

**REPORT TO GEORGES RIVER COUNCIL
LPP MEETING OF THURSDAY, 13 DECEMBER 2018**

LPP Report No	LPP064-18	Development Application No	DA2018/0217
Site Address & Ward Locality	1-5 James Street Blakehurst Blakehurst Ward		
Proposed Development	Lot consolidation, demolition of all buildings, construction of a part 4 part/5 storey residential flat building containing twenty three units, basement parking, service provision, drainage and landscaping works		
Owners	PD Roberts, GC Evans, J and D Hatzikalimnos		
Applicant	Antoine Saouma		
Planner/Architect	Planner – Think Planning; Architect – Antoine Saouma		
Date Of Lodgement	1/06/2018		
Submissions	No submissions received		
Cost of Works	\$6,950,000		
Local Planning Panel Criteria	Development to which State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development applies		
List of all relevant s.4.15 matters (formerly s79C(1)(a))	Kogarah Local Environmental Plan 2012; Kogarah Development Control Plan 2013 State Environmental Planning Policy No 65 – Residential Apartment Development; SEPP 55 – Remediation of Land; SEPP (Vegetation in Non-Rural Areas) 2017; SEPP (BASIX) 2004; Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment; Draft SEPP (Environment)		
List all documents submitted with this report for the Panel's consideration	Architectural Plans		
Report prepared by	Team Leader Development Assessment		

Recommendation	THAT the application be approved in accordance with the conditions included in the report.
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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
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?	Yes
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	Yes – the development proposes a variation to

<p>been attached to the assessment report?</p>	<p>the 15m height control contained in Kogarah LEP 2012</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>No as standard conditions for a residential flat building have been imposed.</p>

Site Plan



Subject Site 1-5 James Street Blakehurst

EXECUTIVE SUMMARY

Proposal

1. The development application (“DA”) seeks approval for lot consolidation, demolition of all buildings, construction of a part 4/part 5 storey residential flat building containing twenty three units, basement parking, service provision, drainage and landscaping works on the sites known as 1-5 James Street, Blakehurst.

2. The proposed development features 3 x 3 bedroom units, 16 x 2 bedroom units and 4 x 1 bedroom units and a rooftop communal open space area. Access to the basement carpark is proposed from the eastern end of the site's frontage to James Street.

Site and Locality

3. The subject site is legally identified as Lot 1 DP 124073 and Lots B and C DP 340256, with a street address being 1-5 James Street, Blakehurst. The site is located at the south eastern corner of James Street and Vaughan Street Blakehurst.
4. The site rectangular in shape and has a total site area of 1,362.9sqm. The site has frontages of 48.77m to James Street and 25.605m to Vaughan Street (with a 2.155m splay at the corner). The site comprises three existing residential allotments, each containing a detached dwelling house and detached outbuildings, all to be demolished as part of this application. The site has a slight cross-fall from the western side towards the east.
5. The frontages of the sites are no parking areas, with the area between 5 James Street and Vaughan Street being no stopping returning into Vaughan Street.
6. The site is in an area undergoing a transition from low to medium density residential development due to the recent (2017) rezoning associated with the Kogarah New City Plan. The existing surrounding context is characterised by low-density residential development to the north, west and south, however to the north east there is one large residential flat development under construction. To the east is a three storey mixed use commercial and residential development fronting the Princes Highway (with the bitumen car park of that development immediately adjoining the subject site). It is anticipated that the surrounding land will redevelop as medium density residential given the recent rezoning.
7. The immediately adjoining site to the south (6-8 Vaughan Street) includes a detached dwelling house, although it is noted this adjoining site is the subject of a current DA which is under assessment for a new part four / part five-storey residential flat building development.

Zoning and Permissibility

8. The site is zoned R3 – Medium Density Residential. The development meets the objectives of the zone and is permissible development with consent.

Clause 4.6 variation – height

9. The development seeks a variation to Clause 4.3 Height of Buildings under the provisions of the Kogarah Local Environmental Plan (KLEP) for the lift overrun and a portion of the rooftop common open space area, by up to 580mm over the maximum 15m height limit. It is noted that no habitable floor space exceeds the maximum prescribed height limit. The applicant has submitted a written request seeking to justify the contravention of the height standard, and the request is supported. This is discussed in more detail in the body of the report.

Submissions

10. The DA was advertised and notified to neighbours in accordance with Kogarah DCP 2013, no submissions were received.

Referrals

11. The DA was referred to a number of officers within Council, and also externally to the Roads and Maritime Services (RMS). The referral responses were generally supportive of the application as discussed in the body of this report.

Level of Determination

12. The DA is referred to the Local Planning Panel for consideration and determination because it involves a residential flat building affected by State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development.

Conclusion

13. The proposed development has been assessed using the heads of consideration listed in Section 4.15 of the Environmental Planning and Assessment Act 1979, and in particular against the requirements of the relevant Kogarah Local Environmental Plan (LEP) 2012 and Kogarah Development Control Plan (DCP) 2013. The proposal generally complies, with sufficient justification provided for any variations.
14. The proposal is considered satisfactory when assessed against the applicable planning controls and it is recommended for approval subject to conditions.

FULL REPORT

Description of Proposal

15. Development consent is sought for lots consolidation, demolition of three existing dwellings (one on each of the allotments known as 1, 3 and 5 James Street) and ancillary structures on those allotments, and erection of a residential flat building containing 23 units comprising 3 x 3 bedroom, 16 x 2 bedroom and 4 x 1 bedroom units.
16. The development also comprises two levels of basement parking with 39 parking spaces (34 resident and 5 visitor), together with landscaping works to embellish the development upon completion.
17. Vehicle access is proposed from the eastern end of the site, via James Street.

Description of the Site and Locality

18. The site is in an area undergoing a transition from low to medium density residential development due to the recent (2017) rezoning associated with the Kogarah New City Plan.
19. The existing surrounding context is characterised by low-density residential development to the north, west and south, however to the north east there is one large residential flat development under construction. To the east is a three storey mixed use commercial and residential development fronting Princes Highway, with the bitumen car park of that development immediately adjoining the subject site.
20. The frontages of the sites are no parking areas, with the area between number 5 James Street and Vaughan Street being no stopping returning into Vaughan Street.
21. It is anticipated that the surrounding land will redevelop as medium density residential given the recent rezoning (see zoning map below).
22. The immediately adjoining site to the south (6-8 Vaughan Street) includes a detached dwelling house, although it is noted that this adjoining site also has a current DA under assessment for a new part four/part five storey residential flat development.

23. The following is a photo of the existing development on the subject site:



Existing Development on 1-5 James Street, viewed from James Street. Source: Site Inspection Photo.

PLANNING ASSESSMENT

24. The subject site has been inspected and the development has been assessed under the relevant Section 4.15 (1) "Matters for Consideration" of the Environmental Planning and Assessment Act 1979.

Environmental Planning Instruments

Kogarah Local Environmental Plan 2012

Assessment Table – Kogarah LEP 2012 Development Standards

25. The extent to which the proposed development complies with the Kogarah Local Environmental Plan (KLEP) 2012 is detailed and discussed in the table below.

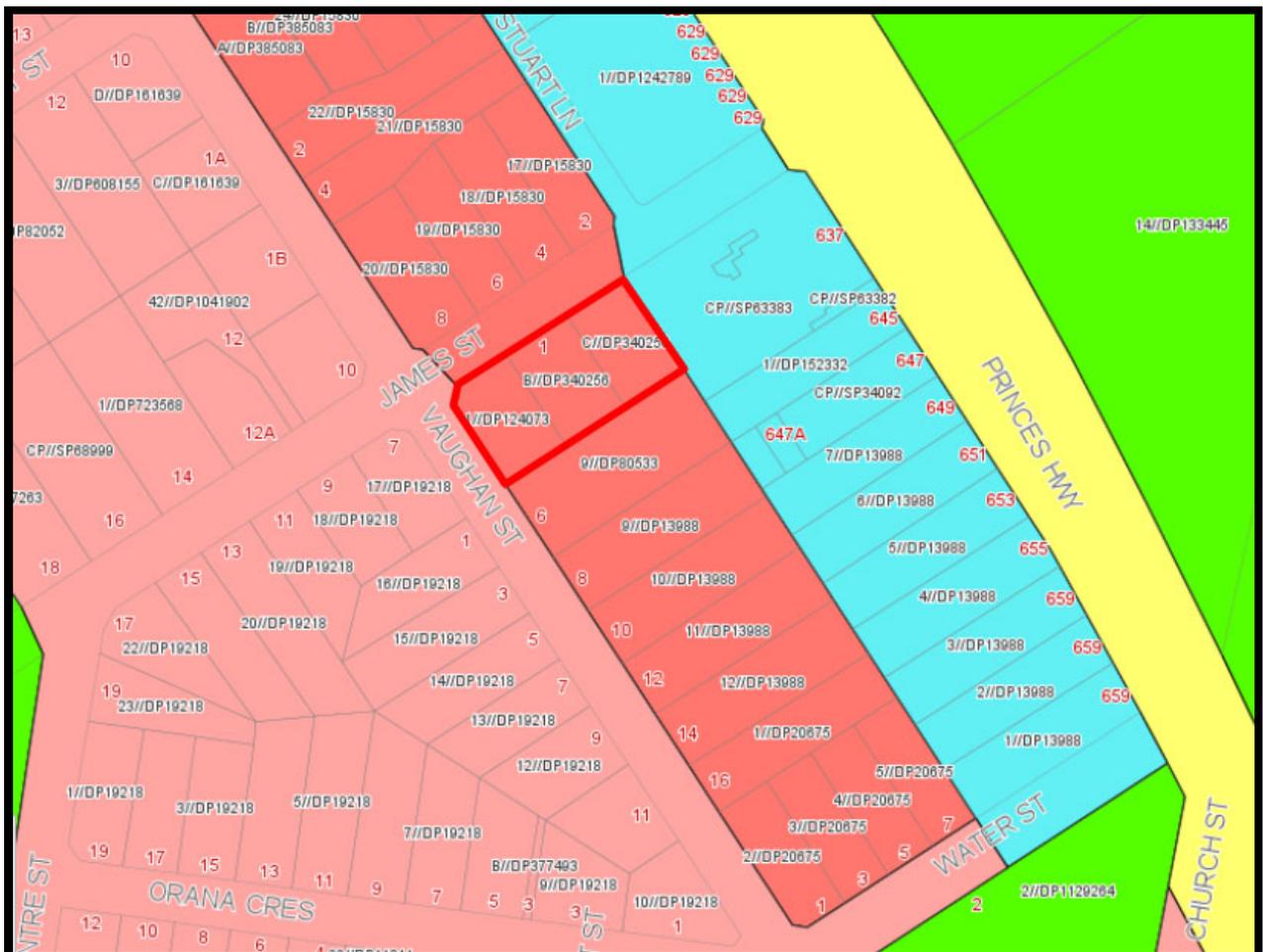
Clause	Standard	Proposed	Complies
1.2 – Aims of the Plan	In accordance with Clause 1.2 (2)	The development is consistent with the aims of the plan	Yes
1.4 - Definitions	“Residential flat building”	The proposed development meets definitions	Yes
2.3 - Zone objectives and Land Use Table	Site is zoned R3 Medium Density Residential (see zoning map)	The development meets the objectives and is permissible development with consent	Yes

	elsewhere in this report). Meets objectives of R3 Medium Density zone. Development must be permissible with consent.		
2.7 - Demolition	Demolition is permissible with consent	Demolition is proposed as part of this application	Yes
4.1A – Minimum lot sizes for multi dwelling housing, residential flat buildings and seniors housing	1000sqm in R3 – Medium Density Housing zone	1362.9sqm	Yes
4.3 – Height of Buildings	15m as identified on Height of Buildings Map	Height (at highest points) are: <ul style="list-style-type: none"> • 15.58m (at the top of the lift over-run) • 15.2m (at the top of the parapet at 2 points of building) 	No – refer to the CL4.6 discussion below
4.4 – Floor Space Ratio	1.5:1 (max 2044.35sqm) as identified on Floor Space Ratio Map	Total gross floor area 2017sqm or 1.48:1	Yes
4.6 Exceptions to development standards	Written request for variation must be considered	Development seeks a variation to Cclause 4.3 Height of Buildings. A request for the variation has been provided and is discussed later in this report.	Yes
5.9 – Preservation of Trees or Vegetation	Trees proposed for removal are specified in DCP 2013	The DA seeks approval for removal of eight trees which has been considered and supported by Council's Landscape Officer. Appropriate replacement planting is provided in the landscape plans which will be reinforced via conditions.	Yes
5.10 (5) – Heritage Assessment	The consent authority may, before granting consent to any development: <ul style="list-style-type: none"> (a) on land on which a heritage item is located, or (b) on land that is 	The site does not contain a heritage item, is not located in a conservation area and is not located in the vicinity of a heritage item or conservation area.	Yes

	<p>within a heritage conservation area, or (c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</p>		
6.1 – Acid Sulphate Soils	<p>The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.</p>	<p>The site is identified as being affected by Class 5 Acid Sulphate Soils. The proposal is located within 100m of adjacent Class 1-4 Acid Sulphate Soils. It is considered that the development will not lower the water table to an extent that would require detailed assessment in terms of Acid Sulphate Soils.</p>	Yes
6.2 – Earthworks	<p>To ensure that earthworks do not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.</p>	<p>Though the development involves construction of a basement car park, the level of excavation is satisfactory and commensurate with what would be expected for a development of this type and scale.</p>	Yes
6.3 – Flood Planning	<p>Requires assessment to minimise the flood risk to life and property associated with the use of land; to allow development on land that is compatible with the land's flood hazard, taking into account</p>	<p>The subject land is not flood affected</p>	Yes

	projected changes as a result of climate change; and to avoid significant adverse impacts on flood behaviour and the environment.		
6.4 – Limited development on foreshore area	To ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area	The subject land is not located in a foreshore area	Yes

26. The subject land is zoned R3 – Medium Density Residential under Kogarah LEP 2012. The proposed development is permissible with Council’s Development Consent under the provisions of Kogarah LEP 2012. The zoning map for the subject property and its surrounds is provided below.

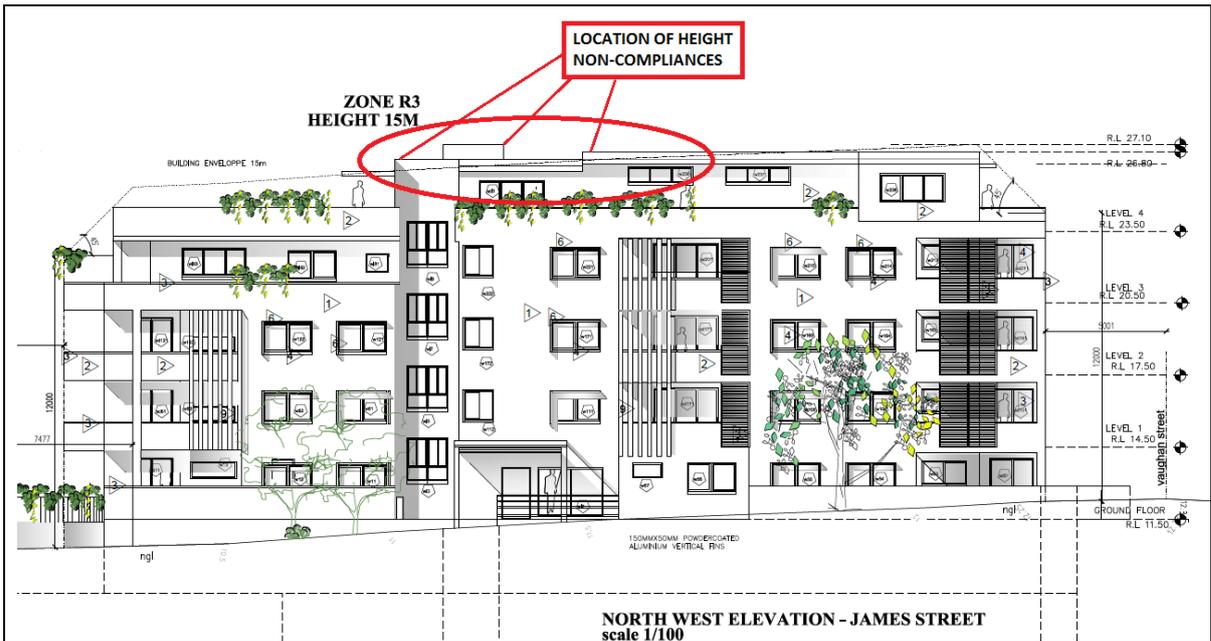


Zoning map – site outlined in red

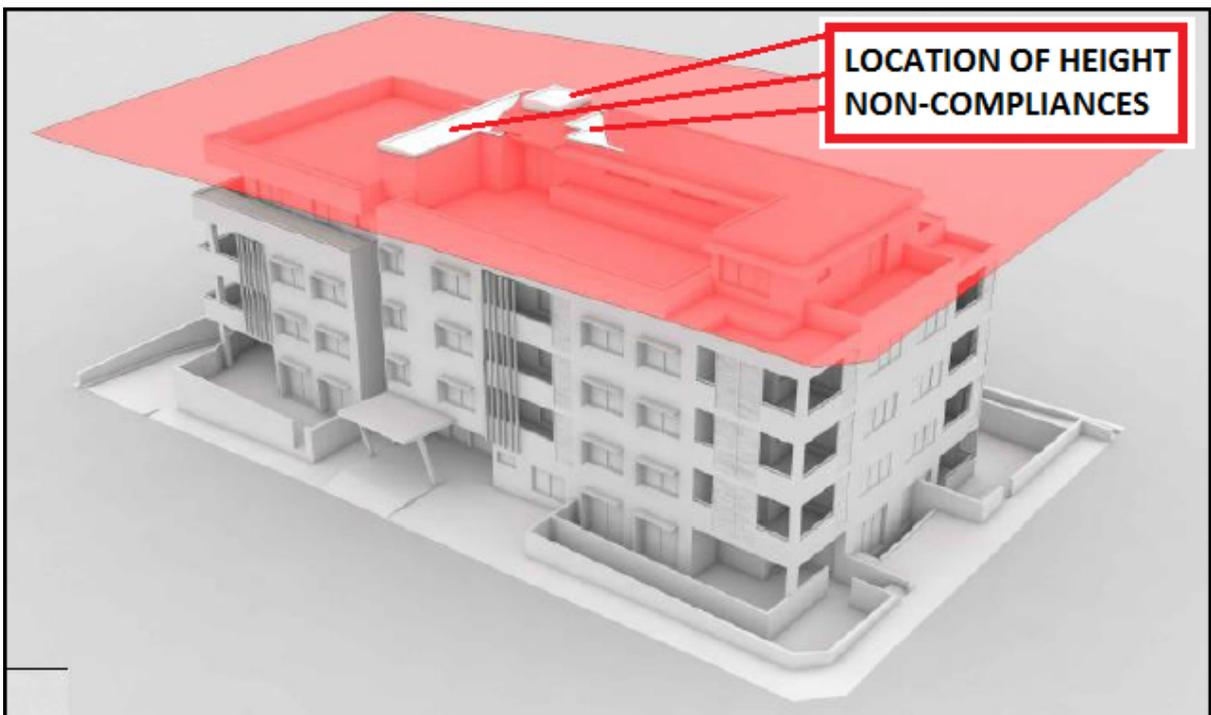
Clause 4.6 – Exceptions to Development Standards

Detailed assessment of variation to Clause 4.3 Height of Buildings

- 27. The Height of Buildings Map (Map No 7) under Kogarah LEP 2012 prescribes a maximum building height of 15m.
- 28. The development proposes a height of 15.58m (measured at the lift over-run) and 15.2m (measured at the top of the uppermost parapet), which does not comply with the 15m height control of the Kogarah LEP 2012. The extent of the non-compliance, at the highest point being the top of the lift over-run, is 580mm (0.58m) or 3.86% above the 15m height limit.
- 29. The location and extent of the non-compliance is illustrated in the following drawings (north west elevation and the building height blanket drawing):



North west elevation, showing location of height non-compliances.
Source: Applicant’s DA plans, marked up.



**Building height blanket drawing, showing location of the height non-compliances.
Source: Applicant's Statement of Environmental Effects, marked up.**

30. To support the non-compliance, the applicant has provided a request for a variation to Clause 4.3 in accordance with Clause 4.6 of KLEP 2012. This Clause 4.6 request for variation is assessed as follows:

Is the planning control in question a development standard?

31. Yes, the Height of Buildings limitation under Clause 4.3 of the KLEP 2012 is a development standard.

What are the underlying objectives of the development standard?

32. The objectives of Height of Buildings standard under Clause 4.3 of KLEP 2012 are:

- (a) to establish the maximum height for buildings,*
- (b) to minimise the impact of overshadowing, visual impact and loss of privacy on adjoining properties and open space areas,*
- (c) to provide appropriate scale and intensity of development through height controls.*

The applicant has provided the following justification regarding the development's consistency with the above objectives.

Applicant's Comments: *The current development proposal seeks to depart from the height control for the top of the lift core and the fire stairs. Despite this, the proposal remaining consistent with the objectives of the clause and is a more appropriate outcome on the site because of the following:*

- The overall height of the development presents as a compatible form of development with only the top of the lift core exceeding the height limit. This upper level of the building is recessed in so that the top of the building will be less visually prominent when viewed from the street level and the height protrusion will not be visible from the adjoining properties which aligns with the intent of the planning controls contained within Kogarah LEP 2012.*
- The subject site has a significant fall from the west to the east with a drop of natural landform of approximately 3m. Although the building platform and basement areas are cut into the natural slope there is a balance required between excessive cutting into the natural land to form a level building platform that still appropriately address its street frontages.*
- The portion of the building that exceeds the height control does not contain any habitable floors space and accordingly does not represent an overdevelopment of the site. It is also noted that the development complies with the maximum FSR that applies to the site;*
- The additional height provides appropriate access for all to the roof top common open space areas.*
- It is also noted that the proposal will not obstruct existing view corridors as compared to a compliant built form.*

- *The extent of variation does not contribute to any increase in overshadowing (hence the extent of impact is as per the impact generated by the permitted building envelope).*
- *The minor non-compliance to the height control has no unacceptable impact on the setting of any items of environmental heritage or view corridors.*

As outlined above the proposal remains consistent with the underlying objectives of the control and as such compliance is considered unnecessary or unreasonable in the circumstances. The above discussion demonstrates that there are sufficient environmental planning grounds to justify the minor departure from the control.

The unique circumstances of the case that warrant support of the departure are the need to provide a development that meets accessibility standards while at the same time developing in a site responsive manner, so the building platform does not necessitate excess cutting of the natural slope of the land.

Comment: The applicant's justification is supported. As shown on the building height blanket drawing (above), most of the non-compliant portion is located towards the centre of the building and is set well back from the edges of the built form, and as such it will not be visible or discernible when viewed from street level.

Importantly, none of the non-compliant portion of the building relates to habitable space, rather it is only the lift over-run and the roof over the communal open space amenities.

The height of the building (as proposed) would result in minimal additional impacts of overshadowing or visual bulk, when compared to that of a compliant building, the additional shadowing will fall on the subject development, given it is located within the centre of the building.

The development is considered to be consistent with the objectives of Clause 4.3, and is acceptable despite the numerical non-compliance.

What are the underlying objectives of the zone?

33. The objectives of the R3 Medium Density Residential zone are as follows:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment: The applicant has provided the following statement of compliance with the zone objectives as part of the Statement of Environmental Effects:

The proposal ensures that the nature of the zone is retained and there is not a significant change to the character of the locality. In addition, the proposal complements and enhances the local streetscape by virtue of the careful siting of the development.

It is understood that the concurrence of the Secretary can be assumed in the current circumstances.

As addressed it is understood the concurrence of the Secretary may be assumed in this circumstance, however the following points are made in relation to this clause:

- a) The contravention of the building height control does not raise any matter of significance for State or regional environmental planning given the nature of the development proposal; and*
- b) There is no public benefit in maintaining the development standard as it relates to the current proposal. The departure from the building height control is acceptable in the circumstances given the underlying objectives are achieved and it will not set an undesirable precedent for future development within the locality based on the observed building forms in the locality.*

Strict compliance with the prescriptive building height requirement is unreasonable and unnecessary in the context of the proposal and its particular circumstances.

The proposed development meets the underlying intent of the control and is a compatible form of development that does not result in unreasonable environmental amenity impacts.

The proposal will not have any adverse effect on the surrounding locality, which has been earmarked for future development by virtue of its B1 zoning. The proposal promotes the economic use and development of the land consistent with its zone and purpose. Council is requested to invoke its powers under Clause 4.6 to permit the variation proposed.

Comment: The applicant's commentary in relation to consistency with the zone objectives is supported. The development will contribute to broadening of the variety of housing types within this location, and will be consistent with the overarching intent of increased density and range of housing as a result of the recent (2017) up-zoning of this location.

Is the variation to the development standard consistent with Clause 4.6 of the Kogarah LEP 2012?

34. Clause 4.6(1):

The objectives of this clause are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Comment: Flexibility in applying the standard is appropriate in this case. The site has a cross-fall of between 2-3m from west to east, and as a result some small portions of the building exceed the maximum height, otherwise the development is compliant.

The variation (at the highest point of the building being the lift over-run) is proposed to ensure equitable access is available to the rooftop area. Such a height variation for a lift over-run is also a common feature of residential flat developments.

35. Clause 4.6(2):

Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or

any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Comment: Clause 4.3 Height of Buildings is not excluded from the operation of Clause 4.6.

36. Clause 4.6(3):
Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

Comment: The applicant has provided a written variation request prepared by Think Planning Consultants. A copy of this Clause 4.6 request for variation is provided for the Panel's consideration.

37. Clause 4.6(4):
Development consent must not be granted for development that contravenes a development standard unless:

- (a) the consent authority is satisfied that:*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

Comment: The written request prepared by Think Planning adequately addresses the matters in subclause (3). Strict compliance with the standard is unreasonable and unnecessary because the development remains consistent with the objectives of the R3 zone and height of building standard as described above. There are sufficient environmental planning grounds to justify contravening the standard given that the non-compliance provides for an improved amenity outcome while resulting in no adverse environmental impacts. The lift overrun allows for equitable access to the rooftop communal open space area.

- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

Comment: For the reasons detailed above, the development is considered to be consistent with the objectives of Clause 4.3 Height of Buildings and the R3 Medium Density Residential zone.

39. *(b) the concurrence of the Director-General has been obtained.*

Comment: Planning Circular PS 08-003 dated 9 May 2008, as issued by the NSW Department of Planning, advises that the concurrence of the Director General may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, if the

variation is found to be consistent with the objectives of the zone, the concurrence of the Director-General for the variation to the building height Development Standard can be assumed.

Conclusion – Assessment of Clause 4.6 Request for Variation

40. The variation is considered minor in extent, being 580mm (0.58m) or 3.86% above the 15m height limit.
41. In a recent Court decision *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ further clarified the correct approach in the consideration of clause 4.6 requests. This advice further confirms that clause 4.6 does not require that a development that contravenes a development standard must have a neutral or better environmental planning outcome than one that does not.
42. As held in *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7 at [39], Preston CJ confirmed (at[25]) that the test in 4.6 (4)(a)(i) *does not* require the consent authority to *directly* form the opinion of satisfaction regarding the matters specified. Rather, it needs to do so only *indirectly* in forming its opinion of satisfaction that the applicant's written request has adequately addressed the matters required to be demonstrated.
43. By contrast, the test in cl4.6(4)(a)(ii) requires that the consent authority must be directly satisfied about the matter in that clause (at[26]); namely that the development will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out.
44. The Clause 4.6 request has been considered as shown in the above assessment. Overall, the non-compliance in this instance is acceptable and the applicant's request is well founded. The variation will satisfy the objectives of both the zone and development standard and will be in the public interest.

State Environmental Planning Policies

Greater Metropolitan Regional Environmental Plan No 2 - Georges River Catchment (Deemed SEPP)

45. The Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment (deemed SEPP) applies to subject land.
46. The policy aims to maintain and improve the water quality and river flows of the Georges River and its tributaries and ensure that development is managed in a manner that is in keeping with the national, state, regional and local significance of the catchment.
47. All stormwater from the proposed development can be treated in accordance with Council's Water Management Policy and will satisfy the relevant provisions of the aforementioned deemed SEPP.
48. It is noted that the Department of Planning and Environment (DPE) is seeking to consolidate this SEPP along with several others and include relevant provisions within a new draft policy that was recently exhibited referred to as the new Draft State Environmental Planning Policy (Environment). Further details in relation to the new draft SEPP are provided under the relevant heading below.

State Environmental Planning Policy No 55 - Remediation of Land (SEPP 55)

49. SEPP 55 aims to promote the remediation of contaminated land in order to reduce the risk of harm to human health or any other aspect of the environment.
50. Clause 7 requires contamination and remediation to be considered in determining a development application. The consent authority must not consent to the carrying out of development on land unless it has considered whether or not the land is contaminated.
51. The site has a history of residential uses and as such, site contamination is not suspected. In this regard, no further assessment is warranted with regard to site contamination.

State Environmental Planning Policy (Building Sustainability Index BASIX) 2004 (BASIX SEPP)

52. Compliant BASIX certificates and BASIX-stamped plans have been submitted with the DA. Conditions of consent have been included to ensure the commitments required under the certificates will be satisfied with the proposed development.
53. **Note:** Although amended plans were submitted, these were largely related to design of the basement carpark (car space dimensions, aisle widths, vehicle swept paths and sight triangles – as indicated in the Referral comments from Council’s Traffic Engineer – see Referral Comments later in this report). These amended plans did not alter the design of the building in a way that would require a new BASIX Certificate to be provided.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP)

54. The Vegetation SEPP applies to land in the Sydney and Newcastle metropolitan areas, and all land that is zoned for urban purposes or environmental conservation/management under the Standard Instrument - Principal Local Environmental Plan.
55. The SEPP applies to clearing of:
- (a) native vegetation above the Biodiversity Offset Scheme (BOS) threshold where a proponent will require an approval from the Native Vegetation Panel established under the Local Land Services Amendment Act 2016; and
 - (b) vegetation below the BOS threshold where a proponent will require a permit from Council if that vegetation is identified in the council’s development control plan (DCP).
56. The proposal involves the removal of vegetation; the proposal has been assessed in accordance with this SEPP. The application is considered acceptable in this regard.

Draft State Environmental Planning Policy (Environment) (Environment SEPP)

57. The Department of Planning and Environment have been working to develop a new SEPP for the protection and management of our natural environment. The policy will replace seven (7) existing SEPPs including the Greater Metropolitan Regional Environmental Plan No. 2 - Georges River Catchment by updating and consolidating relevant provisions.

58. The new Draft Environment SEPP was exhibited from 31 October 2017 until the 31 January 2018. Engagement is now closed and feedback is currently being considered.
59. As such, the draft plan is a consideration in the assessment of this application however given the timeframe for adoption is not yet imminent or certain, no further assessment is required. Irrespective of this, the proposed development has been assessed as not inconsistent with provisions of the Environmental SEPP.

State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development

60. The proposed development is for a new building of at least 3 storeys, which meets the definition of “residential flat building”. Therefore, it must be assessed against SEPP 65 and the Apartment Design Guide (ADG). This assessment is provided below.
61. A design verification statement has been provided by the applicant Antoine J Saouma, Registered Architect (Registration No. 7412) in accordance with Clause 50 of the Environmental Planning and Assessment Regulation 2000.
62. The application was referred to the Design Review Panel (DRP) for comment at the Pre-Lodgment stage for this development. The comments of the DRP have been considered and the plans have been amended for lodgment with the DA. An assessment of the Design Quality Principles and the comments of the DRP are provided below.

Context and Neighbourhood Character

63. Panel’s comment: *The site is located close to the Princes Highway which has been up-zoned to R3 medium density. It has two (2) frontages to Vaughan Street and James Street and adjoins the car park of the hotel/bottle shop to the eastern side. To the south it adjoins an area also up-zoned to R3 but currently still occupied by single dwelling houses. To the north the sites on the opposite side of James Street have also been zoned R3 and appear very likely to be redeveloped to a similar density in the near future.*
64. Applicant’s response: The proposal is for a new residential development at the site described as Lots B and C DP 340256 and Lot 1 DP 124073 known as 1, 3, 5 James Street Blakehurst and is considered to be appropriate. The area is in a state of undergoing transition with low density residential being developed and replaced with medium density residential development. The proposal is consistent with the desired character of the locality and will not result in any unreasonable impacts on the surrounding properties. The site is a consolidation of 3 detached housing lots. The development bulk and scale is offset by quality articulation and modulation so as to promote an aesthetically pleasing form when viewed from the street and surrounding properties. Overall the proposal will nicely integrate into the existing context.
65. Assessing Officer’s comment: It is evident that the Panel’s comment, and the applicant’s response, correctly relate to the intended future character of this location. As shown in the Kogarah LEP 2012 zoning map (provided earlier in this report), the subject and immediately adjoining land is now zoned R3 Medium Density Residential with a 15m height limit.
66. As one of the first residential flat developments in this immediate location, it is important that this development should comply with the key planning controls (eg height, floor

space ratio and setbacks). The development fully complies except for a minor departure to the height control as discussed earlier in this report.

67. The development is considered to be satisfactory in terms of its context and neighbourhood character.

Built form and scale

68. Panel's comment: *The basic form of the building as proposed is acceptable in principle and complies with ADG setback requirements to the adjoining properties and approximates Council's height and floor space controls. The following detailed issues were of concern and discussed with the applicant:*

- *Refinement of the lobby area and the entrance space. This desirably should include seating and a covered entrance canopy.*
- *Compliance with floor to floor height requirements, whilst achieving necessary accommodation of structure and services. The 2.9m floor to floor height as indicated is highly problematic.*
- *Additional communal open space on an expanded roof garden with small enclosed room with amenities.*

69. Applicant's response: The Design Review Panel has raised concerns in relation to specific matters. In response, the Applicant has provided the following comments:

70. **Lobby/entrance:** *The entry sequence to the building has been refined and a generous lobby has been incorporated into the revised proposal. The revised lobby provides adequate opportunities for casual surveillance from the street and to the street.*

71. **Floor to floor heights:** *The floor to floor heights of the development have been increased to 3m. Detailed sections accompany the application demonstrates that this facilitates the provision of 2.7m floor to ceiling heights within habitable rooms. It is noted that fixed lights are intended to be provided to units (rather than down lights and further that ducted air-conditioning is not proposed). Given this, there is more certainty that 2.7m floor to ceiling heights are able to be achieved within the development.*

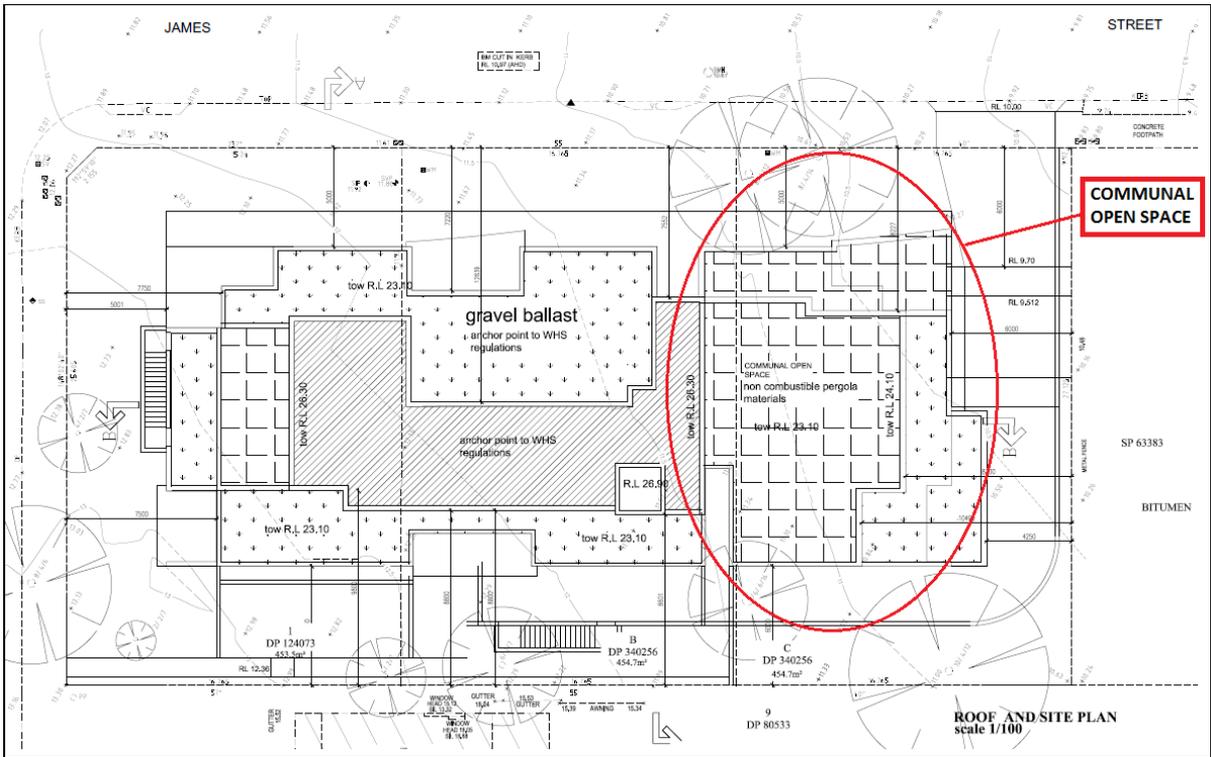
72. **Rooftop Communal Open Space:** *The plans have been refined and additional rooftop communal open space has been provided.*

73. Assessing Officer's comment: The DA plans represent a significant improvement from the pre-lodgment plans in relation to the three design issues of concern raised above. As a result, the proposal is considered to be acceptable in terms of built form and scale.

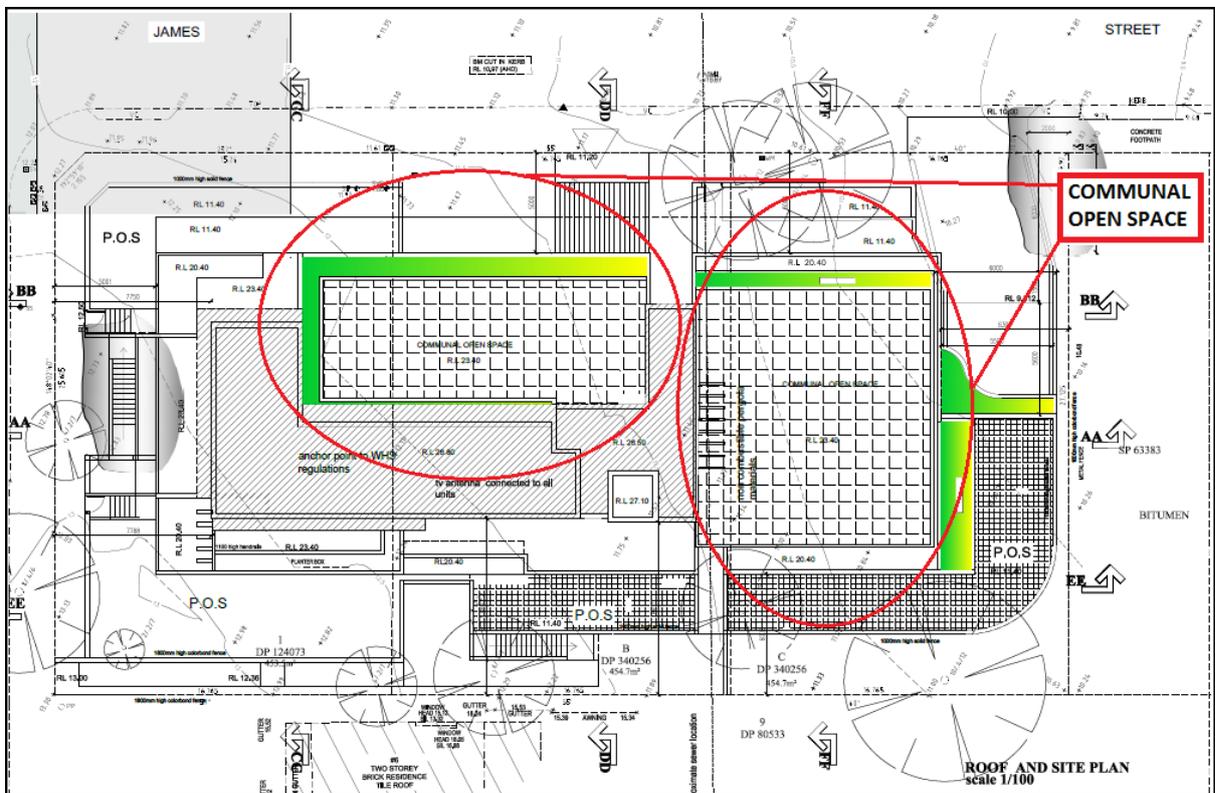
74. In relation to the lobby entrance, the DA plans now show a considerably larger lobby (5.75m x 5.5m = 31.6sqm) with glazed entry doors to provide opportunities for casual surveillance, together with an entry canopy to the front. The enlargement of the lobby has been achieved through a revised layout of the lobby and the fire stairs immediately adjoining.

75. In terms of the floor to floor heights, the applicant has increased these to 3m, and also provided detailed sections which confirm that 2.7m floor to ceiling heights can be achieved throughout the development.

76. The rooftop communal open space has been significantly increased, as indicated in the following diagrams which show how the communal open space has been increased from the pre-lodgment to the DA plans.



Communal Open Space – Pre-DA Lodgment Plans
Source: Applicant’s Pre-Lodgment Plans, marked up



Communal Open Space – DA Plans. Source: Applicant’s DA plans, marked up.

Density

77. Panel's comment: *The proposal complies with Council's floor space ratio but applicant's calculations to be verified.*
78. Applicant's response: The proposal complies with the maximum FSR of 1.5:1 which is permitted under Kogarah City Council Local Environmental Plan. The density of dwellings and floor space yield proposed is considered appropriate for the site and its location. The area is in a state of transition with higher demand for housing. The availability and capacity of local infrastructure, public transport and recreational opportunities supports the density of the proposal. The site is located close to a bus stop on Princes Highway. The proposed FSR = 1.47:1.
79. Assessing Officer's comment: The Design Review Panel has raised no specific issues of concern in relation to density. The Floor Space Ratio of the development has been reviewed and calculated to be 1.47:1, which complies with the maximum of 1.5:1 prescribed in Kogarah LEP 2012. Overall the proposal is considered to be satisfactory in terms of density considerations.

Sustainability

80. Panel's comment: *Subject to BASIX. Greening of roof top would be highly desirable.*
81. *Natural ventilation to car park should be provided if at all possible.*
82. *This is a location where it should be expected the 3hrs solar access should be achieved in mid winter rather than the 2hrs proposed in the submission.*
83. Applicant's response: The proposal provides good opportunities for solar access and cross ventilation. Each unit floor plate is relatively small and cross ventilated while more than 70% of units receive 2 or more hours a day of direct solar access.
84. All units have good size balconies with shade devices on the west and eastern façade. Insulation will be installed in between units. The proposal meets the NSW government BASIX requirements for water, energy and thermal efficiency. The building will be provided with natural gas, dual flush toilet system.
85. Assessing Officer's comment: As shown previously, the rooftop communal open space has been provided with perimeter planter boxes to improve amenity, as recommended by the Design Review Panel.
86. In terms of basement car park ventilation, it is not possible to naturally ventilate the lower basement level as it is completely below ground, however the upper level provides sufficient ventilation.
87. In terms of solar access, the orientation of the allotment is mostly east-west, and the building shape follows the shape of the allotment. Accordingly, most of the units face towards the east/west or north, and the design of individual units are such that they receive good solar access. This is discussed in more detail in the following assessment in terms of the Apartment Design Guide (below).
88. Overall, the proposal is satisfactory in terms of Sustainability considerations.

Landscape

89. Panel's comment: *Care must be taken to protect trees growing on adjacent properties which have Tree Protection Zones extending on to the subject site. The applicant*

should appoint an arborist to identify these Tree Protection Zones and the zones must be shown on all drawings.

90. *Ground floor open space where indicated is not desirable as a communal space. It is preferred to expand the area of roof garden for this purpose.*
91. *Every endeavour should be made to conserve any significant trees on the site (and adjacent to the site).*
92. *Provide direct pedestrian access to street fronting ground floor units.*
93. *The applicant should attempt to provide deep soil along the boundary with the car park and ensure medium/large canopy tree planting (for environmental, microclimate and screening purposes).*
94. *Desirably the roof top communal open space should be expanded to include the “gravel ballast” area and provision of a small enclosed amenities and common room.*
95. *Ensure that adequate screening to roof garden is provided to prevent overlooking of neighbouring properties and ensure that structure does not overshadow neighbours.*
96. *Provide arborists report regarding existing trees on site and adjacent and methods proposed for conservation.*
97. Applicant’s response: The landscape plan proposes the planting of good landscaping species in accordance with Council guidance DCP that directs applicants to provide appropriate species that will survive in this hot, dry climate. The proposal has a significant amount of landscaped amenities, 30% = 415sqm of the site is deep soil planting.
98. Assessing Officer’s comment: The Design Review Panel has reviewed the plans presented at the Pre-lodgment stage, and the Panel has raised a number of issues in relation to landscaping.
99. These have been substantially addressed in the applicant’s DA submission. In particular:
 - Council’s Landscape Officer has reviewed the proposal and advised that it is satisfactory both in terms of impacts on neighbouring trees as well as the quality of the landscape scheme proposed within the development site.
 - The communal open space on the rooftop has been significantly enlarged from what was presented on the Pre-lodgment plans.
 - Deep soil planting is available around the perimeter of the site, which includes space for planting of substantial trees.
100. Overall it is considered that the development demonstrates a high quality landscape scheme appropriate to the context with a good mix of grasses, groundcovers, shrubs and small and canopy trees.

Amenity

101. Panel’s comment: *Generally appears to be satisfactory.*

102. Applicant's response: The internal layout of the units maximise the opportunity for the balconies to be an extension of the living areas through wide openings. A high level of privacy is ensured, living spaces and open spaces face north east and west.
103. The units will access 2 hours of sun daily.
104. The apartment sizes comply with the ADG.
105. The privacy is well maintained with privacy louvre proposed on balconies and windows facing the neighbours.
106. Passive surveillance is maximise on James and Vaughan Street.
107. Assessing Officer's comment: The orientation of the site assists to ensure that the majority of units achieve good solar access. Overall it is considered that the development demonstrates a high level of amenity in terms of room dimensions and layout, sunlight access, natural ventilation, outlook, visual and acoustic privacy, storage and private open space.

Safety

108. Panel's comment: *Satisfactory.*
109. Applicant's response: The development will be lit throughout with use of low level lighting facilities along pedestrian access points into the building from the street.
110. The basement parking will be lit avoiding dark spots.
111. One clear entry is proposed to residents.
112. Car entry is secure and independent from the pedestrian entry.
113. Assessing Officer's comment: The proposal is considered to be satisfactory in terms of safety. There was some concern raised during the Pre-lodgment assessment in terms of the main front entry to the building, however this has been significantly improved in the DA plans and is considered to be satisfactory.

Housing Diversity and Social Interaction

114. Panel's comment: *The mix of units appears to be acceptable.*
115. *See comments above under 'Landscape' regarding communal area.*
116. Applicant's response: The proposal is for 23 units over part 4 and part 5 storeys.
117. There are 4x1 bedroom units and 16 x 2 and 3 x 3 bedroom units including 3 adaptable units.
118. A central lobby with a vertical circulation will connect all levels.
119. The privacy is well addressed.
120. Assessing Officer's comment: The proposal is considered to be acceptable in terms of Housing Diversity and Social Interaction. The development provides a good mix of units which will contribute to housing diversity and choice available to the community.

Further, the development provides opportunity for shared communal open space with generous communal areas at the rooftop level of the development.

Aesthetics

121. Panel's comment: *The proposal requires further design development before any comments can be made, particularly in relation to the expression of the main entrance area. The elevational treatment to both streets requires significant improvement particularly at street level.*
122. Applicant's response: The building has been designed in a contemporary style in materials.
123. A variety of materials, textures are used to create a building with a consistent theme.
124. The development will provide a positive contribution to the streetscape of James and Vaughan Street.
125. Assessing Officer's comment: The proposed development is one of the first residential flat developments in this location of Blakehurst on the western side of the Princes Highway. Previously, the character was a low-density residential area with single detached dwelling houses one to two storeys in height, and the expected future character is now one of residential flat developments up to the 15m height limit.
126. Therefore, it is considered to be important that as one of the first residential flat developments in this up-zoned area, this development provides a high quality in terms of design, built form and external appearance.
127. The building is designed in contemporary materials and external finishes. There will be a mixture of face brick with rendered external walls, with the use of privacy screens and shade structures (over windows) to provide a wide range of colours and external finishes.
128. Further, there will be minimal use of ancillary structures (such as ramps, hydrants etc) within front setback area (to James Street), which often detracts from the external appearance of new residential flat developments. Overall, the proposal is considered to be satisfactory in terms of aesthetics.

Clause 28 – Consideration of Apartment Design Guide

129. The following table provides an assessment against the key design criteria of the Apartment Design Guide.

Clause	Standard	Proposal	Complies
Objective 3D-1	Communal open space has minimum area equal to 25% of site area	Communal open space (on the rooftop) = total 315.29sqm or 23.1% of site area	No – refer to discussion below
	50% direct sunlight to principal usable part of communal open space area for minimum of 2 hours between 9am and 3pm at mid-winter.	2 hours of sunlight is achieved to at least 50% of the rooftop communal open space area.	Yes
Objective	Minimum 7% deep soil	415sqm or 30.4%	Yes

3E-1	zone		
	Deep soil zone to have minimum 3m dimension	The 3m dimension is met.	Yes
Objective 3F-1	<p>Up to 4 storeys: Minimum setback to adjoining allotment boundary:</p> <ul style="list-style-type: none"> • Habitable rooms: 6m • Non-habitable: 3m <p>5-8 storeys:</p> <ul style="list-style-type: none"> • Habitable rooms: 9m • Non-habitable: 4.5m <p>Additional 3m separation required where sites adjoin a low density residential zone.</p>	<p>Site does not adjoin a low-density residential zone.</p> <p>Site only has adjoining boundaries to the south and east.</p> <p>Development setbacks are 6m to southern boundary; and 6.3m to eastern boundary.</p>	Yes
Objective 3J-1	<p>For sites within 800m of a railway station in Sydney Metropolitan Area, the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>This results in a requirement of 39 spaces (34 residential and 5 visitor) as per DCP 2013. (See detailed discussion under KDCP 2013 assessment below).</p>	Total of 39 spaces 34 – resident 5 - visitor	Yes
Objective 4A-1	Living rooms and private open spaces of at least 70% of dwellings to receive minimum of 2 hours of direct sunlight between 9am and 3pm at mid-winter	19 of the 23 dwellings received the 2 hours of sunlight equating to 82.6%	Yes
	Maximum 15% of apartments receive no direct sunlight between 9am and 3pm at mid-winter	4 of the 23 dwellings being 17.4% receive no direct sunlight between 9am and 3pm at mid-winter	No – refer to discussion below
Objective	60% of apartments to be	19 of the 23 dwellings	Yes

4B-3	naturally cross ventilated	being 82.6% are cross ventilated	
Objective 4C-1	Minimum ceiling height of 2.7m for habitable rooms and 2.4m for non-habitable rooms	2.7m for all rooms	Yes
Objective 4D-1	Apartments to have the following minimum internal areas: <ul style="list-style-type: none"> • 1-bed: 50sqm • 2-bed: 70sqm • 3-bed: 90sqm Additional bathrooms increase the requirement by 5sqm.	1 bedroom dwellings are min 62sqm 2 bedroom dwellings are min 76sqm 3 bedroom dwellings are min 97sqm	Yes
Objective 4D-2	Habitable room depths are limited to a maximum of 2.5 x ceiling height	Within range	Yes
	In open plan layouts the maximum habitable room depth is 8m from window	Within range	Yes
Objective 4D-3	Master bedrooms have minimum area of 10sqm and other bedrooms 9sqm excluding wardrobe space	All bedrooms comply	Yes
	Bedrooms have a minimum dimension of 3m excluding wardrobe space	All bedrooms comply	Yes
	Living rooms or combined living/dining rooms have a minimum width of 4m for 2 and 3 bedroom apartments	All living rooms comply	Yes
Objective 4E-1	All apartments are required to have primary balconies as follows: <ul style="list-style-type: none"> • 2-bed: 8sqm area and 2m depth • 3-bed: 12sqm area and 2.4m depth 	All balconies comply in terms of minimum area and depth requirements	Yes
	Ground level apartments to provide minimum private open space area of 15sqm with minimum depth of 3m	All ground level dwellings units have private open space area and width that comply with these requirements	Yes
Objective 4F-1	Maximum number of apartments off circulation core on a	Ground floor = 6 Levels 1 and 2 = 6 Level 3 = 5	Yes

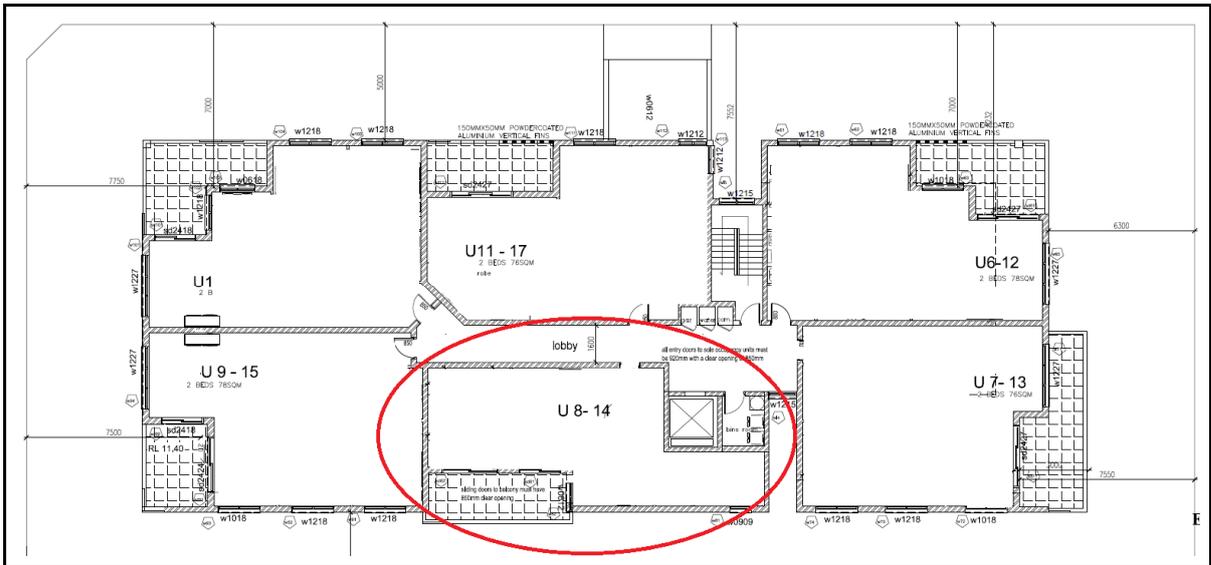
	single level is 8	Level 4 = 1	
Objective 4G-1	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is to be provided: <ul style="list-style-type: none"> • 1-bed: 6 cubic metres • 2-bed: 8 cubic metres • 3-bed: 10 cubic metres 	Each unit has the required amount of storage either in the unit itself or the basement	Yes

Communal Open Space

130. The ADG recommends communal open space of 25% of the site area, or 340.72sqm (site area of 1362.9sqm). The combined area of the rooftop communal open space is 315.29sqm or 23.1% which does not comply with the ADG.
131. The location of the communal open space is provided in a diagram earlier in this report.
132. Despite the non-compliance, the proposal is considered to be acceptable in terms of communal open space for the following reasons:
- The extent of the non-compliance is numerically minor being approximately 7% less than the minimum required.
 - The private open space areas for the ground floor units are extremely generous in size. These could possibly present an opportunity for additional communal open space, however such space if provided at ground floor level would be relatively small as communal areas. Accordingly, they would be better used as private open space rather than communal space.
 - The communal open space at the rooftop area is provided in two separate areas (148.73sqm and 166.56sqm) which will provide good opportunities for social interaction and recreation with good solar access and privacy for neighbouring properties.
133. Overall it is considered that the rooftop communal open space area satisfies the applicable objectives and is acceptable despite the numerical non-compliance.

Solar Access

134. The ADG recommends that a maximum of 15% of units receive no direct sunlight between 9am and 3pm mid winter.
135. The development proposes 4 of the 23 units (units 3, 8, 14, 19) (ie 17%) which receive no direct sunlight between 9am and 3pm mid winter, which does not comply with the ADG criterion.
136. The location of these units is generally on the southern side of the central lobby and it is not possible to provide the required amount of direct sunlight to these units. The position of these units within the floor plan is consistent with the plan below.



Floor plan of levels 1-2 showing the general position of units that do not receive direct sunlight

Source: Applicant DA floor plans (edited and blocked for privacy reasons).

137. Despite the non-compliance with the ADG criterion, the proposal is considered to be acceptable for the following reasons:

- The land has a shape and orientation which results in the building being long/narrow in an east/west orientation. As a result, with the design of the building, it is inevitable that one of the units on each floor will be on the southern side and unable to receive direct sunlight.
- The building is designed so that most of the units are on the northern side, with others on the east and west side. Therefore, overall, the units in the development will receive an excellent level of solar access.

Draft Environmental Planning Instruments

138. The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property. Changes proposed include consolidating the following seven existing SEPPs:

- State Environmental Planning Policy No. 19 – Bushland in Urban Areas
- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
- State Environmental Planning Policy No. 50 – Canal Estate Development
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property.

The proposal is not inconsistent with the provisions of this Draft Instrument.

Any other matters prescribed by the Regulations

139. The Regulations prescribe no other matters for consideration for the proposed development.

Development Control Plans

140. Kogarah Development Control Plan (KDCP) 2013 applies to the proposed development. The development's compliance with the numerical controls in KDCP 2013 is discussed in the following table.

Control	Provision	Proposal	Complies
PART B – GENERAL CONTROLS			
B2 Tree Management and Greenweb	Compliance with provisions of Clause 5.9 Preservation of Trees or Vegetation of KLEP 2012 must be achieved.	<p>Consent sought for removal of 8 trees/shrubs over the three properties forming the subject site.</p> <p>Tree removal has been assessed by Council's Landscape Officer and considered satisfactory subject to conditions of consent for replacement planting.</p> <p>The Landscape Plan nominated replacement planting.</p> <p><u>Note:</u> An appropriate condition is imposed for landscaping in accordance with the submitted Landscape Plan</p>	Yes
B3 – Development near busy roads and rail corridors	Acoustic assessment for noise sensitive development may be required if located in the vicinity of a rail corridor or busy roads	<p>Subject site is approx. 50m from Princes Highway.</p> <p>Acoustic report by Acoustic, Vibration & Noise Pty Ltd has been submitted with the DA.</p> <p>This has been assessed as satisfactory by Council's Environmental Health Officer subject to conditions.</p> <p><u>Note:</u> An appropriate condition has been imposed for compliance with the Acoustic Report.</p>	Yes
B4 Parking and Traffic	4 x 1 bedroom units = 1 space per unit required. 4 spaces required.	<p>34 resident spaces and 5 visitor spaces provided.</p> <p>A total of 39 car spaces provided.</p>	Yes

	<p>16 x 2 bedroom units = 1.5 spaces per unit. 24 spaces required.</p> <p>3 x 3 bedroom units = 2 space per unit 6 spaces required.</p> <p>1 visitor space per 5 units. 23 units require 4.6 spaces equating to 5 visitor spaces.</p> <p>Total required = 34 resident and 5 visitor = 39 spaces required.</p>	<p>The DCP also requires 1 designated wash bay which can be a visitor space.</p> <p>This will be required as a condition.</p>	
	<p>1 space per 3 dwellings (8 spaces required) + 1 space per 10 dwellings for visitors (3 spaces required)</p>	Required bicycle parking shown on upper level basement plan	Yes
	Car park access and layout to comply with relevant Australian Standards	Complies with relevant Australian Standard. The design of the parking area has been assessed by Council's Traffic Engineers as satisfactory	Yes
B5 – Waste Management and Minimisation	Submit waste management plan	WMP submitted and considered satisfactory.	Yes
B6 – Water Management	All developments require consideration of Council's Water Management Policy	A Concept Stormwater Plan has been submitted with the application. The plan has been assessed by Council's Development Engineers as satisfactory subject to conditions	Yes
B7 Environmental Management	Building to be designed to improve solar efficiency and are to use sustainable building materials and techniques	Design, materials, siting and orientation generally optimise solar efficiency, with high proportion of north-facing dwellings. Glazing is minimised on the southern elevation, and operable screens are provided on the western	Yes

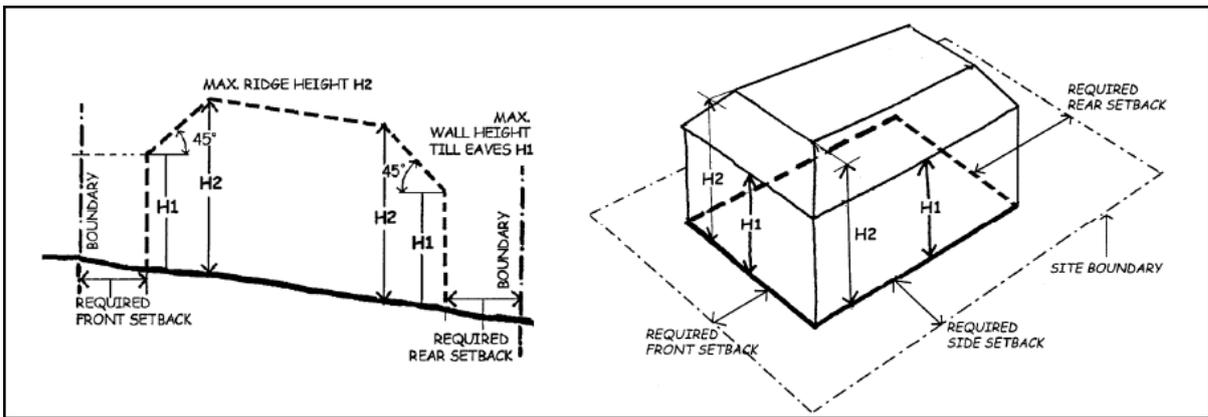
		elevation. Development is BASIX-compliant. <u>Note:</u> Although amended plans were submitted, a BASIX Certificate was not required, because the changes were largely related to the basement car park and did not change the design of the building.	
PART C2 – MEDIUM DENSITY HOUSING			
1. Site isolation and amalgamation for medium density development	Adjoining sites not to be left isolated. Site amalgamation requirements apply for specific sites.	Development does not cause any site isolation. Site is not subject to any amalgamation requirement.	Yes
2. Specific precinct controls – residential flat buildings	Specific precinct controls apply to various sites and locations	Site is noted located in a special precinct	NA
4. Medium site and density requirements. Contains frontage and site area per dwelling requirement.	20m minimum frontage for residential flat building	48.77m to James Street, 25.605m to Vaughan Street.	Yes
	1.1sqm of site area per sqm of dwelling. NOTE: The above DCP control is overridden by KLEP 2012 minimum lot size requirement which is 1000m ² .	Site Area 1362.9sqm, which complies with the LEP requirement. Satisfactory.	Yes
5. Height and building envelope requirements	4 storey RFBs have a “H1” height control of 12m; and a “H2” height control of 14m. (method for calculating these heights are discussed in detail in KDCP 2013)	Development has maximum height as follows: <ul style="list-style-type: none"> • 15.58m (at top of lift over-run) • 15.2m (at top of parapet at 2 points of building) 	No – refer to discussion below
6. Building setbacks	Front setbacks:	Front setback to James	Yes

	Maximum 75% of width of bldg. to be setback minimum 5m, remainder 25% being setback minimum 7m	Street ranges from 5m to 8.232m. Secondary front setbacks to Vaughan Street ranges from 5m to 7.788m. The portion at 5m (from both street frontages) is less than 75% of the building width. Front setbacks are satisfactory.	
	Side/rear setbacks: 3m + one quarter of the amount that the wall height exceeds 3m. [3m = ($\frac{1}{4} \times 12m$)] = 6m required.	The development provides a minimum 6m setbacks from the eastern and southern sides. Complies with DCP.	Yes
7. Site coverage	Maximum 45%	615sqm or 45%	Yes
8. Open space	Private open space (POS) – 35sqm with min. 3m dimension for ground level dwellings and 12sqm with min. 3m dimension for other dwellings	Ground Floor POS: minimum size is unit 5 with 43sqm. All units have 3m minimum dimension. All other units have balconies exceeding 12sqm with a minimum dimension 3m.	Yes
	Common open space – 30sqm per dwelling with overall area of 75sqm and min. dimension of 5sqm. COS requirement under DCP 2013 is 30sqm x 23 units = 690sqm NOTE: This is overridden by the ADG, as discussed earlier in this report.	The development has combined common open space at the rooftop of 315.29sqm	No – refer to discussion below
	Maximum 55% impervious area	Impervious area is 947.9sqm or 69.5%	No – refer to discussion below

9. Vehicular access, parking and circulation	Car parking to be provided in accordance with Part B4	Calculations provided above. DCP requirement is 39 spaces, development provides 39 spaces which complies.	Yes
	Garages to be accessed from rear lane where available	Access off James Street, no rear lane available	Yes
	All residential flat buildings to provide car wash bay	No car wash bay provided designated on plans. Address via condition	Yes (to be conditioned)
11. Solar access	Primary open space to achieve 4 hours of direct sunlight between 9am and 3pm at mid-winter	This DCP control is overridden by the ADG control. The development is satisfactory in terms of the solar access provisions of the ADG.	Yes (ADG)
	Neighbours' private open space and living areas to maintain 3 hours of direct sunlight between 9am and 3pm at mid-winter	Adjoining dwelling at 6 Vaughan Street is due south of the subject site and will be affected by overshadowing	No – refer to discussion below
12. Views and view sharing	Provide for reasonable sharing of views	The location does not have significant views. Development generally complies with height requirements and is reasonable in terms of view sharing.	Yes
13. Adaptable and accessible housing	3 adaptable units required for developments with 21-30 units	3 adaptable dwellings nominated	Yes

Height and Building Envelope

141. Kogarah DCP 2013 contains height and building envelope controls for residential flat building developments. These state that a 4 storey residential flat buildings are to have a “H1” height control of 12m; and a “H2” height control of 14m, where the “H2” height control is at a 45° angle from the H1 control. This is explained in the following diagrams.



Height and Building Envelope controls in Kogarah DCP 2013

142. The development proposes a height of 15.58m (top of lift over-run) and 15.2m (top of parapet at 2 points of the building) which does not comply with the height control in Kogarah DCP 2013. Despite the numerical non-compliance, the proposal is considered to be acceptable for the following reasons:

- The non-compliance has resulted from the recent (May 2017) gazettal of the “New City Plan” as an amendment to Kogarah LEP 2012, which prescribed a new 15m height control for the subject land under the Kogarah LEP 2012.
- The height controls in KDCP 2013 are inconsistent with those in the LEP. In the hierarchy of planning controls, LEP provisions take precedence over those in the DCP.
- The development is consistent with the intended outcome as per the recently gazetted New City Plan, which is to increase building heights and densities in the Kogarah area.
- The development substantially complies with the 15m height control prescribed in KLEP 2012, except for minor breaches as previously discussed. A clause 4.6 request for a variation has been submitted to the minor height breach, as discussed earlier in this report.
- This development is consistent with recent judgements in the NSW Land and Environment Court. In particular, in *Michael Murr v Georges River Council [2017] NSWLEC1369*,

“...The parties agreed that there was a conflict between the provisions applying to the site under the DCP and those contemplated under LEP Amendment 2, in particular with regard to the height and density, and therefore the height, bulk and scale, of any development in the R3 Precinct...”

The Council had initiated amendments to the DCP to align with LEP Amendment 2. However, in November 2013, the Council resolved not to progress these amendments pending a forthcoming Housing Strategy review.

There are therefore no current or draft site specific DCP provisions that apply to the site or to the R3 Precinct in which it is located which reflect or respond to the development standards contained in LEP Amendment 2.”

143. Accordingly, the development is considered to be acceptable in terms of height despite the numerical non-compliance with Kogarah DCP 2013.

Communal Open Space

144. Kogarah DCP 2013 contains a common open space requirement of 30sqm per dwelling, which equates to 690sqm for this development (of 23 units). The development proposes two common open space areas on the rooftop with a total area of 315.29sqm is substantially less than the DCP requirement.
145. It is noted that the ADG also prescribes a communal open space requirement of 25% of the site area, which equates to 340sqm. The extent of the departure from the ADG recommendation is very minor (24.71sqm or 7%). The recommendation of the ADG prevails over the requirement of DCP 2013.
146. As discussed in the previous assessment regarding ADG compliance, the proposal is considered to be acceptable in terms of communal open space, the area provided is generous, and will provide good opportunities for social interaction and recreation with good solar access and privacy for neighbouring properties.
147. Overall it is considered that the rooftop communal open space area satisfies the applicable objectives and is acceptable despite the numerical non-compliance.

Impervious Area

148. Kogarah DCP 2013 prescribes a maximum impervious area requirement of 55%. The development has been calculated to have an impervious area of some 947.9 or 69.5%, which does not comply with the DCP requirement.
149. Despite the non-compliance with the DCP control, the proposal is considered to be acceptable for the following reasons:
- The development provides substantial deep soil areas which comply with the DCP controls.
 - The objectives of this control in the DCP include provision of open space for planting of trees as well as landscape amenity to the dwellings. In this regard, the DA documentation has included a landscape plan which includes a mix of shrub and tree planting to enhance the appearance of the development in a landscaped setting.
 - The objectives of the DCP control also relate to reducing stormwater runoff and the potential for local flooding. In this regard, the submitted stormwater plan shows that water from the development's hard surface areas will be captured and disposed of into Council's stormwater drainage system. In this regard, the proposed stormwater plan has been assessed as satisfactory by Council's Development Engineer.
150. Overall, the proposal is considered to be satisfactory in terms of impervious area, despite the numerical non-compliance with the DCP control.

Solar Access

151. Kogarah DCP 2013 contains controls relating to solar access. The controls in relation to overshadowing of neighbouring properties state that neighbour's private open space and living areas to maintain 3 hours of sunlight mid-winter.

152. The affected adjoining property in this instance is 6 Vaughan Street, located directly to the south of the subject site. This property presently contains a 2 storey detached dwelling with rear yard that will be significantly overshadowed by the proposed development, and would not comply with the above DCP requirement.
153. However it is noted that the adjoining property is the subject of a DA for a residential flat building currently under assessment with Council.
154. Despite the DCP non-compliance, the proposal is considered to be acceptable for the following reasons:
- As mentioned previously, the subject land is part of an area that has been recently up-zoned from R2 Low Density Residential to R3 Medium Density Residential, to allow residential flat developments similar to that which is proposed under the current DA.
 - The resulting increase in zoning potential will result in an increase in overshadowing impacts compared to the existing situation.
 - The shape and orientation of the land results in a development site which is relatively shallow in depth (27.125m) with the land running in an east-west orientation. With these allotment characteristics, it is inevitable that the development will result in a built form that has a significant overshadowing impact on the neighbouring property to the south.
 - The development substantially complies with the height requirement of Kogarah LEP 2012, except for a minor variation at the lift over-run and top of the parapet. Neither of these design components of the development will cause significant overshadowing of the neighbouring property.
155. Accordingly, the proposal is considered to be acceptable in terms of overshadowing of neighbouring properties.

IMPACTS

Natural Environment

156. The development is unlikely to have adverse impacts on the natural environment. Basement excavation is proposed, however the extent of the excavation is consistent with what would be expected for a residential flat development, and the development is unlikely to adversely impact on existing drainage patterns and soil stability in the locality. The proposed tree removal has been assessed as satisfactory by Council's Landscape Officer subject to planting of replacement trees.

Built Environment

157. The proposed development is unlikely to have adverse impacts on the built environment. The development achieves a bulk and scale suitable to the existing and desired future character of the locality, and provides a form with visual interest that responds to the slope of the land. Though the development varies from a number of controls in Kogarah LEP 2012 and DCP 2013, the extent of the variations are acceptable as discussed throughout this report.

Social Impacts

158. The development would contribute additional housing stock to the area and cater to the needs of families by providing a range of dwelling sizes through a mix of one bedroom, two bedroom and three bedroom units. There will be minimal adverse social impacts associated with this development.

Economic Impacts

159. The development will have positive short term economic benefit associated with construction employment and minimal adverse economic impacts over the longer term.

Suitability of the Site

160. Council's mapping system has been reviewed in terms of possible site constraints (such as flooding, land subsidence etc), and there are no constraints that would render the land as unsuitable for the proposed development.

SUBMISSIONS

161. The DA was advertised and notified to neighbours in accordance with Kogarah DCP 2013, for a period from 25 June to 11 July 2018. No submissions were received from Council as a result of this process. Note: Although amended plans were received during processing of this DA, as mentioned previously, these were largely related to the design of the basement car park and did not alter the design of the building. Accordingly, re-notification to neighbours was not required.

REFERRALS

162. The DA was referred to a number of officers within and outside Council. The comments of these officers are outlined as follows.

Council Referrals

Waste Management Officer

163. Council's Waste Management Officer has provided the following comments in relation to the proposed development:

The property requires 12 garbage bins collected once and week and 12 recycling bins collected once a week. Bin rooms on each floor are acceptable all bins need to be transported to the bin room.

All bins need to be taken from the bin room to kerbside for collection.

The waste room will contain the following to minimise odours, deter vermin, protect surrounding areas, and make it a user-friendly and safe area:

- *waste room floor to be sealed;*
- *waste room walls and floor surface is flat and even;*
- *all walls painted with light colour and washable paint;*
- *equipment electric outlets to be installed 1700mm above floor levels;*
- *The bin storage rooms will be mechanically exhausted as required by AS 1668.2;*
- *light switch installed at height of 1.6m;*
- *waste rooms must be well lit (sensor lighting recommended);*
- *optional automatic odour and pest control system installed to eliminate all pest types and assist with odour reduction - this process generally takes place at building handover - building management make the decision to install;*
- *all personnel doors are hinged and self-closing;*
- *waste collection area must hold all bins - bin movements should be with ease of access;*

- conform to the Building Code of Australia, Australian Standards and local laws; and childproofing and public/operator safety shall be assessed and ensured.
- Occupational Health and Safety issues such as slippery floors in waste rooms and the weight of the waste and recycling receptacles will need to be monitored.
- Cleaners will monitor the bin storage area and all spills will be attended to immediately by cleaners.

164. Assessment Officer's Comment: It is evident that the Waste Management Officer raises no objection to the proposal and that the above matters will be addressed as conditions of consent.

Environmental Health Officer

165. Council's Environmental Health Officer has reviewed the proposal and provided the following comments:

The Preliminary Site Investigation report found that the site has only ever been residential and is unlikely to pose a risk of contamination.

However the geotechnical consultant's report states:

The site can be made suitable for the proposed development in its current state, subject to the following recommendations.

- Site investigation by DD post demolition, to identify and potential areas of contamination;
- Preparation of a clearance certificate if asbestos is identified;
- Contamination sampling to confirm the absence of lead paint contamination;
- Undertake council, work cover searches and address data gaps including council searches.

These recommendations will be included in the conditions below.

The Environmental Health Section has assessed the proposed subject development in accordance with the Protection of the Environment Operations Act. The assessment also includes the review of:

- The Stage 1 Environmental Investigation report (DDE-240_1) prepared by The Dirt Doctors dated 7 June 2018.
- The acoustic report prepared by Acoustic, Vibration & Noise Pty Ltd dated 23 May 2018.

The Environmental Health Section has no objection to the development subject to the following conditions.

166. Assessment Officer's Comment: Appropriate conditions of consent will be included to address the comments of the Environmental Health Officer.

Landscape Officer

167. Council's Landscape Officer has reviewed the proposal in terms of both tree removal and replacement landscaping in the landscape plan. No objections were raised, appropriate conditions of consent provided.

Traffic Engineer

168. Council's Traffic Engineer had initially raised the following issues of concern in relation to the proposal:

- *A Traffic Generation Report will need to be provided along with a SIDRA analysis of the nearby intersections. The traffic report will also need to highlight Councils' DCP requirements.*
- *Car Spaces 1, 14, 22, 34 are not compliant. The aisle shall be extended a minimum of 1m beyond the last car space. The last car space should be 3.4m with the 1m included allowance. This is evident in the swept paths provided. The wider parking space does not compensate for the lack of a blind aisle extension.*
- *Swept path for car space 33 shows the vehicle encroaching onto the storage spaces. Allowances to be provided to ensure a clear swept path.*
- *Swept paths to be re submitted with the adjustments.*
- *Minimum sight triangles on the left-hand side of the driveway to be provided, in accordance with Fig 3.3 of AS2890.1*

169. The applicant was requested to provide this information prior to determination, and did so on 21 September 2018. The additional information was referred back to the Traffic Engineers for comment.
170. In response, the Traffic Engineer advised that they reviewed the amended submitted plans and are satisfied. An intersection model was requested, however as RMS have stated that they are happy with the traffic generation from the development this won't be required.

Stormwater

171. Council's Drainage Engineer has advised that in the Pre-Lodgment meeting a connection into the existing pipe/pit in the street was requested, however the applicant's consultant drainage engineer has spoken/discussed with Council's Asset engineer who permitted the connection to the street kerb, with a maximum discharge of 25l/s to the street kerb as per the former Kogarah Council's practice.
172. On this basis, no objections were raised subject to conditions to be imposed.

External referrals

Roads and Maritime Services

173. The DA was referred to the NSW Roads and Maritime Services for its proximity to Princes Highway. In response, by letter dated 7 August, the NSW RMS have advised that they have reviewed the application and raise no objection as it is unlikely to have a significant impact on the local road network.

CONCLUSION

174. The proposal has been assessed using the matters for consideration listed in Section 4.15 and 4.16(1) (a) of the Environmental Planning and Assessment Act 1979.
175. Based on this assessment, the proposal is generally considered to be satisfactory for approval subject to appropriate conditions.
176. There are some areas of non-compliance with the applicable planning controls contained in Kogarah LEP 2012, Kogarah DCP 2013, as well as the Apartment Design Guide (ADG). However these areas of non-compliance are minor and justifiable as discussed throughout this report.

DETERMINATION AND STATEMENT OF REASONS

177. 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, subject to the recommended conditions, will have no unacceptable adverse impacts upon the natural or built environments
- In consideration of the aforementioned reasons, the proposed development is a suitable and planned use of the site and its approval is in the public interest

178. Determination

THAT Georges River Council supports the request for variation under Clause 4.6 of Kogarah LEP 2012, in relation to the height controls contained in Clause 4.3 of Kogarah LEP 2012.

FURTHER THAT pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act, 1979, Georges River Council grant development consent to Development Application DA2018/0217 for lot consolidation, demolition of all buildings, construction of a part 4/part 5 storey residential flat building containing twenty three units, basement parking, service provision, drainage and landscaping works at Lot 1 DP 124073 and Lots B and C DP 340256 and known as 1-5 James Street, Blakehurst, subject to the following conditions of consent:

Section A Development Details

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

Description	Reference No.	Date	Revision	Prepared By
Site Analysis	2117 DA 00	Jan 2018	A	Antoine Saouma
Lower Basement	2117 DA 01	19 Sept 2018	B	Antoine Saouma
Upper Basement	2117 DA 02	19 Sept 2018	B	Antoine Saouma
Ground Floor	2117 DA 03	19 Sept 2018	B	Antoine Saouma
Level 1&2 Floor Plan	2117 DA 04	Jan 2018	A	Antoine Saouma
Level 3 Floor Plan	2117 DA 05	Jan 2018	A	Antoine Saouma
Level 4 Floor Plan	2117 DA 06	Jan 2018	A	Antoine Saouma
Roof & Site Plan	2117 DA 07	19 Sept 2018	B	Antoine Saouma
Section AA-BB	2117 DA 08	19 Sept 2018	B	Antoine Saouma
Section CC-DD-EE	2117 DA 09	Jan 2018	A	Antoine Saouma
Elevations	2117 DA 10	Jan 2018	A	Antoine Saouma
Elevations	2117 DA 11	Jan 2018	A	Antoine Saouma
Site Management & Demolition Plan	2117 DA 20	Jan 2018	A	Antoine Saouma
Stormwater Drainage/Sediment	1925 S1/5	31 May 2018	B	John Romanous and Associates

Control Details				
Stormwater Drainage/Sediment Control Details	1925 S2/5	31 May 2018	B	John Romanous and Associates
Stormwater Drainage/Sediment Control Details	1925 S3/5	31 May 2018	B	John Romanous and Associates
Stormwater Drainage/Sediment Control Details	1925 S4/5	31 May 2018	B	John Romanous and Associates
Stormwater Drainage/Sediment Control Details	1925 S5/5	31 May 2018	B	John Romanous and Associates
Landscape Concept Plan	18100 DA1-2	30 May 2018	A	Vision Dynamics
Landscape Concept Plan	18100 DA2-2	30 May 2018	A	Vision Dynamics

Section B Separate Approvals Required Under Other Legislation

2. **Section 138 Roads Act 1993 and Section 68 Local Government Act 1993** – Unless otherwise specified by a condition of this consent, this Development Consent does not give any approval to undertake works on public infrastructure.

Separate approval is required under Section 138 of the [Roads Act 1993](#) and/or Section 68 of the [Local Government Act 1993](#) for any of the following activities carried out in, on or over a public road (including the footpath) listed below.

An application is required to be lodged and approved prior to the commencement of any of the following works or activities;

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

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

The relevant Application Forms for these activities can be downloaded from Council’s website www.georgesriver.nsw.gov.au. For further information, please contact Council’s Customer Service Centre on (02) 9330 6222.

3. **Below ground anchors - Information to be submitted with S68 Application under LGA 1993 and S138 Application under Roads Act 1993** - In the event that the excavation associated with the basement carpark is to be supported by the use of below ground (cable) anchors that are constructed under Council's roadways/footways, an application must be lodged with Council under Section 68 of the *Local Government Act 1993* and the *Roads Act 1993* for approval, prior to commencement of those works.

The following details must be submitted:

- (i) That cable anchors will be stressed released when the building extends above ground level to the satisfaction of Council;
 - (ii) The applicant has indemnified council from all public liability claims arising from the proposed works, and provide adequate insurance cover to the satisfaction of Council.
 - (iii) Documentary evidence of such insurance cover to the value of \$20 million;
 - (iv) The applicant must register a non-terminating bank guarantee in favour of Council. An amount will be determined when the application is lodged;
 - (v) The guarantee will be released when the cables are stress released. In this regard it will be necessary for a certificate to be submitted to Council from a structural engineer at that time verifying that the cables have been stress released.
 - (vi) In the event of any works taking place on Council's roadways/footways adjoining the property while the anchors are still stressed, all costs associated with overcoming the difficulties caused by the presence of the 'live' anchors will be borne by the applicant.
4. **Vehicular Crossing – Major Development** - The following vehicular crossing and road frontage works will be required to facilitate access to and from the proposed development site:
- (a) Construct a 1.2 metre wide footpath for the full length of the frontage of the site on James Street and on Vaugh Street up to including the entry to Unit 4 of the building in accordance with Council's Specifications applying at the time construction approval is sought.
 - (b) The thickness and design of the driveway shall be in accordance with Council's Specifications applying at the time construction approval is sought.
 - (c) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the applicant. The work shall be carried out in accordance with Council's specification, applying at the time construction approval is sought.

Constructing a vehicular crossing and/or footpath requires separate approval under Section 138 of the Roads Act 1993, prior to the commencement of those works.

5. **Road Opening Permit** - A Road Opening Permit must be obtained from Council for every opening of a public road reserve to access services including sewer, stormwater

drains, water mains, gas mains, and telecommunications before the commencement of work in the road.

Section C Requirements of other Government Authorities

6. **Sydney Water – Tap in™** - The approved plans must be submitted to a Sydney Water Tap in™ to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately endorsed. For details please refer to 'Plumbing, building and developing' section of Sydney Water's web site at www.sydneywater.com.au then see 'Building', or telephone 13000 TAP IN (1300 082 746). The Certifying Authority must ensure that a Tap in™ agent has appropriately stamped the plans prior to the issue of the Construction Certificate.
7. **Notice of Requirements for a Section 73 Certificate** - A Notice of Requirements of what will eventually be required when issuing 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 Co-ordinator. Please refer to the 'Plumbing, building and developing' section of the web site www.sydneywater.com.au then refer to 'Providers' under 'Developing' 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 Co-ordinator, as it can take some time to build water/sewer pipes and this may impact on other services and building, driveway or landscape design.

The Notice of requirements must be submitted prior to the commencement of work. A Section 73 Compliance Certificate will be required at the completion of development in accordance with further conditions.

8. **Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be submitted to the Principal Certifier prior to the issue of the Occupation Certificate.
9. **Electricity Supply** - An application is required to be made to Ausgrid for a network connection. This may require the network to be extended or its capacity augmented. Evidence of this application being lodged with Ausgrid is required to be provided to the Certifying Authority prior to the issue of a Construction Certificate. For further details, you are advised to contact Ausgrid on 13 13 65 or www.ausgrid.com.au (Business and Commercial Services).

Section D Prior to the Issue of a Construction Certificate

10. **Fees to be paid** - The fees listed in the table below must be paid in accordance with the conditions of this consent and Council's adopted Fees and Charges applicable at the time of payment (available at www.georgesriver.nsw.gov.au).

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

Please contact Council prior to the payment of Section 7.11 Contributions to determine whether the amounts have been indexed from that indicated below in this consent and

the form of payment that will be accepted by Council.

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

A summary of the fees to be paid are listed below:

Fee Type	Fee
GENERAL FEES	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See https://portal.longservice.nsw.gov.au/bci/levy/	
Builders Damage Deposit	\$94,591.08
Inspection Fee for Refund of Damage Deposit	\$310.00
DEVELOPMENT CONTRIBUTIONS	
Kogarah Section 94 Development Contributions Plan No.1 - Roads and Traffic Management - Residential	\$417.30
Kogarah Section 94 Development Contributions Plan No.5 - Open Space 2007	\$211,405.64
Kogarah Section 94 Development Contributions Plan No.9 - Kogarah Libraries - Buildings	\$4,638.64
Kogarah Section 94 Development Contributions Plan No.9 - Kogarah Libraries - Books	\$3,307.28
TOTAL CONTRIBUTIONS	\$219,768.92

General Fees

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

Development Contributions

The Section 7.11 contribution is imposed to ensure that the development makes adequate provision for the demand it generates for public amenities and public services within the area.

A Section 7.12 contribution has been levied on the subject development pursuant to the Georges River Council Section 94A Contributions Plan.

Indexation

The above contributions will be adjusted at the time of payment to reflect changes in the cost of delivering public amenities and public services, in accordance with the indices provided by the relevant Section 94 Development Contributions Plan.

Timing of Payment

The contribution must be paid and receipted by Council prior to the release of the Construction Certificate.

Further Information

A copy of the *all current Development Contributions Plans* may be inspected or a copy purchased at Council's offices (Georges River Civic Centre, MacMahon Street,

Hurstville and Kogarah Library and Service Centre, Kogarah Town Square, Belgrave Street, Kogarah) or viewed on Council's website www.georgesriver.nsw.gov.au.

11. **Damage Deposit - Major Works** - In order to insure against damage to Council property the following is required:
 - (a) Pay Council, before the issue of the Construction Certificate, a damage deposit for the cost of making good any damage caused to any Council property as a result of the development: **\$94,591.08**.
 - (b) Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee (for two inspections) to enable assessment of any damage and repairs where required: **\$310.00**.
 - (c) Submit to Council, before the commencement of work, a photographic record of the condition of the Council nature strip, footpath and driveway crossing, or any area likely to be affected by the proposal.

At the completion of work Council will inspect the public works, and the damage deposit will be refunded in full upon completion of work where no damage occurs. Otherwise the amount will be either forfeited or partly refunded according to the amount of damage.

12. **Acoustic Requirements** - Road traffic noise criteria for sensitive developments - The building must be designed and constructed so that the road traffic noise levels inside the building comply with the noise criteria specified in Development Near Rail Corridors and Busy Roads – Interim Guideline (Department of Planning, 2008).
13. **Compliance with submitted Acoustic Report** - The Construction Certificate plans shall demonstrate compliance with the Acoustic Report submitted and approved by Council, titled Acoustic Report prepared by Acoustic, Vibration & Noise Pty Ltd and dated 23 May 2018.
14. **Car Wash Bays** - The proposed car wash bay shall be contained within a roofed and bunded area. The water from the car wash bay must be graded to a drainage point and connected to sewer.
15. **Landscape Plan** - All landscape works shall be carried out in accordance with the approved landscape plans and specifications, drawn by Vision Dynamics Landscape Design, reference numbers – 18100 DA1-2. The landscaping shall be maintained in accordance with the approved plans in perpetuity.

General Landscape Requirements

- a) The proposed plant species, pot/ bag size and quantities of plants shall be in accordance with the proposed plant schedule upon the landscape plan. If plant species, pot/ bag size and quantities cannot be sourced, Council shall be contacted for alternatives.
 - b) Tree/s proposed upon the approved landscape plan shall comply with NATSPEC Specifying Trees: A guide to assessment of tree quality (2003), and be planted and maintained in accordance with Councils standard specification.
16. **Site Management Plan - Major Development** - A Site Management Plan must be submitted with the application for a Construction Certificate, and include the following:

- (a) location of protective site fencing;
- (b) location of site storage areas/sheds/equipment;
- (c) location of building materials for construction, e.g. stockpiles
- (d) provisions for public safety;
- (e) dust control measures;
- (f) method used to provide site access location and materials used;
- (g) details of methods of disposal of demolition materials;
- (h) method used to provide protective measures for tree preservation;
- (i) provisions for temporary sanitary facilities;
- (j) location and size of waste containers/skip bins;
- (k) details of proposed sediment and erosion control measures;
- (l) method used to provide construction noise and vibration management;
- (m) construction and demolition traffic management details.

The site management measures are to be implemented prior to the commencement of any works including demolition and excavation. The site management measures are to be maintained throughout the works, to maintain reasonable levels of public health, safety and amenity. A copy of the Site Management Plan must be kept on site and is to be made available upon request.

17. **Pre-Construction Dilapidation Report – Private Land** - A professional engineer specialising in structural or geotechnical engineering shall prepare a Pre-Construction Dilapidation Report detailing the current structural condition of adjoining premises.

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

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

Should the owners of properties (or their agents) refuse access to carry out inspections, after being given reasonable written notice, this shall be reported to Council to obtain Council's agreement to complete the report without access. Reasonable notice is a request for access in no sooner than 14 days between 8.00am-6.00pm.

18. **Vehicular Crossing – Major Development** - The following vehicular crossing and road frontage works will be required to facilitate access to and from the proposed development site:

- (i) Construct a 1.5m wide footpath for the full length of the frontage of the site in Princes Highway in accordance with Council's Specifications applying at the time construction approval is sought.
- (ii) The thickness and design of the driveway shall be in accordance with Council's Specifications applying at the time construction approval is sought.
- (iii) Any existing vehicular crossing and/or laybacks which are redundant must be removed. The kerb and gutter, any other footpath and turf areas shall be restored at the expense of the applicant. The work shall be carried out in

accordance with Council's specification, applying at the time construction approval is sought.

Constructing a vehicular crossing and/or footpath requires separate approval under Section 138 of the [Roads Act 1993](#), prior to the commencement of those works.

19. **Driveway Construction Plan Details** - Detailed engineering plans for the driveway shall be submitted with the Construction Certificate application that shows:
- b) Longitudinal and cross sections, gradients, access onto the proposed lots, type of construction materials designed in accordance with Council's Subdivision standards and AS/NZS2890.1-2004;
 - c) Suitable underground provision for the supply of all relevant services to the proposed lots (proposed position of pipes and conduits); and
 - d) The full length of the driveway designed with a minimum 150mm thick reinforced concrete and minimum of 2.7m wide pavement/kerb face to kerb face width, and a non-slip surface.
20. **Tree Protection and Retention** - The following trees shall be retained and protected:

Tree Species	Location of Tree / Tree No.	Tree Protection Zone (metres) Fencing distance from trunk
T1 – <i>Syzigium Spp</i>	Front yard of 6 Vaughan Street	3.0 metres
T2 – <i>Callistemon viminalis</i> “Hannah Ray”	Council street tree on Vaughan Street	4.5 metres
T5 – <i>Syagrus romanzoffiana</i>	637A Princes Highway, back fence	2.0 metres
T6 X 4 <i>Leptospermum petersonii</i>	637A Princes Highway, back fence	3.5 metres

Details of the trees to be retained must be included on the Construction Certificate plans.

General Tree Protection Measures

- (a) All trees to be retained shall be protected before and maintained during demolition, excavation and construction of the site.
- (b) The tree protection measures must be undertaken in accordance AS4970 - 2009 *Protection of trees on development sites*.
- (c) Details of the tree protection measures to be implemented must be provided with the application for a Construction Certificate by a suitably qualified Arborist (AQF Level 5 or above in Arboriculture).
- (d) The Project Arborist must be present on-site during the stages of excavation, demolition and construction when works are being undertaken that could impact on the tree canopy or root zone within the tree protection zone of each tree.
- (e) Unless otherwise specified in AS 4970-2009 *Protection of trees on development sites*, a protective fence consisting of 1.8 metres high, fully supported chainmesh fence 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 in the table above. 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.

- (f) The Tree Protection Zone of each tree, to be protected, shall be watered thoroughly, regularly to minimise the effects of construction works.
- (g) No services shall be installed within the TPZ of the tree/s unless approved by Council. This fence shall be kept in place during demolition, construction and also have a sign displaying ‘Tree Protection Zone – DO NOT ENTER’ attached to the fence and must also include the name and contact details of the Project Arborist.

Excavation works near tree to be retained

- (h) 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.
- (i) 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.
- (j) Tree Protection Zone 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.

Details satisfying this condition shall be shown on the Construction Certificate plans.

21. **Compliance with submitted Arborist Report** - The recommendations outlined in the Arborist’s Report titled Arboricultural Impact Assessment prepared by Redgum Horticultural, dated 23 May, 2018, must be implemented throughout the relevant stages of construction. Details of tree protection measures to be implemented must be detailed and lodged with the Construction Certificate application for approval and shall be in accordance with Section 4 - *Australian Standard AS 4970-2009: Protection of trees on development sites*.

The tree/s to be retained and protected are listed in the table below.

Tree Species	Location of Tree / Tree No.	Tree Protection Zone (metres) Fencing distance from trunk
<i>T1 – Syzigium Spp</i>	Front yard of 6 Vaughan Street	3.0 metres
<i>T2 – Callistemon viminalis “Hannah Ray”</i>	Council street tree on Vaughan Street	4.5 metres
<i>T5 – Syagrus romanzoffiana</i>	637A Princes Highway, back fence	2.0 metres
<i>T6 X 4 Leptospermum petersonii</i>	637A Princes Highway, back fence	3.5 metres

22. **Tree Removal & Replacement**

Tree removal - Permission is granted for the removal of the following trees:

Tree Species	Number of trees	Location
T3 – <i>Corymbia ficifolia</i>	X1	Front yard of 1 James Street
T4 – <i>Tecoma stans</i>	X3	Side western fence of 5 Vaughan Street
T7 – <i>Persea americana</i>	X1	Backyard of 1 James Street
T8 – <i>Juniperus sabina</i>	X1	Backyard of 1 James Street
T9 – <i>Melaleuca linarifolia</i>	X1	Backyard of 3 James Street
T10 – <i>Camellia japonica</i>	X1	Backyard of 5 James Street, back fence

General Tree Removal Requirements

- (a) All tree removal shall be carried out by a minimum certificate Level 3, Licenced and insured 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).
- (b) No trees are to be removed on the site or neighbouring properties without the prior written approval of Council.

Street Tree Removal / Replacement by Council –

- (a) Six (6) street trees of species *Elaeocarpus reticulatus* and pot sizes 25 litre must be provided in the road reserve fronting the site.
- (b) Council shall be appointed to plant all tree/s on public land. All costs associated with the planting of trees shall be met by the applicant. Fees and charges outlined in the table below are subject to change and are set out in the current version of Council's 'Schedule of Fees and Charges', applicable at the time of payment.

Fee Type – Tree removal on public land	Amount
Administration Fee for Tree Removal	N/A
Tree Planting Fee (per Tree) X 6	\$185.40
Cost of tree removal	N/A
Cost of Stump Grinding	N/A

A copy of the Hurstville City Council's Tree Removal and Pruning Guidelines and Kogarah City Council, Street Tree Management Strategy and Masterplan, can be downloaded from Council's website www.georgesriver.nsw.gov.au.

23. **Stormwater System** - The submitted stormwater plan has been assessed as a concept plan only. Final detailed plans of the drainage system, prepared by a professional engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate.
 - (a) All stormwater shall drain by gravity to Council's kerb and gutter in the street in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended). The drainage engineer shall ensure to the PCA that the maximum stormwater discharge to the street kerb is not greater than 25 l/s
 - (b) The stormwater management report as per Council's web-base calculator shall be included in the submission to the PCA satisfaction.

- (c) Prior to the commencement of works, the PCA/builder shall ensure that the stormwater discharge pipe across the footpath shall be RHS at an angle and is laid with minimum disturbance at a minimum 1% grade to the kerb and gutter in the street and is made in good working condition.
- (d) There shall be no damage to the adjoining driveway crossing. All damages are to be rectified to its original condition at the cost of the applicant.
- (e) The stormwater drainage plans including pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits prepared by a professional engineer who specialises in Hydraulic Engineering in accordance with the Australian Institute of Engineers Australian Rainfall and Runoff (1987) and Council's Stormwater Drainage Guidelines, shall accompany the application for the Construction Certificate.

Stormwater Systems with Basement

- (f) The underground basement car park must pump to and all other stormwater must drain by gravity to the drainage system within the site via a silt trap pit.

The design of the proposed drainage system must be prepared by a professional engineer who specialises in hydraulic engineering and be submitted for approval with the Construction Certificate application.

Protection of basement from inundation of stormwater waters

- (g) The protection of the underground basement shall be protected from possible inundation by surface waters from the street.

Evidence from a professional engineer who specialises in hydraulic engineering that this design requirement has been adhered to shall be submitted with the Construction Certificate application.

24. **On Site Detention** - The submitted stormwater plan has been assessed as a concept plan only. Final detailed plans of the drainage system, prepared by a professional engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate.

An on-site detention (OSD) facility designed by a professional engineer who specialises in Hydraulic Engineering must be designed, approved and installed. The design must include the computations of the inlet and outlet hydrographs and stage/storage relationships of the proposed OSD using the following design parameters:

- (a) peak flow rates from the site are to be restricted to a permissible site discharge (PSD) equivalent to the discharge when assuming the site contained a single dwelling, garage, lawn and garden.
- (b) at Annual Recurrence Intervals of 2 years and 100 years.
- (c) Ensure that the stormwater discharge pipe between the boundary pit and the street kerb shall be RHS laid at an angle at a minimum 1% grade to drain by gravity to the street with maximum discharge 25 l/s to the street kerb to be calculated and shown on the final drainage plan.
- (d) Ensure the provision of an overland flow pipe bypassing the orifice plate.
- (e) The design and structural adequacy of the OSD tank system shall be certified by a practicing drainage engineer to the satisfaction of the PCA.

25. **Pump-Out System Design for Stormwater Disposal** – The design of the pump-out system for storm water disposal will be permitted for drainage of basement areas only, and must be designed in accordance with the following criteria:
- (a) The pump system shall consist of two pumps, connected in parallel, with each pump being capable of emptying the holding tank at the rate equal to the rate of inflow for the one-hour duration storm. The holding tank shall be capable of holding one hour's runoff from a one-hour duration storm of the 1 in 20 year storm;
 - (b) The pump system shall be regularly maintained and serviced, every six (6) months; and
 - (c) Any drainage disposal to the street gutter from a pump system must have a stilling sump provided at the property line, connected to the street gutter by a suitable gravity line.

Details and certification of compliance from a professional engineer specialising in civil engineering shall be provided for approval with the Construction Certificate application.

26. **Driveway Construction Plan Details** - Detailed engineering plans for the driveway shall be submitted with the Construction Certificate application for approval that show:
- (a) Longitudinal and cross sections, gradients, access onto the proposed lots, type of construction materials designed in accordance with Council's Subdivision standards and AS/NZS2890.1-2004.
 - (b) Suitable underground provision for the supply of all relevant services to the proposed lots (proposed position of pipes and conduits).
 - (c) A longitudinal driveway sections are to be prepared by a qualified civil/traffic engineer and be submitted for to and approved by the Certifying Authority. These profiles are to be at 1:100 scale along both edges of the proposed driveway, starting from the centreline of the frontage street carriageway to the proposed basement floor level. The civil/traffic engineer shall provide specific written certification on the plans that:
 - a. Vehicular access can be obtained using grades of 25% (1 in 4) maximum and
 - b. All changes in grade (transitions) comply with Australian Standard 2890.1 (2004) – “Off-street car parking” to prevent the scraping of the underside of the vehicles.

27. **Council Property Shoring** - Prior to the issue of the Construction Certificate, plans and specifications prepared by a professional engineer specialising in practising structural engineering must detail how Council's property shall be supported at all times.

Where any shoring is to be supporting, or located on Council's property, certified structural engineering drawings detailing; the extent of the encroachment, the type of shoring and the method of removal, shall be included on the plans. Where the shoring cannot be removed, the plans must detail that the shoring will be cut to 150mm below footpath level and the gap between the shoring and any building shall be filled with a 5MPa lean concrete mix.

28. **Geotechnical Report.** The applicant must submit a Geotechnical Report, prepared by a professional engineer specialising in geotechnical engineering who holds the relevant Certificate of accreditation as required under the *Building Professionals Act 2005* in

relation to dilapidation reports, all site works and construction. This is to be submitted before the issue of the Construction Certificate and is to include:

- (a) Investigations certifying the stability of the site and specifying the design constraints to be placed on the foundation, any earthworks/stabilization works and any excavations.
- (b) Dilapidation Reports on the adjoining properties including, but not limited to (address) and (address) prior to any excavation of site works. The Dilapidation Report is to include assessments on, but not limited to, the dwellings at those addresses and any external paths, grounds etc. This must be submitted to the PCA and the adjoining residents as part of the application for the Construction Certificate. Adjoining residents are to be provided with the report five (5) working days prior to any works on the site.
- (c) On-site guidance by a vibration specialist during the early part of excavation.
- (d) Measures to minimise vibration damage and loss of support to other buildings. Where possible any excavation into rock is to be carried out with tools such as rock saws which reduce vibration to adjoining buildings and associated structures. Where a hydraulic hammer is to be used within 30 metres of any building (other than a path or a fence) the report shall detail the maximum size of hammer to be used and provide all reasonable recommendations to manage impacts.
- (e) Sides of the excavation are to be piers prior to any excavation occurring to reinforce the walls of the excavation to prevent any subsidence to the required setbacks and neighbouring sites.

29. **Vibration Damage** - To minimise vibration damage and loss of support to the buildings in close proximity to the development, any excavation is to be carried out by means of a rock saw and if available, in accordance with the guidelines of the Geotechnical Engineer's report.

Alternatively where a hydraulic hammer is to be used within 30 metres of any building (other than a path or a fence) a report from a qualified geotechnical engineer detailing the maximum size of hammer to be used is to be obtained and the recommendations in that report implemented during work on the site. **The report shall be submitted with the Construction Certificate application.**

30. **Slip Resistance** - All pedestrian surfaces in areas such as foyers, public corridors/hallways, stairs and ramps as well as floor surfaces in the wet rooms in any commercial/retail/residential units must have slip resistance classifications, as determined using test methods in either wet or dry conditions, appropriate to their gradient and exposure to wetting. The classifications of the new pedestrian surface materials, in wet or dry conditions, must comply with AS/NZS4586:2004 - Slip Resistance Classifications of New Pedestrian Materials and must be detailed on the plans lodged with the application for the Construction Certificate.
31. **Traffic Management - Compliance with AS2890** - All driveways, access ramps, vehicular crossings and car parking spaces shall be designed and constructed in accordance with the current version of Australian Standards, AS 2890.1 (for car parking facilities) and AS 2890.2 (for commercial vehicle facilities).
32. **Construction Traffic Management Plan** - A Construction Traffic Management Plan shall be submitted detailing the following:
- (i) construction vehicle routes;

- (ii) anticipated number of trucks per day;
 - (iii) hours of construction;
 - (iv) access arrangements
 - (v) proposed traffic measures to minimise impacts of construction vehicles must be submitted for the approval of Council's Engineers.
 - (vi) Compliance with AS2890
 - (vii) Council's Engineers must specify in writing that they are satisfied with the Traffic Management Plan prior to the issue of the Construction Certificate.
33. **Fire Safety Measures** - Prior to the issue of a construction certificate a list of the essential fire safety measures that are to be provided in relation to the land and any building on the land as a consequence of the building work must accompany an application for a construction certificate, which is required to be submitted to either the Council or a private Certifier. Such list must also specify the minimum standard of performance for each essential fire safety measure included in the list. The Certifier will then issue a Fire Safety Schedule for the building.
34. **Access for Persons with a Disability and Adaptable Housing** - Access for persons with disabilities and adaptable housing must be provided to the premises/building in accordance with the requirements of AS4299-1995, the Building Code of Australia, and AS 1428.1 where relevant. The requirements and amendments indicated in Access Report submitted with the Development Application are to be complied with and are to be shown on the construction certificate drawings.
35. **SEPP 65 Design Verification Statement** - A design verification statement, prepared by the qualified designer, shall be submitted to the Certifier verifying that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out under Schedule 1 of State Environmental Planning Policy No 65 -Design Quality of Residential Flat Development.
36. **BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate must be implemented on the plans lodged with the application for the Construction Certificate.
37. **Design Quality Excellence** - In order to ensure the design quality excellence of the development is retained:
- a) The design architect is to have direct involvement in the design documentation, contract documentation and construct stages of the project.
 - b) The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of the design issues throughout the life of the project.
 - c) Evidence of the design architect's commission is to be provided to the Council prior to release of the Construction Certificate.
 - d) The design architect of the project is not to be changed without prior notice and approval of the Council.
38. **Waste Storage** - The waste room will contain the following to minimise odours, deter

vermin, protect surrounding areas, and make it a user-friendly and safe area:

- i) floor to be sealed;
- ii) walls and floor surface is flat and even;
- iii) all walls painted with light colour and washable paint;
- iv) equipment electric outlets to be installed 1700mm above floor levels;
- v) is mechanically exhausted as required by AS 1668.2;
- vi) must be well lit (sensor lighting recommended); a light switch is installed at height of 1.6m;
- vii) an optional automatic odour and pest control system may be installed to eliminate all pest types and assist with odour reduction;
- viii) all personnel doors are hinged and self-closing; and
- ix) confirm to the Building Code of Australia, Australian Standards and local laws; and childproofing and public/operator safety shall be assessed and ensure that the bin movements should be with ease of access.
- x) Occupational Health and Safety issues such as slippery floors in waste rooms and the weight of the waste and recycling receptacles will need to be monitored.
- xi) Cleaners will monitor the bin storage area and all spills will be attended to immediately by cleaners.

39. **Structural details** - Engineer's details prepared by a practising Structural Engineer being used to construct all reinforced concrete work, structural beams, columns and other structural members. The details are to be submitted to the Certifier for approval prior to construction of the specified works. A copy shall be forwarded to Council where Council is not the Certifier.

40. **Access for persons with disabilities** - Access for persons with disabilities must be provided to the site, including to all communal areas, foyers, basement parking, required sanitary and kitchen facilities and balconies in accordance with the requirements of the Premises Standards, the Building Code of Australia and AS 1428.1. Details must be submitted with the Construction Certificate Application.

In regards to the above, pedestrian access throughout basement levels shall be highlighted/line marked and sign posted to safeguard egress.

In the event that full compliance cannot be achieved the services of an accredited access consultant is to be obtained to determine alternative methods of compliance, such a report must be submitted to and endorsed by the Principal Certifying Authority prior to issue of the Construction Certificate.

Section E Prior to the Commencement of Work (Including Demolition & Excavation)

41. **Dilapidation Report on Public Land** - Prior to the commencement of works (including demolition and excavation), a dilapidation report must be prepared for the Council infrastructure adjoining the development site. The report must include the following:

- a) Photographs showing the existing condition of the road pavement fronting the site
- b) Photographs showing the existing condition of the kerb and gutter fronting the site
- c) Photographs showing the existing condition of the footpath pavement fronting the site
- d) Photographs showing the existing condition of any retaining walls within the footway or road,
- e) Closed circuit television/video inspection (in DVD format) of public stormwater

- drainage systems fronting, adjoining or within the site, and
- f) The full name and signature of the structural engineer.

The Dilapidation Report must be prepared by a qualified structural engineer. The report must be provided to the Certifier and a copy provided to the Council.

The report is to be supplied in electronic format in Word or PDF. Photographs are to be in colour, digital and date stamped.

Note: Council will use this report to determine whether to refund the damage deposit after the completion of works.

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

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

All demolition work including the removal of asbestos, shall be undertaken in accordance with the Demolition Code of Practice (NSW Work Cover July 2015).

Note: Copies of the Act, Regulation and Code of Practice can be downloaded free of charge from the SafeWork NSW website: www.SafeWork.nsw.gov.au.

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

44. **Demolition work involving asbestos removal** - Work involving bonded asbestos

removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 458 of the Work Health and Safety Regulation 2011.

45. **Utility Arrangements** - Arrangements are to be made with utility authorities in respect to the services supplied by those authorities to the development. The cost associated with the provision or adjustment of services within the road and footway areas is to be at the applicant's expense.
46. **Erosion and Sedimentation Control** - Erosion and sediment controls must be provided to ensure:
- (a) Compliance with the approved Erosion & Sediment Control Plan
 - (b) Removal or disturbance of vegetation and top soil is confined to within 3m of the approved building area (no trees to be removed without approval)
 - (c) All clean water run-off is diverted around cleared or exposed areas
 - (d) Silt fences, stabilised entry/exit points or other devices are installed to prevent sediment from entering drainage systems or waterways
 - (e) All erosion and sediment controls are fully maintained for the duration of demolition, excavation and/or development works
 - (f) Controls are put into place to prevent tracking of sediment by vehicles onto adjoining roadway
 - (g) All disturbed areas are rendered erosion-resistant by turfing, mulching, paving or similar
 - (h) Compliance with [Managing Urban Stormwater – Soils and Construction \(Blue Book\) produced by Landcom 2004](#).

These measures are to be implemented prior to the commencement of work (including demolition and excavation) and must remain until works are completed and all exposed surfaces are landscaped/sealed.

47. **Site sign – Soil and Erosion Control Measures** - Prior to the commencement of works (including demolition and excavation), a durable site sign, issued by Council in conjunction with this consent, must be erected in a prominent location on site. The site sign warns of the penalties which apply to pollution, storing materials on road or footpath and breaches of the conditions relating to erosion and sediment controls. The sign must remain in a prominent location on site up until the completion of all site and building works.
48. **Dial before you dig** - The applicant shall contact “Dial Before You Dig on 1100” to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from “Dial Before You Dig” shall be forwarded to Council's Engineers for their records.

Section F Prior to Construction

49. **Dilapidation Report on Public Land – Major Development Only** - Prior to the commencement of works (including demolition and excavation), a dilapidation report must be prepared for the Council infrastructure adjoining the development site:

The report must include the following:

- (a) Photographs showing the existing condition of the road pavement fronting the site,
- (b) Photographs showing the existing condition of the kerb and gutter fronting the site,
- (c) Photographs showing the existing condition of the footpath pavement fronting the site,
- (d) Photographs showing the existing condition of any retaining walls within the footway or road, and
- (e) Closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site, and
- (f) The full name and signature of the structural engineer.
- (g) The Dilapidation Report must be prepared by a qualified structural engineer. The report must be provided to the PCA and a copy provided to the Council.

The Dilapidation Report must be prepared by a professional engineer. The report must be provided to the PCA and a copy provided to the Council.

The report is to be supplied in electronic format in Word or PDF. Photographs are to be in colour, digital and date stamped.

Note: Council will use this report to determine whether to refund the damage deposit after the completion of works.

50. **Site Stormwater Discharge Pipe across the Footpath** - The site stormwater discharge pipe shall be RHS type connected to the existing kerb and gutter in the street through an outlet from a boundary pit within the subject site. The Principal Certifying Authority shall engage a registered surveyor to ensure that the proposed stormwater connection into Council's stormwater system in the street is satisfactory in location and grade to drain the site by gravity and to the satisfaction of Council's Asset engineer prior to the commencement of works:

- Prior to the commencement of works, the registered surveyor shall ensure to the PCA that the stormwater discharge pipe across the footpath shall be RHS at an angle and is laid with minimum disturbance at a minimum 1% grade to the kerb and gutter in the street and is made in good working condition. Stormwater discharge pipe across the footpath shall not connect against the flow in the street.
- A longitudinal section of the site stormwater discharge pipe across the footpath reserve shall be prepared showing the public utility services particularly those may encroach the above proposed stormwater pipe.
- The RHS galvanised pipe must have a minimum of 50mm of cover along its length through the road reserve. A detailed section of the connection through the road reserve is to be prepared and shown on the drainage plan prior to the commencement of works.
- There shall be no damage to the adjoining driveway crossings. All damages within the footpath road reserve are to be rectified to its original condition at the cost of the applicant.

Section G During Construction

51. **Site contamination – Additional information** - Council and the Principal Certifying Authority (if Council is not the PCA) must be notified as soon as practicable if any information is discovered during demolition or construction work that has the potential to alter previous conclusions about site contamination.
52. **Physical connection of stormwater to site** - No work is permitted to proceed above

the ground floor slab level of the building until there is physical connection of the approved stormwater drainage system from the land the subject of this consent to Princes Highway.

53. **Hazardous or Intractable Waste – Removal and Disposal** - Hazardous or intractable waste arising from the demolition or construction process shall be removed and disposed of in accordance with the requirements of SafeWork NSW and the NSW Environment Protection Authority and with the provision of:
- Work Health and Safety Act 2011 (NSW) (as amended);
 - Work Health and Safety Regulation 2011 (as amended);
 - Protection Of the Environment Operations Act 1997 (NSW) (as amended); and
 - Protection of the Environment Operations (Waste) Regulation 2014 (as amended)
54. **Cost of work to be borne by the applicant** - The applicant shall bear the cost of all works associated with the construction of the development that occurs on Council property. Care must be taken to protect Council's roads, including the made footway, kerbs, etc., and, where plant and vehicles enter the site, the footway shall be protected against damage by deep-sectioned timber members laid crosswise, held together by hoop iron straps and chamfered at their ends. This construction shall be maintained in a state of good repair and condition throughout the course of construction.
55. **No Obstruction of Road or Footpath** - The use of the road or footpath for the storage of any building materials, waste materials, temporary toilets, waste or skip bins, or any other matter is not permitted unless separately approved by Council under Section 138 of the Roads Act 1993 and/or under Section 68 of the Local Government Act 1993. Penalty infringement Notices may be issued for any offences and severe penalties apply.
56. **Hours of construction for demolition and building work** - Any work activity or activity associated with the development consent that requires the use of any tools (including hand tools) or any power operated plant and machinery that creates noise on or adjacent to the site shall not be performed, or permitted to be performed, except between the hours of 7.00 am to 5.00 pm, Monday to Saturday inclusive. No work or ancillary activity is permitted on Sundays, or Public Holidays.

Note: A penalty infringement notice may be issued for any offence.

57. **Waste Management Facility** - All materials removed from the site as a result of demolition, site clearing, site preparation and, or excavation shall be disposed of at a suitable Waste Management Facility. No vegetation, article, building material, waste or the like shall be ignited or burnt. Copies of all receipts for the disposal, or processing of all such materials shall be submitted to the Principal Certifier, and Council, where Council is not the Principal Certifier.
58. **Ground levels and retaining walls** - The ground levels of the site shall not be excavated, raised or filled, or retaining walls constructed on the allotment boundary, except where indicated on approved plans or approved by Council.
59. **Registered Surveyors Report - During Development Work** - A report must be submitted to the Principal Certifier at each of the following applicable stages of construction:

- (i) Set out before commencing excavation;
- (ii) Floor slabs or foundation wall, before formwork or commencing brickwork;
- (iii) Completion of Foundation Walls - Before any construction of flooring, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans;
- (iv) Completion of Floor Slab Formwork - Before pouring of concrete/walls construction, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans. In multi-storey buildings a further survey must be provided at each subsequent storey;
- (v) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries;
- (vi) Completion of all Work - Detailing the location of the structure (including eaves/gutters) relative to adjacent boundaries and its height relative to the datum shown on the approved plans. A final Check Survey must indicate the reduced level of the main ridge.

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

Section H Prior to the Issue of the Occupation Certificate

- 60. **Clearance Certificate** - Prior to the issue of any Occupation Certificate, a clearance certificate prepared by an appropriately qualified environmental consultant must be submitted to Council.
- 61. **Acoustic Compliance** - Prior to the issue of any Occupation Certificate, a report prepared by a suitably qualified acoustic consultant must be submitted to the PCA certifying that the construction has incorporated the recommendations in the DA Acoustic Report "Acoustic Report" prepared by Acoustic, Vibration & Noise Pty Ltd and dated 23 May 2018. Certification must be submitted to the PCA prior to the issue of any Occupation Certificate.
- 62. **Notice to Council – Allocation of street addresses** - Prior to the issue of any Occupation Certificate, 'as-built' drawings detailing the installed and allocated street/unit address and numbering must be submitted to the satisfaction of Council, and in accordance with the following schedule:

Unit Addresses at 1 James Street BLAKEHURST NSW 2221

From DA Plans	Unit numbers and addresses allocated by Council				
Unit No.	Unit No	Street No	Street Name	Suburb	COMPLETE ADDRESS
U1	G01	1	James Street	BLAKEHURST NSW 2221	G01/1 James Street BLAKEHURST NSW 2221
U2	G02	1	James Street	BLAKEHURST NSW 2221	G02/1 James Street BLAKEHURST NSW 2221
U3	G03	1	James Street	BLAKEHURST NSW 2221	G03/1 James Street BLAKEHURST NSW 2221
U4	G04	1	James Street	BLAKEHURST NSW 2221	G04/1 James Street BLAKEHURST NSW 2221
U5	G05	1	James Street	BLAKEHURST NSW 2221	G05/1 James Street BLAKEHURST NSW 2221
U6	101	1	James Street	BLAKEHURST NSW 2221	101/1 James Street BLAKEHURST NSW 2221
U7	102	1	James Street	BLAKEHURST NSW 2221	102/1 James Street BLAKEHURST NSW 2221
U8	103	1	James Street	BLAKEHURST NSW 2221	103/1 James Street BLAKEHURST NSW 2221
U9	104	1	James Street	BLAKEHURST NSW 2221	104/1 James Street BLAKEHURST NSW 2221
U10	105	1	James Street	BLAKEHURST NSW 2221	105/1 James Street BLAKEHURST NSW 2221
U11	106	1	James Street	BLAKEHURST NSW 2221	106/1 James Street BLAKEHURST NSW 2221
U12	201	1	James Street	BLAKEHURST NSW 2221	201/1 James Street BLAKEHURST NSW 2221
U13	202	1	James Street	BLAKEHURST NSW 2221	202/1 James Street BLAKEHURST NSW 2221
U14	203	1	James Street	BLAKEHURST NSW 2221	203/1 James Street BLAKEHURST NSW 2221
U15	204	1	James Street	BLAKEHURST NSW 2221	204/1 James Street BLAKEHURST NSW 2221
U16	205	1	James Street	BLAKEHURST NSW 2221	205/1 James Street BLAKEHURST NSW 2221
U17	206	1	James Street	BLAKEHURST NSW 2221	206/1 James Street BLAKEHURST NSW 2221
U18	301	1	James Street	BLAKEHURST NSW 2221	301/1 James Street BLAKEHURST NSW 2221
U19	302	1	James Street	BLAKEHURST NSW 2221	302/1 James Street BLAKEHURST NSW 2221
U20	303	1	James Street	BLAKEHURST NSW 2221	303/1 James Street BLAKEHURST NSW 2221
U21	304	1	James Street	BLAKEHURST NSW 2221	304/1 James Street BLAKEHURST NSW 2221
U22	305	1	James Street	BLAKEHURST NSW 2221	305/1 James Street BLAKEHURST NSW 2221
U23	401	1	James Street	BLAKEHURST NSW 2221	401/1 James Street BLAKEHURST NSW 2221

63. **Acoustic Compliance – General Operation of Premises** - The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the [Protection of the Environment Operations Act 1997](#) (as amended) and [Regulations](#).

A suitably qualified person shall certify that the operation of the plant equipment shall not give rise to sound pressure level at any affected premises that exceeds the background LA90, 15 min noise level, measured in the absence of the noise sources under consideration by more than 5dB. The source noise level shall be assessed as an LAeq, 15 min in accordance with the [NSW Environment Protection Authority's "NSW industrial Noise Policy"](#).

Certification must be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

64. **Completion of Landscape Works** - All landscape works must be completed before the issue of the Final Occupation Certificate in accordance with approved landscape plans and specifications, drawn by Vision Dynamics Landscape Design, reference numbers – 18100 DA1-2.

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

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

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

66. **Completion of Major Works** - Prior to the issue of a Final Occupation Certificate, the

following works must be completed at the applicant's expense to the satisfaction of Council's Engineering Services section:

- (a) If applicable stormwater pipes, pits and connections to public stormwater systems within the road related area;
- (b) Driveways and vehicular crossings within the road related area;
- (c) Removal of redundant driveways and vehicular crossings;
- (d) New footpaths within the road related area;
- (e) Relocation of existing power/light pole if applicable
- (f) Relocation/provision of street signs
- (g) New footway verges, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street.
- (h) New or reinstated kerb and guttering within the road related area and
- (i) New or reinstated road surface pavement within the road where it is applicable.
Council's Engineering Services Section must advise in writing that the works have been completed to their satisfaction prior to the issue of the Occupation Certificate.

Note: The damage deposit paid to Council will not be released until the works have been completed to Council's satisfaction.

67. **Traffic Control Devices** - The internal road network, pedestrian facilities and parking facilities (including visitor parking and employee parking) shall be designated and line marked in accordance with Australian Standard - AS1742, Manual of Uniform Traffic Control Devices.

If an exit from car park utilises a pedestrian footpath, then a warning system such as flashing light and/or 'alarm sound' must be installed on the subject property to alert pedestrians of vehicles exiting the car park. The Alarm System must be designed and installed in accordance with AS2890.1 -2004.

68. **SEPP 65 Design Verification Statement** - The Principal Certifier must not issue an Occupation Certificate to authorise a person to commence occupation of the residential flat development unless design verification from a qualified designer, being a statement in which the qualified designer verifies that the residential flat 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 principles set out in Part 2 (Schedule 1) of State Environmental Planning Policy No 65 Design Quality of Residential Apartment Development.

69. **Car parking areas - Major Development** - Internal driveways and parking spaces are to be adequately paved with concrete or bitumen, or interlocking pavers to provide a dust-free surface. All car parking spaces are to be line marked in accordance with AS1742, 'Australian Standard Manual of Uniform Traffic Control Devices' and the relevant guidelines published by the RMS.

70. **Consolidation of Site** - The site shall be consolidated into one allotment and by a Plan of Consolidation being prepared by a Registered Surveyor. This Plan shall be registered at the NSW Land and Property Information prior to the issue of an occupation certificate.

71. **Restriction to User and Positive Covenant for On-Site Detention Facility - 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 owners of the land. The terms of the instrument are to be in accordance with Council's standard terms and restrictions which are as follows:**

a) **Restrictions on Use of Land**

The registered proprietor shall not make or permit or suffer the making of any alterations to any on-site stormwater management system which is, or shall be, constructed on the lot(s) burdened without the prior consent in writing of Georges River Council. The expression "on-site stormwater management system" shall include all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to manage stormwater quantity or quality including the temporary detention or permanent retention of stormwater storages. Any on-site stormwater management system constructed on the lot(s) burdened is hereafter referred to as "the system."

Name of Authority having the power to release, vary or modify the Restriction referred to is Georges River Council.

b) **Positive Covenants**

The registered proprietor of the lot(s) hereby burdened will in respect of the system:

- i) keep the system clean and free from silt, rubbish and debris*
- ii) maintain and repair at the sole expense of the registered proprietors the whole of the system so that it functions in a safe and efficient manner*
- iii) permit the Council or its authorised agents from time to time and upon giving reasonable notice (but at any time and without notice in the case of an emergency) to enter and inspect the land for the compliance with the requirements of this covenant*
- iv) comply with the terms of any written notice issued by the Council in respect of the requirements of this covenant within the time stated in the notice.*

c) **Pursuant to Section 88F(3) of the Conveyancing Act 1919 the Council shall have the following additional powers:**

In the event that the registered proprietor fails to comply with the terms of any written notice issued by the Council as set out above the Council or its authorised agents may enter the land with all necessary materials and equipment and carry out any work which the Council in its discretion considers reasonable to comply with the said notice referred to in part b) (iii) above.

The Council may recover from the registered proprietor in a Court of competent jurisdiction:

- i) any expense reasonably incurred by it in exercising its powers under subparagraph (c) hereof. Such expense shall include reasonable wages for the Council's employees engaged in effecting the work referred to in (c) above, supervising and administering the said work together with costs,*

reasonably estimated by the Council, for the use of materials, machinery, tools and equipment in conjunction with the said work.

- ii) *Legal costs on an indemnity basis for issue of the said notices and recovery of the said costs and expenses together with the costs and expenses of registration of a covenant charge pursuant to section 88F of the Act or providing any certificate required pursuant to section 88G of the Act or obtaining any injunction pursuant to section 88H of the Act.*

Name of Authority having the power to release vary or modify the Positive Covenant referred to is Georges River Council.

72. **Maintenance Schedule for On-site Stormwater Management** - A Maintenance Schedule for the proposed on-site stormwater management measures is to be prepared and submitted to Council. 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.
73. **Works as Executed and certification of stormwater works** - Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that the stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards. A works-as-executed drainage plan and certification must be forwarded to the Principal Certifier and Council, from a professional engineer specialising in hydraulic engineering.

This Plan and Certification shall confirm that the design and construction of the stormwater drainage system satisfies the conditions of development consent and the Construction Certificate stormwater design details approved by the Principal Certifier.

The works-as-executed drainage plan must be prepared by a professional engineer specialising in hydraulic engineering in conjunction with a Registered Surveyor and must include the following details (as applicable):

- (i) The location of any detention basin/s with finished surface levels;
- (ii) Finished site contours at 0.2 metre intervals (if applicable);
- (iii) Volume of storage available in any detention areas;
- (iv) The location, diameter, gradient and material (i.e. PVC, RC etc.) of all stormwater pipes;
- (v) The orifice size/s (if applicable);
- (vi) Details of any infiltration/absorption systems; and (if applicable);
- (v) Details of any pumping systems installed (including wet well volumes) (if applicable).

74. **Requirements prior to the issue of the Occupation Certificate** - The following shall be completed and or submitted to the PCA prior to the issue of the Occupation Certificate:
- (a) All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
 - (b) The internal driveway construction works, together with the provision for all services (conduits and pipes laid) shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.

- (c) Construct any new vehicle crossings required.
- (d) Replace all redundant vehicle crossing laybacks with kerb and guttering, and replace redundant concrete with turf.
- (e) A Section 73 (Sydney Water) Compliance Certificate for the Subdivision shall be issued and submitted to the PCA prior to the issue of the Occupation Certificate.
- (f) Work as Executed Plans prepared by a Chartered Professional Engineer or a Registered Surveyor when all the site engineering works are complete shall be submitted to the PCA prior to the issue of the Occupation Certificate.

75. **Completion of major road related works** - Council's Engineering Services Section must advise in writing that the works have been completed to their satisfaction prior to the issue of the Occupation Certificate.

The damage deposit paid to Council will not be released until the works have been completed to Council's satisfaction.

76. **Dilapidation Report on Public Land** - Upon completion of works, a follow up dilapidation report must be prepared on the items of Council infrastructure adjoining the development site. The dilapidation report must be prepared by a professional engineer specialising in structural engineering, and include:

- (i) Photographs showing the condition of the road pavement fronting the site;
- (ii) Photographs showing the condition of the kerb and gutter fronting the site;
- (iii) Photographs showing the condition of the footway including footpath pavement fronting the site;
- (iv) Photographs showing the condition of retaining walls within the footway or road;
- (v) Closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site, and
- (vi) The full name and signature of the professional engineer.

The report must be provided to the Principal Certifier and a copy provided to the Council. The reports are to be supplied in electronic format in Word or PDF. Photographs are to be in colour, digital and date stamped.

Note: Council will use this report to determine whether or not to refund the damage deposit.

77. **Stormwater drainage works – Works As Executed** - Prior to the issue of the Occupation Certificate, stormwater drainage works are to be certified by a professional engineer specialising in hydraulic engineering, with Works-As-Executed drawings supplied to Council detailing:

- a) Compliance with conditions of development consent relating to stormwater;
- b) The structural adequacy of the On-Site Detention system (OSD);
- c) That the works have been constructed in accordance with the approved design and will provide the detention storage volume and attenuation in accordance with the submitted calculations;
- d) Pipe invert levels and surface levels to Australian Height Datum;
- e) Contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.

Council's Engineering Services section must advise in writing that they are satisfied

with the Works-As-Executed prior to the issue of an Occupation Certificate.

78. **Fire Safety Certificate before Occupation or Use** - In accordance with Clause 153 of the *Environmental Planning and Assessment Regulation 2000*, on completion of building works and prior to the issue of an Occupation Certificate, the owner must cause the issue of a Final Fire Safety Certificate in accordance with Clause 170 of the aforesaid Regulation. The Fire Safety Certificate must be in the form or to the effect of Clause 174 of the Environmental Planning and Assessment Regulation, 2000. In addition, in relation to each essential fire or other safety measure implemented in the building or on the land on which the building is situated, such a Certificate is to state that:

- (i) the measure has been assessed by a person (chosen by the owner of the building) who is properly qualified to do so; and
- (ii) as at the date of the assessment the measure was found to be capable of functioning at a standard not less than that required by the Schedule.

A copy of the certificate is to be given by the applicant to the Commissioner of Fire & Rescue NSW and a further copy is to be displayed in a frame and fixed to a wall inside the building's main entrance.

79. **Structural Certificate During Construction** - The proposed building must be constructed in accordance with details designed and certified by the practising qualified structural engineer. All structural works associated with the foundations, piers, footings and slabs for the proposed building must be inspected and structurally certified for compliance by an independent practising geotechnical and structural engineer. In addition a Compliance or Structural Certificate, to the effect that the building works have been carried in accordance with the structural design, must be submitted to the Principal Certifying Authority at each stage of Construction or prior issue of the Occupation Certificate.

80. **Structural Certificates** - The proposed structure must be constructed in accordance with details designed and certified by the practising qualified structural engineer. In addition, Compliance or Structural Certificates, to the effect that the building works have been carried in accordance with the structural design, must be submitted to the Principal Certifying Authority prior issue of the Occupation Certificate.

81. **Council as PCA** - Should the Council be appointed as the Principal Certifying Authority, the Construction Certificate Application must be accompanied by the following details, with plans prepared and certified by an appropriately qualified person demonstrating compliance with the BCA:

- Mechanical ventilation to bathroom, laundry and basement areas not afforded natural ventilation.
- Provision of natural light to all habitable areas.
- Fire-fighting services and equipment including hydrant and booster assembly systems, sprinkler and valve room systems, hose reels, portable fire extinguishers, smoke hazard management systems and sound & warning systems.
- Emergency lighting and exit signs throughout, including terrace areas, lobby and basement areas.
- Construction of all fire (smoke) doors including warning and operational signage to required exit and exit door areas.

- Egress, travel distance and the discharge from an exit including the swing of exit doors.
- The protection of openings including spandrel separation.
- Fire compartmentation and fire wall separation details including all stairway, lift and service shaft areas.
- Protection of openings including paths of travel from fire isolated exists
- Re-entry facilities from fire isolated exit stairways.
- Sound transmission and insulation details.
- Window schedule is to include the protection of openable windows.

In this regard, detailed construction plans and specifications that demonstrate compliance with the above requirements of the BCA must be submitted to the Principal Certifying Authority with the Construction Certificate Application. Should there be any non-compliance, an alternative method of fire protection and structural capacity must be submitted, with all supporting documents prepared by a suitably qualified person.

In the event that full compliance with the BCA cannot be achieved and the services of a fire engineer are obtained to determine an alternative method of compliance with the BCA, such report must be submitted to and endorsed by the Principal Certifying Authority prior to issue of the Construction Certificate.

82. **Energy Efficiency Provisions** - Should Council be appointed as the Principal Certifying Authority, a report prepared and endorsed by an Energy Efficiency Engineer or other suitably qualified person must be submitted, detailing the measures that must be implemented in the building to comply with Section J of the BCA. The proposed measures and feature of the building that facilitate the efficient use of energy must be identified and detailed on the architectural plans. At completion of the building and before the issue of an Occupation Certificate, a certificate certifying that the building has been erected to comply with the energy efficiency provisions must be submitted to the Principal Certifying Authority.
83. **Building - Structural Engineers Details - Supporting excavations and adjoining land** - Prior to the commencement of work in connection with the excavation of the site associated with the basement car park, structural engineer's details relating to the method of supporting the excavation must be submitted.
84. **Building – Hoarding Application** - Prior to demolition of the buildings on the site or the commencement of work above ground level a separate application for the erection of an A class (fence type) or a B class hoarding or C type scaffold, in accordance with the requirements of Work Cover Authority of NSW, must be erected along that portion of the footway/road reserve, where the building is within 3.0 metres of the street boundary. An application for this work under Section 68 of the Local Government Act 1993 and the Roads Act 1993 must be submitted for approval to Council.

The following information is to be submitted with a Hoarding Application under s68 of the Local Government Act and s138 of the Roads Act 1993:

- (a) A site and location plan of the hoarding with detailed elevation, dimensions, setbacks, heights, entry and exit points to/from the site, vehicle access points, location of public utilities, electrical overhead wire protection, site management plan and builders sheds location; and
- (b) Hoarding plan and details that are certified by an appropriately qualified engineer; and

- (c) The payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges (available on our website) before the commencement of work; and
- (d) A Public Risk Insurance Policy with a minimum cover of \$10 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained a copy provided to Council. The Policy is to note Council as an interested party; and
- (e) The application must be endorsement by the Roads & Maritime Services (RMS) as the hoarding is located within 100m of an intersection with traffic lights. For assistance you should contact the DA unit at RMS and speak to Hans on 88492076. Or email hans.pilly.mootanah@rms.nsw.gov.au to obtain concurrence for the hoarding structure.

85. **BASIX Certificate** - All energy efficiency measures as detailed in the approved BASIX Certificate in the plans approved with the Development Consent, must be implemented before issue of any Occupation Certificate.

86. **Completion of Major Works** - Prior to the issue of a Final Occupation Certificate, the following works must be completed at the applicant's expense to the satisfaction of Council's Engineering Services section:

- If applicable stormwater pipes, pits and connections to public stormwater systems within the road related area;
- Driveways and vehicular crossings within the road related area;
- Removal of redundant driveways and vehicular crossings;
- New footpaths within the road related area;
- Relocation of existing power/light pole if applicable
- Relocation/provision of street signs
- New footway verges, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street.
- New or reinstated kerb and guttering within the road related area and new or reinstated road surface pavement within the road where it is applicable.

Council's Engineering Services Section must advise in writing that the works have been completed to their satisfaction prior to the issue of the Occupation Certificate. [Note: The damage deposit paid to Council will not be released until the works have been completed to Council's satisfaction.

Section I Operational Conditions (Ongoing)

87. **Noise Control** - The use of the premises must not give rise to the transmission of offensive noise to any place of different occupancy. Offensive noise is defined in the Protection of the Environment Operations Act 1997 (as amended). This includes the use of the rooftop open space.

88. **Outdoor Lighting** - To avoid annoyance to the occupants of adjoining premises or glare to motorist on nearby roads, outdoor lighting must comply with AS 4282-1997: Control of the obtrusive effects of outdoor lighting.

89. **Entering & Exiting of vehicles** - All vehicles shall enter and exit the premises in a

forward direction.

90. **Annual Fire Safety Statement** - The owner of the building premises must ensure the Council is given an annual fire safety statement in relation to each essential fire safety measure implemented in the building. The annual fire safety statement must be given:
- a) Within 12 months after the date on which the fire safety certificate was received.
 - b) Subsequent annual fire safety statements are to be given within 12 months after the last such statement was given.
 - c) An annual fire safety statement is to be given in or to the effect of Clause 181 of the Environmental Planning and Assessment Regulation 2000.
 - d) A copy of the statement is to be given to the Commissioner of Fire & Rescue NSW, and a further copy is to be prominently displayed in the building.
91. **Responsibility of Owners Corporation** - The Owners Corporation shall be responsible for presenting all approved waste and recycling receptacles for collection, and returning all receptacles to the Main Waste Collection Room, as soon as practicable after they have been serviced.
- The Owners Corporation shall also be responsible for maintaining all equipment, systems, facilities and storage areas used in conjunction with the provision of waste management services in accordance with all applicable regulatory requirements, relevant health and environmental standards, and to the satisfaction of Council.
92. **Maintenance of Landscaping** - All trees and plants forming part of the approved landscaping in must be maintained in perpetuity. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilizing, pest and disease control, replacement of dead or dying plants and any other operations required to maintain healthy trees, plants and turfed areas.
93. **Amenity of the neighbourhood** - The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, dust, waste water, waste products, grit, oil or other harmful products.
94. **Waste facilities** - Occupational Health and Safety issues such as slippery floors in waste rooms and the weight of the waste and recycling receptacles will need to be monitored. Cleaners must monitor the bin storage area and all spills need to be attended to immediately by cleaners.

Section J Operational Requirements Under The Environmental Planning & Assessment Act 1979

95. **Requirement for a Construction Certificate** - The erection of a building must not commence until a Construction Certificate has been issued.

Should Council be appointed as the Principal Certifying Authority, the Construction Certificate Application must be accompanied by the following details, with plans prepared and certified by an appropriately qualified person demonstrating compliance

with the BCA:

- a) Mechanical details for exhaust systems to carpark levels and to all bathroom and laundry areas not afforded natural ventilation.
- b) Fire resistance levels of all building elements including walls, floors, columns, top floor ceiling and roof, etc.
- c) Fire-fighting services and equipment including hydrant services, fire doors, mechanical air handling system, portable fire extinguishers, emergency lights, exit signs and smoke hazard management systems.
- d) Fire compartmentation and separation.
- e) Fire rating of storage areas below required stairways.
- f) The vertical separation of openings within external walls shall comply with the Spandrel requirements of Part C2.6(a)
- g) Provisions for escape from residential units and basement levels shall be in accordance with Parts D1.4 (a) of the BCA and must provide direct access to a road or open space.
- h) Defined internal paths of travel must be smoke separated and smoke protected from electrical service and equipment.
- i) The protection of openings in external walls including when passing within 6m of an opening from a fire isolated exit

In this regard, detailed construction plans and specifications that demonstrate compliance with the above requirements of the BCA, must be submitted to the Principal Certifying Authority with the Construction Certificate Application.

Should there be any non-compliance, an alternative method of fire protection and structural capacity must be submitted, with all supporting documents prepared by a suitably qualified person.

In the event that full compliance with the BCA cannot be achieved and the services of a fire engineer are obtained to determine an alternative method of compliance with the BCA, such report must be submitted to and endorsed by the Principal Certifying Authority prior to issue of the Construction Certificate.

96. **Appointment of a PCA** - The erection of a building must not commence until the applicant has:

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

If the work is not going to be undertaken by an Owner - Builder, the applicant must:

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

An Information Pack is attached for your convenience should you wish to appoint

Georges River Council as the PCA for your development.

97. **Notification Requirements of Principal Certifier** - No later than two days before the building work commences, the Principal Certifier must notify:
- a) the consent authority and the Council (if not the consent authority) of his or her appointment; and
 - b) the applicant of the critical stage inspections and other inspections that are to be carried out with respect to the building work.
98. **Notice of Commencement** - The applicant must give at least two days notice to the Council and the Principal Certifier of their intention to commence the erection of a building.
99. **Critical Stage Inspections** - The last critical stage inspection must be undertaken by the Principal Certifier. The critical stage inspections required to be carried out vary according to Building Class under the Building Code of Australia and are listed in Clause 162A of the Environmental Planning and Assessment Regulation 2000.
100. **Notice to be given prior to critical stage inspections** - The principal contractor for a building site, or the owner-builder, must notify the Principal Certifier at least 48 hours before each required inspection needs to be carried out. Where Georges River Council has been appointed as the Principal Certifier, 48 hours notice in writing, or alternatively 24 hours notice by facsimile or telephone, must be given when specified work requiring inspection has been completed.
101. **Occupation Certificate** - A person must not commence occupation or use of the whole or any part of a new building unless an Occupation Certificate has been issued in relation to the building or part. Only the Principal Certifier appointed for the building work can issue the Occupation Certificate.

Section K Prescribed Conditions

102. **Clause 97A - BASIX Commitments** - This Clause requires the fulfilment of all BASIX Commitments as detailed in the BASIX Certificate to which the development relates.
103. **Clause 98 – Building Code of Australia & Home Building Act 1989** - Requires all building work to be carried out in accordance with the Building Code of Australia. In the case of residential building work to which the Home Building Act 1989 relates, there is a requirement for a contract of insurance to be in force before any work commences.
104. **Clause 98A – Erection of Signs** - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the Principal Certifier and the Principal Contractor.
105. **Clause 98B – Home Building Act 1989** - If the development involves residential building work under the Home Building Act 1989, no work is permitted to commence unless certain details are provided in writing to Council. The name and licence/permit number of the Principal Contractor or Owner Builder and the name of the Insurer by which work is insured under Part 6 of the Home Building Act 1989.

106. **Clause 98E - Protection & support of adjoining premises** - If the development involves excavation that extends below the level of the base of the footings of a building on adjoining land, this prescribed condition requires the person who benefits from the development consent to protect and support the adjoining premises and where necessary underpin the adjoining premises to prevent any damage.
107. **Clause 98E - Site Excavation** - 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.

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.

END CONDITIONS

NOTES/ADVICES

108. **Review of Determination** - Section 8.2 of the Environmental Planning and Assessment Act confers on an applicant who is dissatisfied with the determination of the application the right to lodge an application with Council for a review of such determination. Any such review must however be completed within 6 months from its determination. Should a review be contemplated sufficient time should be allowed for Council to undertake public notification and other processes involved in the review of the determination.

Note: Review provisions do not apply to Complying Development, Designated Development, State Significant Development, Integrated Development or any application determined by the Sydney South Planning Panel or the Land & Environment Court.

109. **Appeal Rights** - Part 8 (Reviews and appeals) of the Environmental Planning and Assessment Act 1979 confers on an applicant who is dissatisfied with the determination of the application a right of appeal to the Land and Environment Court of New South Wales.
110. **Lapsing of Consent** - This consent will lapse unless the development is physically commenced within 5 years from the Date of Operation of this consent, in accordance with Section 4.53 of the Environmental Planning and Assessment Act 1979 as amended.
111. **Long Service Levy** - A Long Service Levy shall be paid in respect to this development. Details are provided below;
- a) The Long Service Corporation administers a scheme which provides a portable long service benefit for eligible workers in the building and construction industry in NSW. All benefits and requirements are determined by the Building and Construction Industry Long Service Payments Act 1986. More information about the scheme and the levy amount you are required to pay to satisfy a condition of your consent can be found at <http://www.longservice.nsw.gov.au>.

- b) The required Long Service Levy payment can be direct to the Long Service Corporation via their web site <https://online.longservice.nsw.gov.au/bci/levy>. Payments can only be processed on-line for the full levy owing and where the value of work is between \$25,000 and \$6,000,000. Payments will be accepted for amounts up to \$21,000, using either MasterCard or Visa.
112. **Disability Discrimination Act** - This application has been assessed in accordance with the Environmental Planning and Assessment Act 1979. No guarantee is given that the proposal complies with the Disability Discrimination Act 1992. The applicant 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 refers to AS1428.1-Design for Access and Mobility.
113. **Security deposit administration & compliance fee** - Under Section 97 (5) of the Local Government Act 1993, a security deposit (or part) if repaid to the person who provided it is to be repaid with any interest accrued on the deposit (or part) as a consequence of its investment.
- a) Council must cover administration and other costs incurred in the investment of these monies. The current charge is \$50.00 plus 2% of the bond amount per annum.
- b) The interest rate applied to bonds is set at Council's business banking facility rate as at 1 July each year. Council will accept a bank guarantee in lieu of a deposit.
- c) All interest earned on security deposits will be used to offset the Security Deposit Administration and Compliance fee. Where interest earned on a deposit is not sufficient to meet the fee, it will be accepted in full satisfaction of the fee.
114. **Stormwater & Ancillary Works - Applications under Section 138 Roads Act and/or Section 68 Local Government Act 1993** - To apply for approval under Section 138 of the Roads Act 1993:
- (i) Complete the Driveway Crossing on Council Road Reserve Application Form which can be downloaded from Georges River Council's Website at www.georgesriver.nsw.gov.au
- (ii) In the Application Form, quote the Development Consent No. (eg. 2017/DA/****)
- (iii) Lodge the application form, together with the associated fees at Council's Customer Service Centre, during business hours. Refer to Council's adopted Fees and Charges for the administrative and inspection charges associated with Vehicular Crossing applications.

An approval for a new vehicular crossing will contain the approved access and/or alignment levels which will be required to construct the crossing and/or footpath. Once approved, all work shall be carried out by a private contractor in accordance with Council's specifications prior to the issue of an Occupation Certificate.

The developer must meet all costs of the extension, relocation or reconstruction of any part of Council's drainage system (including design drawings and easements) required to carry out the approved development.

The preparation of all engineering drawings (site layout plans, cross sections, longitudinal sections, elevation views together with a hydraulic grade analysis) and

specifications for the new storm water drainage system to be arranged by the applicant. The design plans must be lodged and approved by Council prior to the issue of a Construction Certificate.

Note: A minimum of four weeks should be allowed for assessment.

115. **Site Safety Fencing** - Site fencing must be erected in accordance with SafeWork Guidelines, to exclude public access to the site throughout the demolition and/or construction work, except in the case of alterations to an occupied dwelling. The fencing must be erected before the commencement of any work and maintained throughout any demolition and construction work. A demolition licence and/or a high risk work license may be required from SafeWork NSW (see www.SafeWork.nsw.gov.au).
116. **Noise - Noise related conditions** - Council will generally enforce noise related conditions in accordance with the Noise Guide for Local Government (<http://www.environment.nsw.gov.au/noise/nlg.htm>) and the Industrial Noise Guidelines (<http://www.environment.nsw.gov.au/noise/industrial.htm>) publish by the Department of Environment and Conservation. Other state government authorities also regulate the [Protection of the Environment Operations Act 1997](#).

Useful links relating to Noise:

- (a) Community Justice Centres - free mediation service provided by the NSW Government (www.cjc.nsw.gov.au).
- (b) Department of Environment and Conservation NSW, Noise Policy Section web page (www.environment.nsw.gov.au/noise).
- (c) New South Wales Government Legislation home page for access to all NSW legislation, including the Protection of the Environment Operations Act 1997 and the Protection of the Environment Noise Control Regulation 2000 (www.legislation.nsw.gov.au).
- (d) Australian Acoustical Society - professional society of noise-related professionals (www.acoustics.asn.au/index.php).
- (e) Association of Australian Acoustical Consultants - professional society of noise related professionals (www.aaac.org.au).
- (f) Department of Gaming and Racing - (www.dgr.nsw.gov.au).

ATTACHMENTS

Attachment 1 Roof and Site Plan- 1-5 James St Blakehurst

Attachment 2 North east and south west elevations - 1-5 James Street Blakehurst

Attachment 3 South east and north west elevation - 1-5 James Street Blakehurst