolved to defer consideration of the modification application to enable the applicant to submit amended plans to address various matters regarding privacy, landscaping and finishes.

The applicant has submitted amended plans and additional information in response to the Panel's deferral to address the identified issues. An inspection of the site and surrounding properties was conducted on 29 September 2019.

This report details the assessment by Council Officers of the revised proposal in response to the Panels deferral reasons.

In summary, the information submitted by the applicant appropriately responds to the deferral reasons. The information provided is considered to adequately resolve the key issue relating to privacy identified in the original report.

REPORT IN FULL

A. BACKGROUND

At its meeting on 20 June 2019, the Local Planning Panel considered the subject modification and resolved the following:

Deferral

Development Application No. MOD2019/0005 seeking retrospective approval for unauthorised works and alterations and additions to the approved dwelling at 42 Carwar Avenue, Carss Park, be deferred and the applicant be invited to submit amended plans which address following:

1. *Privacy Screens*
 - (a) *Provide fixed lightweight privacy screening (obscure glass or the like) around the northern and eastern side of the rear balcony to a minimum height of 1.8m. The screen along the eastern side of the rear balcony is to be set to the line of the rear of the columns with a planter box (600mm x 600mm) to extend between the existing columns.*
 - (b) *Provide fixed obscure glazing to the southern opening of the rear balcony.*
2. *Deletion of External Stairs*
 - (a) *Delete the stair access from the balcony and provide access to the rear yard from the basement level. In this regard, the basement level shall not be filled.*
3. *Obscure Glazing*
 - (a) *Provide obscure glazing to windows W25 and W26 in Bedroom 2.*
4. *Additional Landscaping*
 - (a) *Provide additional landscaping along the eastern and northern boundaries, or adjacent to the building, to increase screening of the rear subfloor area below the balcony.*
 - (b) *Provision of an amended landscape plan which addresses items 1 and 5 above.*
5. *Revised Colour Scheme*
 - (a) *Submit a revised external colour scheme using recessive colours to reduce the apparent bulk of the building.*
6. *Retaining walls*
 - (a) *The provision of a masonry retaining wall along the side boundaries so as to accommodate the existing cut adjacent to those boundaries between the dwelling.*

Amended plans addressing the Panel's concerns, above must be submitted to the Council by 19 August 2019 otherwise the application will be determined on the information currently provided. Following receipt of this information, the Panel, as constituted on 20 June 2019 meeting will determine the application electronically, unless the Chair determines that a further public meeting is required.

B. AMENDED PLANS

The applicant provided amended plans and information on 7 August 2019 in response to the Panel reasons for deferral. These plans demonstrate the following design changes:

Basement:

- Retaining walls along the northern and southern side boundaries are masonry.
- Basement door along eastern rear boundary to access the rear yard provided, to negate the need for the stairs along the northern side elevation which are nominated as being removed.

Ground Floor:

- Changes to rear balcony – incorporation of screening and planter boxes;
- Deletion of external stairs along the northern side elevation.
- 1.8m high fixed horizontal slats along the northern side elevation.
- 1.8m high fixed horizontal slats along the eastern rear elevation.
- 600mm high x 600mm wide planter boxes located between the existing columns along the eastern rear elevation.
- Fixed obscure glazing within the opening associated with the balcony on the southern side.

First Floor:

- Obscure glazing provided to windows W25 and W26 of bedroom 2.

Aside from the revised architectural plans, the following supporting documentation accompanies the amended proposal:

- A schedule of amendments in response to the deferral prepared by Gelder Architects.
- Schedule of finishes which proposes cream and grey recessive tones prepared by Gelder Architects.
- A revised Landscape plan which incorporates embellished landscaping along the northern and southern side setbacks and rear eastern elevation prepared by Paul Scrivener Landscape Architecture.
- Revised BASIX certificate prepared by Greengauge.

The amended proposal adopts a built form similar to that of the previous design. The amended plans were notified to adjoining owners and occupiers for fourteen (14) days. In response, four (4) submissions were received, the nature of the concerns are summarised below:

- Privacy issues generated by the amended proposal;
- Bulk and scale impacts generated by the proposed development;
- Exceedance in floor space ratio and not filling of subfloor area (excessive over-excavation);
- Overshadowing;
- Building works constructed are inconsistent with the approval;

- Non-compliance with State and Local planning controls;
- Non-compliance with the original DA approval;
- Three storey development is not acceptable, development should be limited to two storeys;
- The built form is out of character;
- Location of drainage lines along the boundary and potential impacts on neighbouring properties; and
- Will the requirements of the original plans be incorporated into the modifications.

The above concerns raised have been taken into consideration in the assessment of this report. It is noted that similar issues have been previously raised and considered within the previous assessment report.

C. ASSESSMENT OF PROVIDED ADDITIONAL INFORMATION WITH REGARDS THE REASONS FOR DEFERRAL

Deferral Reason No. 1:

Privacy Screens

- (a) Provide fixed lightweight privacy screening (obscure glass or the like) around the northern and eastern side of the rear balcony to a minimum height of 1.8m. The screen along the eastern side of the rear balcony is to be set to the line of the rear of the columns with a planter box (600mm x 600mm) to extend between the existing columns.***
- (b) Provide fixed obscure glazing to the southern opening of the rear balcony.***

Applicant's response:

"Privacy Screens –

- a. Privacy screens and planter boxes. Fixed horizontal slats 1.8m high shown along northern side of the balcony.
Fixed horizontal slats 1.8m high shown along the eastern side of the balcony in line with the rear of the columns.
Planter boxes 600mm x 600mm shown between columns.***
- b. Fixed obscure glazing shown to the southern opening of the rear balcony.***

Assessment Officer's comment:

The amended proposal, as indicated on architectural plans prepared by Gelder Architects Rev C dated 7 August 2019 incorporates the required design elements.

Accordingly the matters raised in deferral reason 1 have been addressed.

Extracts of these amended design changes are depicted below.

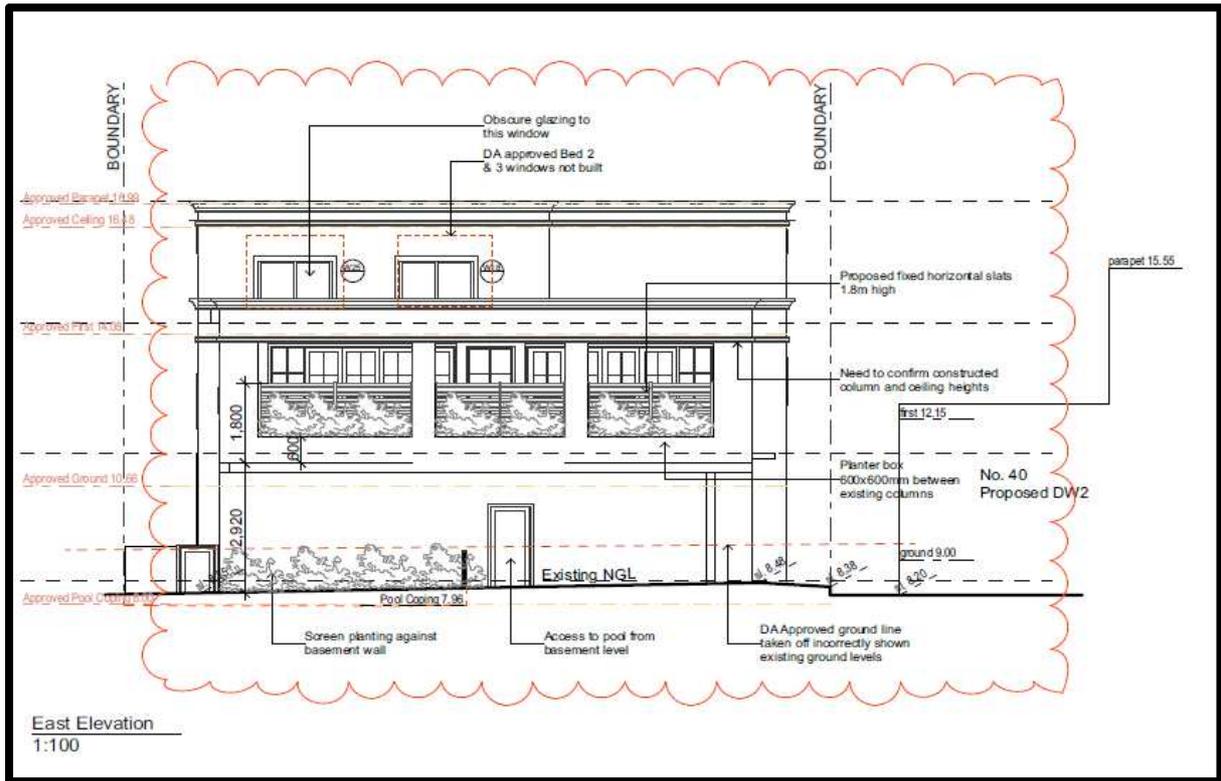


Figure 1: Extract of amended east rear elevation (Source: Gelder Architects, August 2019).

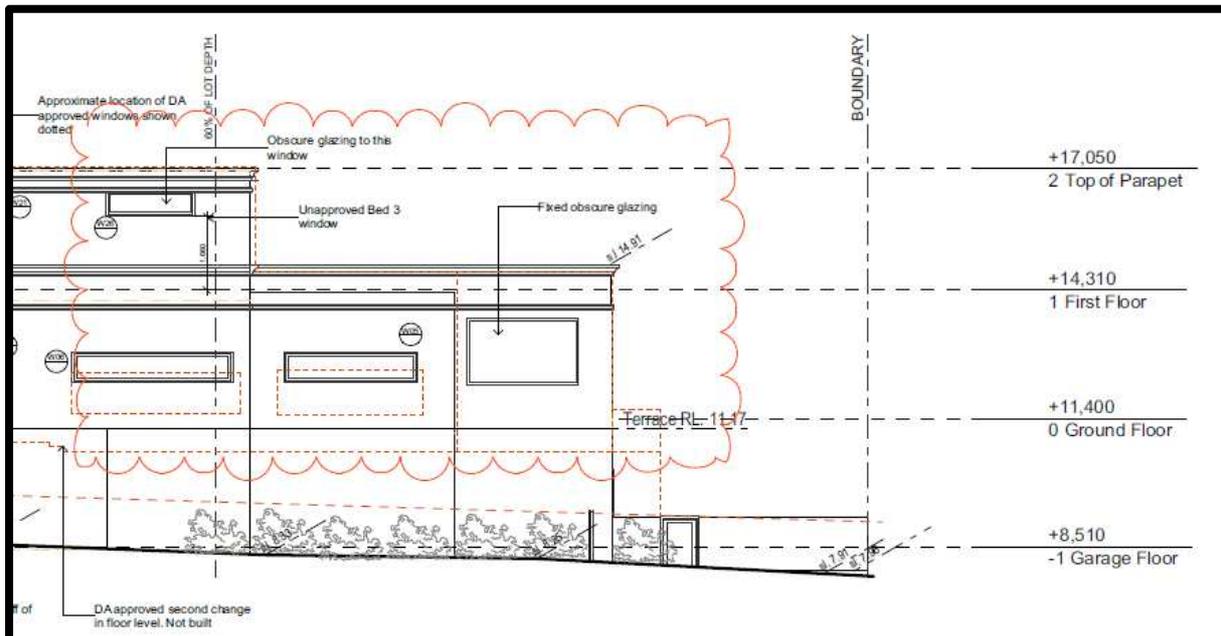


Figure 2: Extract of amended south side elevation (Source: Gelder Architects, August 19).

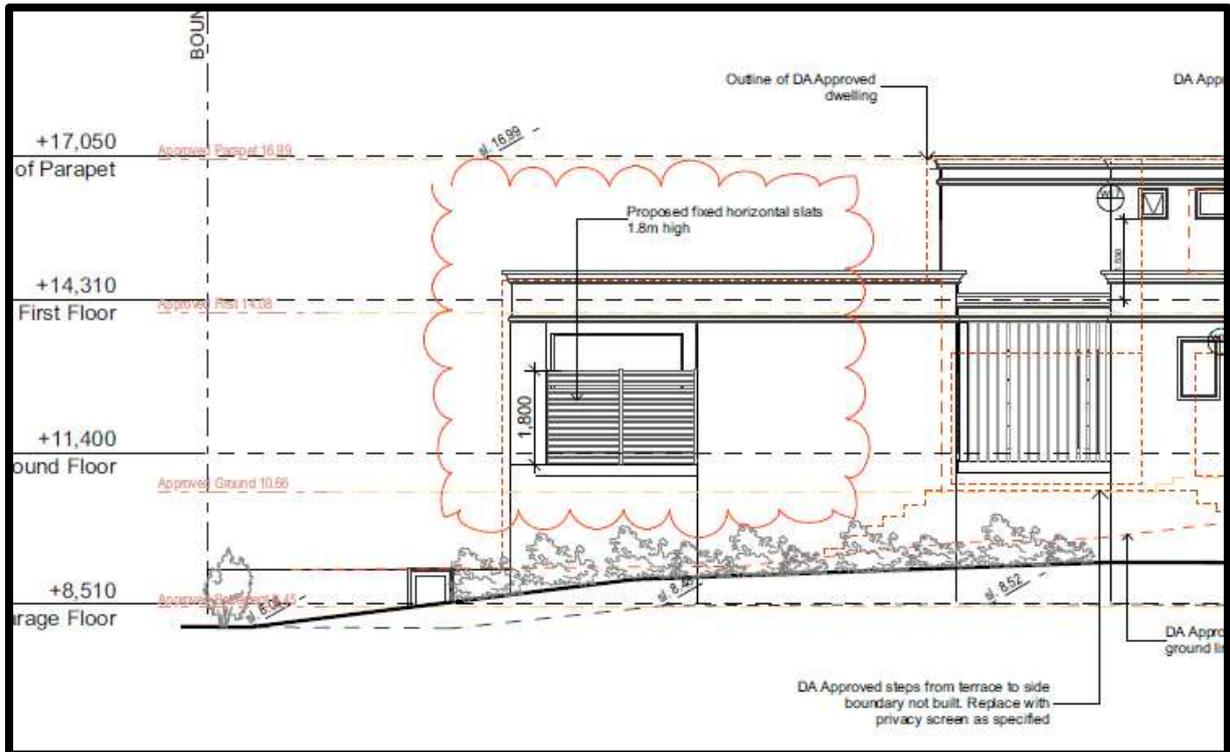


Figure 3: Extract of amended north side elevation (Source: Gelder Architects, August 19).

It is acknowledged the submitters raised concerns with these amendments noting the development is non-compliant and the works a merely a ‘band aid’ solution and does not resolve the impacts of the development on the allotments adjoining.

However, it is acknowledged the amendments made were in direct response to this deferral reason. The amendments made satisfy this reason for deferral.

Deferral Reason No. 2:

Deletion of External Stairs

- (a) Delete the stair access from the balcony and provide access to the rear yard from the basement level. In this regard, the basement level shall not be filled.***

Applicant’s response:

“Stair access from the balcony has been deleted and access to the pool is now provided from the basement”.

Assessment Officer’s comment:

The applicant has provided revised architectural plans which demonstrate the deletion of the rear staircase which provided access from the northern side of the balcony to the rear yard (as depicted on Figures 1 and 3). Access to the swimming pool is provided by a pedestrian door from the basement.

It is noted that the Deferral Reason No 2 states that *“In this regard, the basement level shall not be filled”*. The provided plans do not indicate basement fill.

It remains the view of the assessment officer that the subfloor area of basement should be backfilled, and a condition of consent remains in the recommendation in

this regard (*Condition 40(a) Basement floor/backfill*). It is considered this area should be backfilled given the clearance in ground levels to the elevated ground floor underside slab and the potential for this area to be converted into usable floor space in the future. This inclusion of this area as habitable space results in a breach of the floor space ratio applicable to the site.

Deferral Reason No. 3:
Obscure Glazing

(a) Provide obscure glazing to windows W25 and W26 in Bedroom 2.

Applicant's response:

- "a. Obscure glazing shown to windows W25 and W26 in Bedroom 2.*
- b. Amended BASIX Certificate attached showing latest changes to windows".*

Assessment Officer's comment:

The applicant has provided obscured glazing to windows on W25 and W26 in Bedroom 2 on the amended architectural plans (*as depicted on Figures 2 and 3*). A revised BASIX Certificate (A345979_02 dated 30 July 2019 prepared by Greengauge) accompanies the amended proposal with the relevant window changes meeting the necessary targets.

Deferral Reason No. 4:
Additional Landscaping

(a) Provide additional landscaping along the eastern and northern boundaries, or adjacent to the building, to increase screening of the rear subfloor area below the balcony.

(b) Provision of an amended landscape plan which addresses items 1 and 5 above.

Applicant's response:

- "a. Additional landscaping provided along eastern and northern boundaries, also along the western length of the pool to screen the subfloor wall from the balcony.*
- b. Landscape plan has been amended by the landscape designer".*

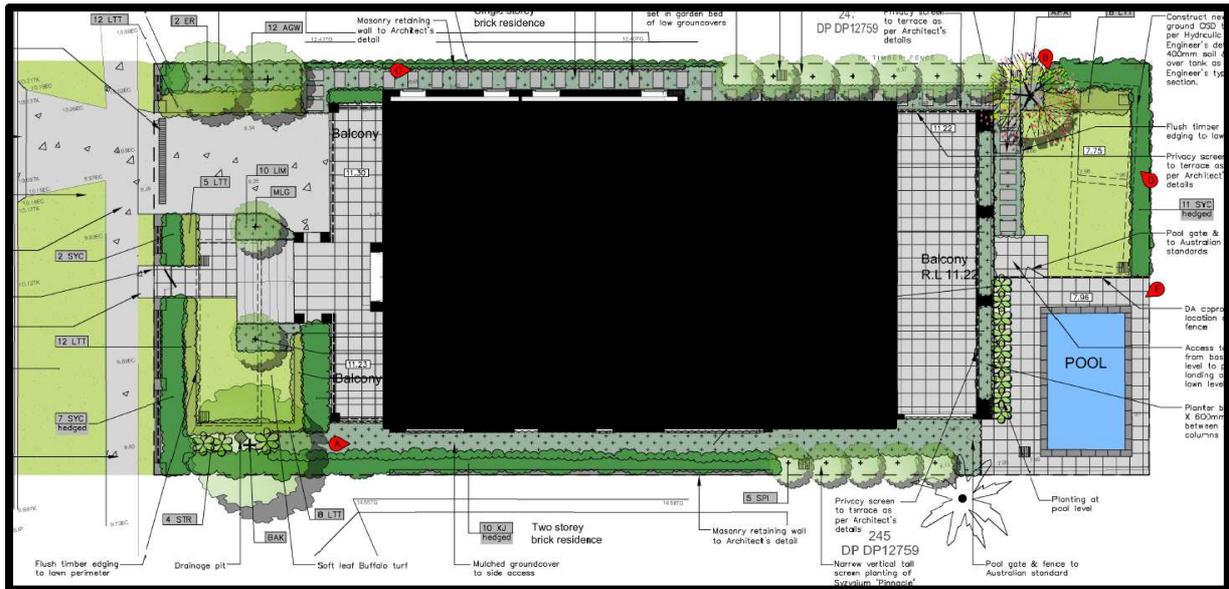


Figure 4: Extract of newly provided landscape plan (Source: Paul Scrivener Landscape Architecture, Issue B dated 30 July 2019).

Assessment Officer's comment:

The amended concept landscape plan prepared by Paul Scrivener Landscape Architecture provides additional landscaping along the northern side boundary (7 x Queensland Qondong, maturity height 7-10m), southern side boundary (5 x Pinnacle Lily Pilly, maturity height 3-5m) and eastern rear boundary (11 x Cascade Lily Pilly, maturity height 1.6 – 2.8m). Cascading ground cover is proposed in the 600mm high x 600m wide planter boxes along the rear eastern Elevation.

The amendments to the plans relating to landscaping satisfy the deferral reason number 4.

Deferral Reason No. 5:
Revised Colour Scheme

(a) Submit a revised external colour scheme using recessive colours to reduce the apparent bulk of the building.

Applicant's response:

"Revised colour scheme provided showing recessive colours".

EXTERNAL WALLS	- Rendered wall finish Taubmans colour: Foxdale
WINDOWS AND DOORS	- Aluminium framed glazing to be powder coated Dulux Colour: Pearl White
GUTTERS	- Metal gutters & fascias to be Colorbond Colour: To match external wall colour
DOWNPIPES	- To match external wall colour
PRIVACY SCREENS	- Aluminium powder coat Colorbond Colour: Basalt



Taubmans Foxdale



Colorbond Basalt

Figure 5: Extract of amended colour schedule (Source: Gelder Architects, received by Council August 19)

Assessment Officer's comment:

The applicant has provided a revised schedule of finishes prepared by Gelder Architects which comprises of two (2) neutral tones comprising of a Taubmans Foxdale (cream) and Colourbond Basalt (grey). The proposed colours are considered to be similar to that of contemporary colour schemes within the locality, and is compatible with the colour palate within the immediate visual catchment.

Deferral Reason No. 6:

Retaining walls

- (a) The provision of a masonry retaining wall along the side boundaries so as to accommodate the existing cut adjacent to those boundaries between the dwelling.***

Applicant's response:

"Masonry retaining walls shown along the side boundaries".

Assessment Officer's comment:

The amended architectural plans detail masonry retaining walls are proposed to the northern and southern boundaries of the site.

The amended landscape plan prepared by Paul Scrivener Landscape Architecture details *"masonry retaining wall to Architect's detail"* along both the northern and southern side boundaries (as depicted in Figure 4). Further structural details are required as part of condition 40(c) Retaining Walls/Structural Report.

In this regard, the amended proposal adequately satisfies this deferral reason.

C. NEIGHBOUR NOTIFICATION

The amended proposal was notified for fourteen (14) days between 24 August to 7 September 2019. In response, four (4) submissions were of which relevant concerns have been considered as part of this assessment.

The below considers only new issues raised in response to the amended plans. A comprehensive response to matters previously raised is contained in the original assessment report.

- Privacy and overlooking
- Bulk
- Over excavation, excessive FSR
- Overshadowing
- 3 storeys and should be 2
- Depth of development
- Non-compliance with the approval
- Built form is out of character
- Non-compliance with State and Local controls
- Location of drainage lines along the boundary and potential impacts
- Will the requirements of the original plans be incorporated?

Privacy and overlooking

Privacy screens inadequate in addressing privacy impacts. Concerns were raised that the proposed privacy screens would still result in adverse overlooking impacts to adjoining properties.

Comment: The amended proposal incorporates fixed vertical timber slats which is considered to be reasonable as this minimises direct outlook to adjoining residential properties living areas and private open space.

Bulk and scale

Concerns were raised that the proposal proposed screening contributes to visual additional bulk.

Comment: The amended proposal does not attribute to any unreasonable adverse visual bulk given that the screening is positioned beneath a roofed structure.

Excessive floor space

Concerns were raised that non-filling of the subfloor area results in a significant departure from Council's controls.

Comment: As previously addressed within this report, the amended proposal does not seek to fill in the subfloor area. It is recommended that the subfloor area be conditioned to be filled as not to facilitate the ease of conversion of this space into usable floor area in the future.

Character

Concerns were raised in relation to built form, storey built form and 3 storeys should be 2 storeys.

Comment: The amended proposal does not seek to increase the height of the building or reduce setbacks than that previously considered within the previous assessment report which supported these aspects of the proposal.

Overshadowing

Concerns were raised in relation to overshadowing impacts generated from the proposal to adjoining properties.

Comment: The amended proposal does not result in any unreasonable overshadowing impacts given that 1.8m high privacy screens and obscure glass sought are stepped in below the rear balcony roofline eaves.

Impact on drainage lines

Concerns were raised in relation to drainage impacts generated by the proposal.

Comment: The amended proposal does not seek any design changes to stormwater disposal system. This aspect of the modification was previously considered within the previous assessment report. This sought to increase the size of the on-site detention and was supported by Council's Development Engineer subject to conditions. In this regard, the proposal is not considered to result in any adverse material stormwater impacts.

Built form

Revert proposal back to approved built form. Concerns were raised that the building should be amended to be consistent with original approval.

Comment: This modification seeks amendments to the original approval. Whilst it is acknowledged that physical works have been undertaken inconsistent with development consent, an assessment has been carried out based on the changes of which are supported.

D. CONCLUSION

The revised plans and details submitted has addressed the deferral reasons which primarily were to reduce the privacy and overlooking impacts of the as built works on the adjoining allotments, reduce the perceived bulk when viewed from the rear, retain the cut with a material that will age appropriately and a revised external colour scheme to enable to development to be more recessive in its setting.

An assessment of the revised amended plans, consider the revisions to have addressed the deferral reasons of the Panel.

The Modification has been assessed having regard to the Matters for Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, the provisions of the relevant State Environmental Planning Policies, Local Environmental Plan and Development Control Plan.

E. RECOMMENDATION

The modification MOD2019/0005 for retrospective approval of unauthorised works and alterations and additions to the approved dwelling on land known as 42 Carwar Avenue, Carss Park is recommended to be determined by way of approval under the provisions of Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979.

DETERMINATION AND STATEMENT OF REASONS

Statement of Reasons

- The proposed development is considered to be an appropriate scale and form for the site and the character of the locality.
- The proposed development will have only minimal additional impacts upon the adjacent properties.
- The issues of concern raised by the neighbours have been reduced to an acceptable level via the amended proposal and through design changes recommended through conditions.

In consideration of the aforementioned reasons, the proposed development is considered acceptable and its approval is recommended.

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:

Description	Reference No.	Date	Revision	Prepared by
Site Plan	S9601	07.08.2019	C	Gelder Architects
Lower Ground Floor Plan	S9602	07.08.2019	C	Gelder Architects
Ground Floor Plan	S9603	07.08.2019	C	Gelder Architects
First Floor Plan	S9604	07.08.2019	C	Gelder Architects
North and South Elevations	S9605	07.08.2019	C	Gelder Architects

East and West Elevations, A-A and B-B Sections	S9606	07.08.2019	C	Gelder Architects
Landscape Plan	18/2049	30.7.19	B	Paul Scrivener Landscape Architects
Schedule of Finishes		Received by Council 7.8.19		Gelder Architects
BASIX Certificate	A345979_02	30 July 2019		Greengauge

(This condition is amended as part of MOD2019/0005 (DA86/2014))

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

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

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

(2) Asset & Building Fees

Payment of the following amounts as detailed below:

- Damage Deposit of \$1,900.00
- *Builders Long Service Levy of \$2,275.00
- Driveway Design and Inspection Fee (Dwelling) of \$515.00
- Asset Inspection Fee of \$105.00
- Section 94A Contributions of \$6,500.00

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

(3) Section 94A Contributions

As at the date of Development Consent a contribution of \$6,500.00 has been levied on the subject development pursuant to Section 94A Contributions Plan. The amount to be paid is to be adjusted at the time of the actual payment, in accordance with the provisions of the Section 94A Development Contributions Plan. The amount payable of monetary Section 94 contributions will be indexed on 1 July each year in accordance with the Contribution Plan.

The Section 94A Contributions Plan may be inspected at the Kogarah City Council Customer Service Centre, 2 Belgrave Street, Kogarah or online at www.kogarah.nsw.gov.au.

(4) Dilapidation Report

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

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

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

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

(5) Soil and Water Management

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

(6) 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.

(7) Sydney Water (DA Only)

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect any Sydney Water asset’s sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped.

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

- Quick Check agents details - see Building Developing and plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating or telephone 13 20 92.

SECTION C – Prior to Commencement of Construction Conditions

The conditions that follow in this Section C of the Notice of Determination are specific to the proposed development and must be complied with prior to the commencement of construction on the site.

(8) 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.

(9) Detailed Stormwater Plan

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

A Stormwater Detailed Plan and supporting information of the proposed on-site stormwater management system including any measures to control quality and quantity of the stormwater runoff discharged from the site are to be submitted. The required details in this Plan and the relevant checklist are presented in Council's Water Management Policy.

The design parameters and the general concept of the proposed on-site stormwater management system are to be the same as documented in the approved Stormwater Concept Plan for the proposed development. Any variation to the approved concept design is required to be justified and supported by appropriate details, calculations and information to allow proper assessment of the revised concept design.

- The Detailed Stormwater Plan is to be amended to address the following:

- a) An overland flow route is to be provided from the driveway and the front of the dwelling to the rear of the property in case of the site's drainage system becoming blocked or reaching capacity.
 - b) An additional geotechnical report is to be prepared with the results of a Falling Head Test or a Constant Head Test in the location of the proposed absorption system at the front of the property. The Detailed Stormwater Plan is to be amended to use the hydraulic conductivity as determined and Council's Water Management Policy. The currently lodged report by Geo-Environmental Engineer Report ID: G13062CP-R02F dated 4 February 2015 does not meet this requirement.
 - c) The pumped system is to be redesigned to be in accordance with Council's Water Management Policy and AS/NZS 3500.3:2003 Plumbing and drainage. Part 3: Stormwater drainage. It will need to have a minimum wet well storage of 3m³
 - d) A silt arrestor pit is to be constructed immediately upstream of both absorption tanks.
- The new dwelling is to be built with a pier and beam foundation where it is within 3 metres of an absorption system to structural engineers details and certification.

(10) 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.

(11) 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.

(12) 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.

(13) Protection of Site – Hoarding

A hoarding or fence must be erected between the work site and the public place if:

- the work involved in the erection or demolition of a building is likely to cause obstruction or inconvenience to pedestrian or vehicular traffic in a public place; or
- if it involves the enclosure of a public place.

If necessary an awning is to be erected which is sufficient to prevent any substance from or in connection with the work from falling into a public place.

Any such hoarding, fence or awning is to be removed when the work has been completed.

If the work site is likely to be hazardous to persons in a public place, it must be kept lit between sunset and sunrise.

(14) Driveway

In respect to vehicular access to the proposed development the gutter across the 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.

(15) 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 9400.

(16) 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.

(17) 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.

(18) Roof and surface water

All roof water and surface water from the development are to be disposed of in accordance with the Detailed Stormwater Plan by means of a sealed pipeline constructed in accordance with AS/NZS 3500.3.2. The line must pass through a silt arrestor pit.

(19) Absorption System

The absorption systems are to be a minimum of 1.5 metres from all side and rear boundaries.

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.

(20) Inspections - New Dwelling

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

- (a) at the commencement of building works
- (b) after excavation for, and prior to the placement of, any footings, and
- (a) prior to pouring any in-situ reinforced concrete building element, and
- (b) prior to the covering of the framework for any floor, wall, roof or other building element, and
- (c) prior to covering waterproofing in any wet areas, and
- (d) prior to covering any stormwater drainage connections, and
- (e) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
- (f) in the case of a swimming pool, as soon as practicable after the barrier (if one is required under the Swimming Pools Act 1992 has been erected.

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

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

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

(21) 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.

(22) 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.

(23) Building Height - Surveyors Certificate

The proposed building is not to be erected at a height greater than that indicated on the approved plan. This is to be verified by means of a certificate from a Registered Surveyor at ground floor level and at roof frame before the roof covering is installed.

(24) 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.

(25) 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*'.

(26) 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.

(27) 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.

(28) 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.

(29) 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.

(30) Stormwater Drainage

All roof water and surface water from paved or concreted areas being disposed of to the street gutter by means of a sealed pipeline constructed in accordance with AS/NZS 3500.3.2. The line must pass through a silt arrestor pit, a standard design is available within Council's Water Management Policy.

(31) 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.

(32) 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.

(33) Basix Certificate Details

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.

(34) 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.

(35) Swimming Pool/Spa shall be Fenced

The proposed swimming pool and/or spa shall be fenced and constructed in accordance with the Swimming Pools Act, 1992 and the Swimming Pools Regulation 2008. If required, you may confer with Council for assistance with respect to the location of pool fencing.

(36) Pool Filter/Pump no Offensive Noise

Pool plant and equipment shall be enclosed in a sound absorbing enclosure or installed within a building to minimise noise emissions and possible nuisance to nearby neighbours.

The pool plant and equipment shall not be operated during the following hours if noise emitted can be heard within a habitable room in any other residential premises or as otherwise stated in the *Protection of the Environment Operations (Noise Control) Regulation 2008*:

- Before 8:00am or after 8:00pm on any Sunday and public holiday;
- Before 7:00am or after 8:00pm on any other day.

(37) Building Finishes

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

(38) 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.

(39) Tree Retention

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

Tree Species	Location of Tree/Tree No	TPZ
Eucalyptus microcorys	42 Carwar Avenue/ street tree	7.2 metres
Archontophoenix cunninghamia	40 Carwar Avenue/ Tree 1	3.0 metres
Archontophoenix cunninghamia	40 Carwar Avenue/ Tree 2	3.0 metres
Elaeocarpus reticulatus	5 Erang Street/ Tree 3	3.6 metres
Banksia sp	5 Erang Street/ Tree 4	6.0 metres
Livistonia australis	44 Carwar Avenue/ Tree 5	3.6 metres
Washingtonia robusta	44 Carwar Avenue/ Tree 6	5.2 metres
Cocos romanzoffianum	44 Carwar Avenue/ Tree 7	3.4 metres

(40) Privacy Screen

~~A 1.8m high fixed privacy screen is to be erected along the northern and southern side perimeters off the rear ground floor terrace.~~

~~All privacy screens are to comprise of fixed, translucent louvres that does not allow downward viewing of the adjoining properties.~~

(This condition is deleted as part of MOD2019/0005 (DA86/2014))

40(a) Basement floor/Backfill

The basement floor area shall be backfilled. The backfill works must comply with the following:

- i) The backfill material must be undertaken with suitable type of clean fill material;
- ii) The fill area must be to the full height of the subfloor;
- iii) A certificate from a registered surveyor verifying correct finished level must be submitted prior to issue of any Occupation Certificate.

(This condition is added as part of MOD2019/0005 (DA86/2014))

40(b) Retaining Wall Details/Structural report

A report prepared by a structural engineer is to be provided to demonstrate the structural integrity of the all retaining walls and their capacity of accommodated the proposed fill.

Should the retaining walls be deficient to support the intended fill, details of new and or modified retaining walls are to be provided with the Construction Certificate for the proposed works. In addition, these works are to have regard to the location of the current flashings and weepholes of the dwelling as constructed to ensure the works do not result in loss of internal amenity.

(This condition is added as part of MOD2019/0005 (DA86/2014))

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.

(41) 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.

(42) 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.

(43) BASIX Completion Receipt

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

SECTION F – Prescribed Conditions

The following are prescribed conditions of development consent pursuant to s.80A(11) of the Environmental Planning and Assessment Act 1979 and cl.98 of the Environmental Planning and Assessment Regulation 2000.

(44) Compliance with the Building Code of Australia

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

(45) 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.

(46) 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.

(47) 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.

(48) 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.

(49) 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.

(50) 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 Kogarah Council five (5) working days (excluding public holidays) prior to commencement of any works.

Written notice is to include the following details:

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

Work must not commence prior to the nominated demolition date.

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

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

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

- (f) Demolition sites that involve the removal of asbestos must display a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent visible position on the site to the satisfaction of Council's officers. The sign is to be

erected prior to demolition work commencing and is to remain in place until such time as all asbestos has been removed from the site to an approved waste facility.

- (g) All asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations (Waste) Regulation 2005. All receipts detailing method and location of disposal must be submitted to Council as evidence of correct disposal.
- (h) A Clearance Certificate or Statement, prepared by a suitably qualified occupational hygienist must be provided to Council upon completion of demolition and asbestos related works, which confirms that the relevant legislative requirements in relation to safe removal and disposal have been satisfied.
- (i) A Work Cover Licensed Demolisher is to be engaged to carry out any demolition works using mechanical equipment where the structure is over 4 metres in height or to carry out any manual demolition works on a structure over 10 metres in height.
- (j) The provision of temporary fences and footpath crossing pads prior to commencement of demolition operations. Further, no waste materials or bins are to be placed on Council's roadways or footpaths.
- (k) No waste materials are to be burnt on site.
- (l) No trees as defined by Council's Tree Preservation Order being removed or damaged on the site without the prior written approval of Council.
- (m) Compliance with the provisions of Australian Standard AS 2601-1991:"The Demolition of Structures", which requires notification of demolition to be submitted at least seven (7) days prior to demolition to the NSW Workcover Authority.
- (n) Effective erosion and sediment control measures are to be undertaken during the course of demolition and building works in accordance with Council's 'Environmental Site Management Policy'. Failure to implement appropriate measures may result in a \$750 Penalty Infringement Notice (individual) and/or \$1,500 (corporation) being issued and/or the incurring of a maximum penalty of \$250,000 (corporation) or \$120,000 (individual) through the Land and Environment Court.
- (o) Appropriate measures are to be implemented on site to control dust and other air borne matter and demolition material is to be stored and stacked in a manner so as to minimise the risk of damage or nuisance to neighbouring properties.

- (p) Council being notified upon completion of the demolition works so that an inspection can be made of the roadway and footpath.
- (q) All non-recyclable demolition material being disposed of at an approved waste disposal depot. Details as to the method and location of disposal of demolition materials (weight dockets, receipts, etc.) should be kept as evidence of approved method of disposal.
- (r) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (a) showing the name, address and telephone number of the principal certifying authority for the work, and
 - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (c) stating that unauthorised entry to the work site is prohibited.

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

END CONDITIONS

Advisory Notes

(i) Worksite Safety

It is usually the owner/applicant's responsibility to ensure that the development site is a safe working environment. This may be by the engagement of an appropriately competent principal contractor. There are various legislative and WorkCover requirements with respect to maintaining a safe work-site. Details of these requirements and legislation, as well as, guidance and advisory material, can be found on the WorkCover Website www.workcover.nsw.gov.au.

(ii) Worksite Safety Scaffolding

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

(iii) 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.

(v) Demolition Waste

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

(vi) Property Address

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