

# AGENDA

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## Georges River Local Planning Panel

<b>Meeting:</b>	Georges River Local Planning Panel (LPP)
<b>Date:</b>	Thursday, 17 August 2023
<b>Time:</b>	4.00pm
<b>Venue:</b>	Blended Meeting Online and Georges River Civic Centre Corner Dora and MacMahon Streets, Hurstville
<b>Participants:</b>	Stephen Alchin (Chairperson) Annette Ruhotas (Expert Panel Member) Ian Armstrong (Expert Panel Member) Jenny Simpson (Community Representative)

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<b>1. On Site Inspections – Carried out by Panel Members prior to meeting</b>	
<b>2. Opening</b>	
<b>3. Consideration of Items and Verbal Submissions</b>	
<b>LPP022-23</b>	<b>Proposed Planning Proposal for 28 Carlton Crescent, Kogarah Bay</b> (Report by Strategic Planner)
<b>LPP023-23</b>	<b>18 Stuart Street, Blakehurst – DA2022/0015</b> (Report by Consultant Planner)
<b>LPP024-23</b>	<b>5A The Strand, Penshurst – DA2021/0244</b> (Report by Principal Planner)
<b>LPP020-23</b>	<b>248 Railway Parade, Kogarah – MOD2022/0098</b> (Report by Coordinator Development Assessment)
<b>LPP025-23</b>	<b>50 Dora Street, Hurstville – DA2022/0399</b> (Report by Senior Development Assessment Planner)
<b>4. Local Planning Panel Deliberations in Closed Session</b>	
<b>5. Confirmation of Minutes</b>	

# REPORT TO GEORGES RIVER COUNCIL LPP MEETING OF THURSDAY, 17 AUGUST 2023

LPP022-23

<b>LPP Report No</b>	<b>LPP022-23</b>	<b>Development Application No</b>	
<b>Site Address &amp; Ward Locality</b>	Proposed Planning Proposal for 28 Carlton Crescent, Kogarah Bay Kogarah Bay Ward		
<b>Proposed Development</b>	Proposed Planning Proposal - 28 Carlton Crescent, Kogarah Bay		
<b>Owners</b>	Mona Kayrouz		
<b>Applicant</b>	N/A		
<b>Planner/Architect</b>	Edwards Heritage Consultants		
<b>Date Of Lodgement</b>			
<b>Submissions</b>	N/A		
<b>Cost of Works</b>	N/A		
<b>Local Planning Panel Criteria</b>	Direction from the Minister for Planning and Public Spaces under Section 9.1 of the Environmental Planning and Assessment Act 1979 and the charter of the Georges River Local Planning Panel 2018 both specify that the Planning Proposal is to be referred to the Local Planning Panel before it is forwarded for Gateway Determination (approval).		
<b>List of all relevant s.4.15 matters (formerly s79C(1)(a))</b>	N/A to Planning Proposals		
<b>List all documents submitted with this report for the Panel's consideration</b>	Attachment 1. Planning Proposal Document – 28 Carlton Crescent – Pre Gateway Version Attachment 2. Heritage Significance Assessment – Bayview – 28 Carlton Crescent Kogarah Bay (includes Interim Heritage Order of 28 Carlton Crescent Kogarah Bay as Appendix C; and Draft Heritage Inventory Sheet as Appendix D)		
<b>Report prepared by</b>	Strategic Planner		

<b>Recommendation</b>	<p>That the Georges River LPP support the attached Planning Proposal to amend the <i>Georges River Local Environmental Plan (GRLEP) 2021</i> by amending the listing of Heritage Item No. I208 ('House and front garden, "Bayview") at 28A Carlton Crescent, Kogarah Bay by:</p> <ul style="list-style-type: none"> <li>a) Revising the item name from 'House and front garden, "Bayview" to "Bayview" house and garden, boatshed, garage and summerhouse' in Schedule 5 Environmental heritage.</li> <li>b) Revising the address from '28A Carlton Crescent, Kogarah Bay' to '28 and 28A Carlton Crescent, Kogarah Bay' in Schedule 5 Environmental heritage.</li> <li>c) Revising the property description to include both Lots 21 and 22 in Section 15 of Deposited Plan (DP) 1963 in Schedule 5 Environmental heritage.</li> </ul>
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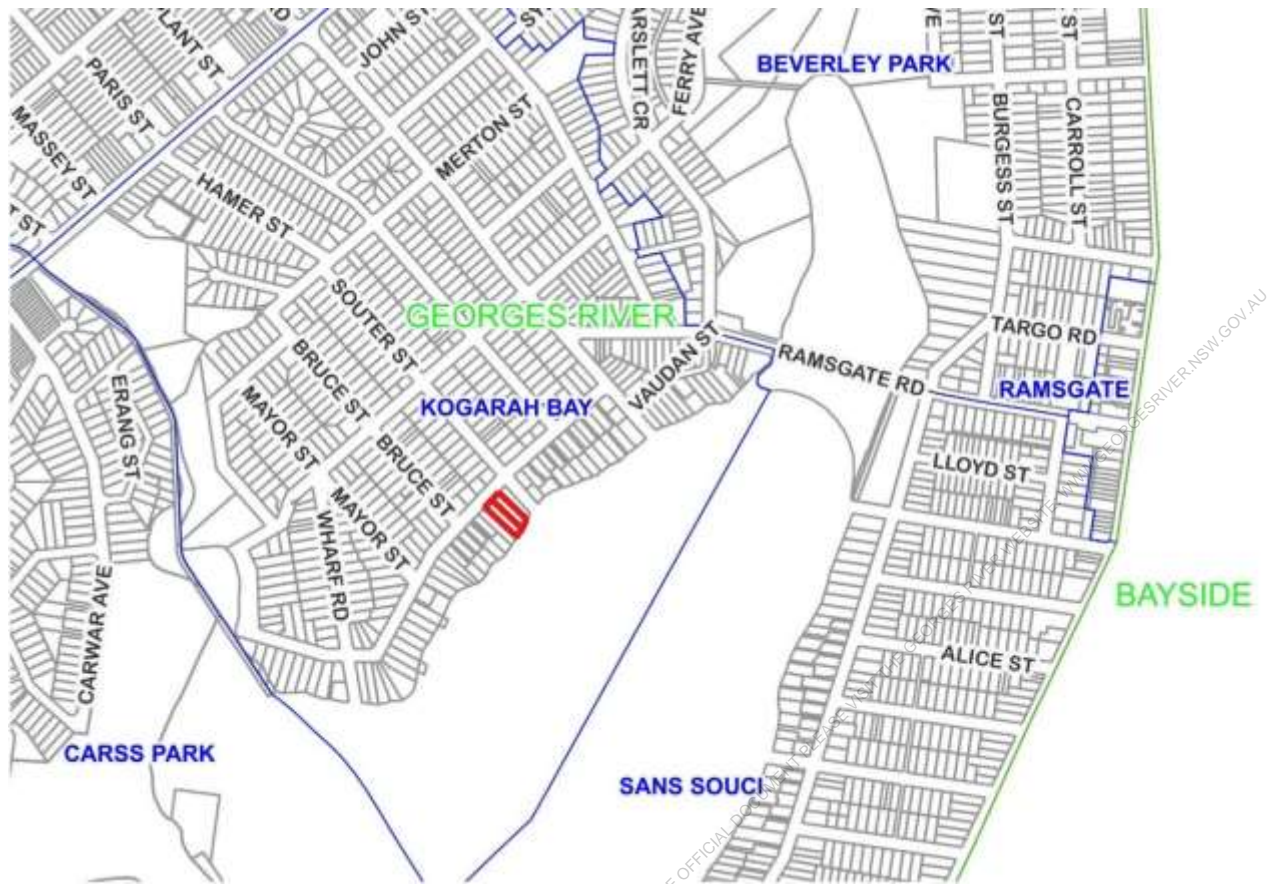
d) Updating the Heritage Map to reflect the above changes.

That the Georges River LPP recommends to Council that the attached Planning Proposal to amend the *Georges River Local Environmental Plan (GRLEP) 2021* be forwarded to the Department of Planning and Environment for a Gateway Determination under Section 3.34 of the *Environmental Planning and Assessment Act 1979*.

<b>Summary of matters for consideration under Section 4.15</b> Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Not Applicable
<b>Legislative clauses requiring consent authority satisfaction</b> 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?	Not Applicable
<b>Clause 4.6 Exceptions to development standards</b> If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Not Applicable
<b>Special Infrastructure Contributions</b> Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	Not Applicable
<b>Conditions</b> Have draft conditions been provided to the applicant for comment?	Not Applicable

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## Site Plan



**Figure 1 – Locality of the Site (outlined in red)**



**Figure 2 – The Site (outlined in red)**



## Executive Summary

### Site and Locality

1. The Site is identified as Lot 21 in Section 15 of DP 1963 (known as 28A Carlton Crescent, Kogarah Bay) and Lot 22 in Section 15 of DP 1963 (known as 28 Carlton Crescent, Kogarah Bay). Refer to **Figures 1 and 2** above.
2. The two allotments back onto Kogarah Bay on the southern side of Carlton Crescent.
3. Presently, only part of the Site is listed in Schedule 5 of the GRLEP 2021 as '*House and front garden, "Bayview"*', being Lot 21, Section 15, DP 1963, 28A Carlton Crescent, Kogarah Bay.
4. The two lots function as one site / one dwelling and have been in continual and unsevered ownership since the original purchase in 1916 from the c1911 Kogarah Bay Estate subdivision. Lot 21 (28A Carlton Crescent) contains the dwelling, the former boat shed and numerous semi-mature palms and shrubbery. Lot 22 (28 Carlton Crescent) includes all but one of the mature Canary Island Palms, together with the majority of the circulation paths, the detached garage and detached former teahouse / summerhouse.

### Interim Heritage Order

5. Following a report to Council on 22 May 2023 where Council acknowledged the potential heritage significance of 28 Carlton Crescent, an IHO was made over the Site and was gazetted on 26 May 2023.
6. The reason for the IHO was due to Council having reasonable belief that the place or item may have potential heritage significance and that a 'threat of harm' exists or is perceived to exist. In this case, the lodgement of DA2023/0025 constituted such a threat of harm. The IHO allowed further heritage assessments to be undertaken to inform an understanding of the cultural significance of the Site and whether Council should proceed with the heritage listing.
7. The IHO is due to lapse six months from the date that it is made, unless, in the case of an item which, in the council's opinion, is of local significance, the local council has passed a resolution before that date to place the item on the heritage schedule of a local environmental plan.

### Proposal

8. This report seeks the Georges River Local Planning Panel's (LPP's) recommendation to Council to forward the draft Planning Proposal (PP) in **Attachment 1**, to the Department of Planning and Environment (DPE) for a Gateway Determination.
9. The PP seeks to amend the *Georges River Local Environmental Plan 2021* (GRLEP 2021) by amending the listing of Heritage Item No. I208 ('*House and front garden, "Bayview"*') at 28A Carlton Crescent, Kogarah Bay by:
  - a. Revising the item name from '*House and front garden, "Bayview"*' to '*"Bayview" house and garden, boatshed, garage and summerhouse*' in Schedule 5 Environmental heritage.
  - b. Revising the address from '28A Carlton Crescent, Kogarah Bay' to '28 and 28A Carlton Crescent, Kogarah Bay' in Schedule 5 Environmental heritage.
  - c. Revising the property description to include both Lots 21 and 22 in Section 15 of Deposited Plan (DP) 1963 in Schedule 5 Environmental heritage.
  - d. Updating the Heritage Map to reflect the above changes.

10. The PP is supported by a Heritage Significance Assessment Report prepared by Council's Heritage Advisor dated July 2023 which is provided in **Attachment 2**. The Report concludes that both Lot 21 and Lot 22 are considered to be of equal cultural significance and neither one lot is mutually exclusive – they both rely on each other to complete the historical narrative of the Site, retain the original design intent, and protect the curtilage, setting, significant fabric and landscaped features as well as physical and visual relationships. There is also clear evidence that the intent of the heritage listing was to include Lot 21 and Lot 22 both in their entirety and to be managed and protected as a single heritage item, though only Lot 21 was identified in Schedule 5 and mapped accordingly. This is considered erroneous and the heritage listing of the Site should in fact be inclusive of both Lots 21 and 22 in Section 15 of DP 1963 so that the entire Site and all of its built and landscape elements of identified cultural significance and value are afforded appropriate statutory protection.
11. As outlined in this report, the PP meets both the strategic and site-specific merit tests that are outlined in the DPE's *Local Environmental Plan Making Guideline* dated September 2022.
12. It is recommended that the LPP recommends that Council resolve to submit the PP to the DPE for a Gateway Determination.

## Report in Full Proposal

13. The PP seeks to amend the GRLEP 2021 by amending the listing of Heritage Item No. I208 at 28A Carlton Crescent, Kogarah Bay by:
  - a. Revising the item name from '*House and front garden, "Bayview"*' to '*"Bayview" house and garden, boatshed, garage and summerhouse*' in Schedule 5 Environmental heritage.
  - b. Revising the address from '28A Carlton Crescent, Kogarah Bay' to '28 and 28A Carlton Crescent, Kogarah Bay' in Schedule 5 Environmental heritage.
  - c. Revising the property description to include both Lots 21 and 22 in Section 15 of DP 1963 in Schedule 5 Environmental heritage.
  - d. Updating the Heritage Map to reflect the above changes.
14. The heritage listing of the Site is supported by a Heritage Significance Assessment Report prepared by Council's Heritage Advisor dated July 2023 which is provided in **Attachment 2**. The Report concludes that both Lot 21 and Lot 22 are considered to be of equal cultural significance and neither one lot is mutually exclusive – they both rely on each other to complete the historical narrative of the Site, retain the original design intent, and protect the curtilage, setting, significant fabric and landscaped features as well as physical and visual relationships. There is also clear evidence that the intent of the heritage listing was to include Lot 21 and Lot 22 both in their entirety and to be managed and protected as a single heritage item, though only Lot 21 was identified in Schedule 5 and mapped accordingly. This is considered erroneous and the heritage listing of the Site should in fact be inclusive of both Lots 21 and 22 in Section 15 of DP 1963 so that the entire Site and all of its built and landscape elements of identified cultural significance and value are afforded appropriate statutory protection.
15. A revised heritage inventory sheet has been prepared and a copy is provided in Appendix D of the Heritage Significance Assessment Report in **Attachment 2**.

16. The PP does not seek to amend the R2 Low Density Residential zoning, floor space ratio (FSR), height, nor any other LEP provisions relating to the Site.
17. The intended outcome of the PP is to:
  - a. Amend the listing in Schedule 5 for Heritage Item No. I208 by revising the item name, address and property description to include both Lots 21 and 22.
  - b. Assist in conserving the environmental heritage of the Georges River Local Government Area.
  - c. Conserve the heritage significance of the Site, including all built and landscape elements with identified cultural significance and value.

### Site and Locality

18. The Site is identified as Lot 21 in Section 15 of DP 1963 (known as 28A Carlton Crescent, Kogarah Bay) and Lot 22 in Section 15 of DP 1963 (known as 28 Carlton Crescent, Kogarah Bay) in the Parish of Parish of St George, County of Cumberland, Kogarah Bay NSW 2217. Refer to **Figures 1 and 2** above.
19. The two allotments back onto Kogarah Bay on the southern side of Carlton Crescent, Kogarah Bay.
20. The entire Site comprising the two allotments is approximately 1,915 m<sup>2</sup> combined for the two allotments. Lot 21 (28A Carlton Crescent) contains the dwelling, the former boat shed and numerous semi-mature palms and shrubbery. Lot 22 (28 Carlton Crescent) includes all but one of the mature Canary Island Palms, together with the majority of the circulation paths, the detached garage and detached former teahouse / summerhouse.
21. Both Lots 21 and 22 have been in continual and unsevered ownership since the original purchase in 1916 from the c1911 Kogarah Bay Estate subdivision.

### Background

#### Development Application

22. A Development Application (DA2023/0025) for No. 28 (Lot 22 Section 15 DP 1963) and 28A (Lot 21 Section 15 DP 1963) Carlton Crescent, Kogarah Bay, was accepted by Council on 21 March 2023. The DA involves a boundary adjustment, tree removal, demolition of an existing detached garage structure and detached secondary dwelling, construction of a new dwelling house with associated in-ground swimming pool and construction of a new hardstand carparking space and vehicular access driveway to Lot 21. The DA is currently subject to a court appeal with the NSW Land and Environment Court.
23. Presently, only part of the Site is listed in Schedule 5 Environmental heritage of the GRLEP 2021 as *'House and front garden, "Bayview"*, being Lot 21, Section 15, DP 1963, 28A Carlton Crescent, Kogarah Bay.
24. Given No. 28A Carlton Crescent, Kogarah Bay is mapped as a local heritage item in the GRLEP 2021 (House and front garden – "Bayview"), the DA was referred to Council's Heritage Advisor for review and comment.

*Heritage Advisor Comments*

25. Situated on No. 28A is a single storey, detached style dwelling house which displays the principal characteristics attributed to the early 20th century Inter-War period and of the Inter-War Californian Bungalow architectural style. The dwelling displays a remarkably intact form, with many distinguishing features that amplify and accentuate the aesthetic significance and architectural interest and value, making it a good representative example of the style and class.
26. The dwelling is set within an established landscaped garden setting, comprised of two individual allotments. The Site benefits from direct water access to the Georges River at the rear. No. 28A (Lot 21) contains the dwelling house (towards the front of the Site), with a detached (former) boat shed at the very rear of the Site. No. 28 (Lot 22) contains the detached garage structure (at the front of the Site) and a (former) summerhouse or teahouse at the rear.
27. Each of the detached structures are positioned in each of the four corners of the Site, interconnected by established landscaped gardens comprising numerous mature Canary Island Palms, lawn areas and circulation paths. Cumulatively, they form a pleasant and deliberately arranged relationship that evokes a strong early 20th century Inter-War period character. The positioning of the dwelling, echoed through the arrangement of large bay windows and the verandahs, evidence a deliberate design that takes advantage of the double-lot, with outward facing views to the northeast over the sprawling garden setting and to the southeast towards the Georges River.
28. The deliberate design of the dwelling and arrangement of ancillary structures is evident on the 1937 and 1943 aerial photos, from which the following key observations can be made:
  - a. The extant structures and landscaped setting (inclusive of the numerous Canary Island Palms) on the Site display a high degree of integrity, having been largely unaltered since the early inception of the Site, whereby having historical significance.
  - b. The footprint of the dwelling is substantially larger by comparison to other extant dwellings in the street at the time, demonstrating a deliberate and clear intent for a more 'substantial' dwelling and garden setting, and the design of the dwelling to have a strongly defined side elevation that exploits views over the garden setting.
29. The name of the heritage item in Schedule 5 of the GRLEP 2021 identifies the heritage item as '*House and front garden, "Bayview"*' and identifies the listing as relating to 28A Carlton Crescent (which can be taken to be the entire Site), though lists only Lot 21. This is evident in the mapping accompanying the LEP, showing only half the Site as being heritage listed – that is, Lot 21 which contains the dwelling, former boat shed and numerous semi-mature palms. All but one of the mature Canary Island Palms, together with the majority of the circulation paths, the detached garage and detached former teahouse are situated on Lot 22.

30. It is evident from a visual examination of the Site together with historical land titles, that the Site was always intended to be comprised of both lots, evident in the original purchase of two adjoining lots and continued ownership of the same, together with the deliberate regard the dwelling has for its broader landscaped setting and visual relationship with the ancillary structures. Both Lot 21 and Lot 22 are therefore considered to be of equal cultural significance and neither one lot is mutually exclusive – they both rely on each other to complete the historical narrative of the Site, retain the original design intent, and protect the curtilage, setting, significant fabric and landscaped features as well as physical and visual relationships.
31. Photographs of the heritage item from the 1993 *Kogarah Heritage Study* clearly depict the substantial garden setting (inclusive of both Lots 21 and 22) as forming the key elements of significance.
32. Schedule 5 of the GRLEP 2021 references the house and ‘front garden’. An examination of the existing front garden in the conventional sense of the word, that is, the landscaped area between the street-facing front boundary and the street-facing front elevation of the dwelling, comprises a simple landscaped area, mostly open grass with a dense *Murraya* hedge delineates the front boundary, which is considered a contemporary planting to the Site. There are no other notable or distinguishing features within the ‘front garden’ area. Consequently, it is understood that the intent of the listing of the ‘front garden’ was to in fact include the substantial gardens that envelope the dwelling from the front elevation, wrapping around the northeastern side (Lot 22) and to the rear.

#### Interim Heritage Order

33. The *Heritage Act 1977* (Section 25(2)) allows councils, subject to the authorisation by the Minister, to make an Interim Heritage Order (IHO) over a property, where a council has a reasonable belief that the place or item may have potential heritage significance and that a ‘threat of harm’ either exists or is perceived to exist. In this case, the lodgement of the current DA (DA2023/0025) constitutes such a threat of harm.
34. Council considered preliminary heritage advice from Michael Edwards, Heritage Advisor to Georges River Council, dated 24 April 2023, which found that:
- There is clear evidence that the intent of the heritage listing for 28A Carlton Crescent was to include 28 Carlton Crescent, though only 28A was identified in Schedule 5 of the GRLEP 2021 and mapped accordingly.
  - This is considered to be incorrect and incomplete, and the heritage listing of the Site should in fact be both 28 and 28A.
  - 28 Carlton Crescent does not appear to be afforded any statutory heritage protection, meaning the demolition of the garage, summerhouse / teahouse and mature Canary Island Palms could potentially occur via a Complying Development Certificate (CDC). Demolition of those described features would have an adverse impact on the identified heritage values and significance of the Site.
  - The Development Application which proposes demolition of the garage and summerhouse, together with the construction of a new two-storey dwelling house at 28 Carlton Crescent presents a threat of harm to the heritage item and Council should consider urgently placing an IHO on 28 (Lot 22) to prevent demolition and to allow the anomaly of the heritage listing to be corrected in Schedule 5.

35. A report to Council on the potential heritage listing of No. 28 Carlton Crescent, Kogarah Bay, was considered by Council at its meeting on 22 May 2023 where it was resolved:
- That Council acknowledges that the potential heritage listing over No. 28 Carlton Crescent Kogarah Bay is necessary for the protection of the heritage integrity of No. 28A Carlton Crescent as both Nos. 28 and 28A create an historic narrative through retaining the original design intent and the physical and visual relationship of both sites.*
  - That Council make an Interim Heritage Order over No. 28 Carlton Crescent Kogarah Bay (Lot 22, Section 15, DP1963) as the potential heritage item:*
    - is likely to be of heritage significance*
    - is under threat of demolition and unsympathetic alteration through any consent given to Development Application No. 2023/0025*
    - does not have statutory heritage protection under the Environmental Planning and Assessment Act 1979 or the Heritage Act 1977.*
  - That Council authorise the preparation of a detailed assessment of the heritage significance of No. 28 Carlton Crescent Kogarah Bay in accordance with Heritage Council guidelines.*
  - That if the heritage assessment prepared in (c) above determines that No. 28 Carlton Crescent is of heritage significance then Council resolve to prepare a Planning Proposal to amend the listing for Item I208 to include both No. 28 (Lot 22) and No. 28A (Lot 21) Carlton Crescent Kogarah Bay, as a local heritage item in Schedule 5 to the Georges River LEP 2021.*
36. In accordance with Council's resolution, the Director Environment and Planning used her delegation to make the IHO for 28 Carlton Crescent, Kogarah Bay on 24 May 2023. The IHO was gazetted on Friday, 26 May 2023. A copy of the notice published in the NSW Government Gazette is provided in Appendix C of the Heritage Significance Assessment Report in **Attachment 2**. It is noted that the IHO will lapse six months from the date that it is made unless, in the case of an item which, in the council's opinion, is of local significance, the local council has passed a resolution before that date to place the item on the heritage schedule of a local environmental plan. The IHO allowed further heritage assessments to be undertaken to inform an understanding of the cultural significance of the Site and whether Council should proceed with the heritage listing.

### Heritage Significance Assessment

37. Council commissioned its Heritage Advisor to prepare a Heritage Significance Assessment Report to establish the cultural heritage significance of the dwelling 'Bayview' and its setting at the Site to assist in determining whether the Site reaches the threshold for heritage listing. The Report is dated July 2023 and provided in **Attachment 2**.
38. The Report provides an assessment of the heritage values and cultural significance of the Site and its heritage curtilage in accordance with 'Assessing Heritage Significance – Guidelines for assessing places and objects against the Heritage Council of NSW criteria' (NSW Department of Planning and Environment, 2023). The Report also provides preliminary guidelines and recommendations to ensure that any identified heritage values are retained, protected and appropriately managed.
39. The Heritage Significance Assessment Report assessed the Site against the NSW Heritage Assessment criteria, and found that the Site meets the following Criterion at a Local level:
- Criterion (a) Historical Significance
  - Criterion (b) Historical Association Significance



- Criterion (c) Aesthetic Significance
- Criterion (d) Social Significance
- Criterion (e) Technical / Research Significance
- Criterion (f) Rarity
- Criterion (g) Representativeness

40. In terms of Criterion (a) Historical Significance (*An item or place is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area)*), the following is to be noted:

- 'Bayview' at 28 Carlton Crescent, Kogarah Bay, is of historical significance at the local level as it evidences early residential development in Kogarah Bay following the speculative subdivisions of earlier land grants into residential allotments and the resulting residential development that ensued.
- 'Bayview' is historically significant as it evidences the changing attitudes to living in the city and established populated areas, preferring instead to develop the outer suburbs in a desire for a healthier lifestyle and environment.
- 'Bayview' is historically significant as it retains strong evidence of the original 1911 subdivision pattern, together with its original boathouse, garage / workshop and summerhouse, together with much of the original landscape plantings and theme, which allows the property to be easily understood as a representation of its early 20th century history.

'Bayview' satisfies Criterion (a) in demonstrating historical significance at a local level.

41. In terms of Criterion (b) Historical Association Significance (*An item or place has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area)*), the following is to be noted:

- 'Bayview' is of historical associative significance for its strong association with builder, Frederick Rowe, who is attributed with building the dwelling and ancillary structures in or about 1928 as his own home and place of business. Rowe is attributed with having built numerous houses in and around Kogarah throughout the 1920s and 1930s period.
- 'Bayview' was also likely used by Rowe to showcase his craftsmanship to prospective clients, exhibiting an unequivocal superiority to the other examples of his work and demonstrates features which are unparalleled in his other work, with a high degree of ornamentation and quality craftsmanship.

'Bayview' satisfies Criterion (b) in demonstrating historical associative significance at a local level.

42. In terms of Criterion (c) Aesthetic Significance (*An item or place is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area)*) the following is to be noted:

- 'Bayview' exhibits quality craftsmanship with overt detailing and embellishments, making it a fine and highly distinctive example of an early 20th century Inter-War Californian Bungalow.
- The aesthetic qualities and visual distinctiveness of 'Bayview' is directly enhanced by the double allotment width, which creates a generously proportioned garden setting with numerous significant landscape plantings extant, protected and reinforced through the deliberate positioning of the dwelling, boatshed, garage / workshop and summerhouse to sit in each of the four corners of the site.

- The sensory appeal and aesthetic values of the site are also directly enhanced by uninterrupted wide sweeping waterfront views and relationship to Kogarah Bay at the rear, with the original allotment configuration having been retained.
- The incorporation of multiple large bay windows and verandahs to the dwelling evidence a deliberate design approach to celebrate the contrived aesthetic values of the expansive garden setting and water views.
- 'Bayview' and its garden setting is visually distinctive in the street and broader landscape through the uncharacteristically wide presentation to Carlton Crescent, with the property distinguished by the large collection of mature Canary Island Palms.
- 'Bayview' exhibits a high degree of aesthetic quality that is unparalleled in other similar Inter-War period bungalows, with 'Bayview' retaining its original elements, site features, garden setting, subdivision pattern and visual and physical relationships. This makes 'Bayview' visually distinctive and an exemplar of its style and class because of its setting.

'Bayview' satisfies Criterion (c) in demonstrating aesthetic significance at a local level.

43. In terms of Criterion (d) Social Significance (*An item or place has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons*) the following is to be noted:
- 'Bayview' contributes to the community's sense of place, being a visually distinctive feature of the local landscape.
  - Having functioned throughout the 1950s until the late 1980s as a function centre, hosting weddings, parties and other social events, 'Bayview' is likely to have social significance and importance to the local and broader community, particularly those who attended social events at the property.

'Bayview' satisfies Criterion (d) in demonstrating social significance at a local level.

44. In terms of Criterion (e) Technical / Research Significance (*An item or place has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area)*) the following is to be noted:
- 'Bayview' exhibits an unusually high degree of ornamentation and quality craftsmanship, with numerous distinguishing, unusual and uncommon features that suggest Rowe used the dwelling to showcase his craftsmanship to prospective clients.
  - The dwelling exhibits construction techniques and features which are uncommon to the style and class of domestic building, particularly evidenced in the large floor area and matching ceiling span of the formal lounge room, being uninterrupted by support columns or partition walls and the innovative use of the splayed ceiling panelling to follow the roof profile and maximise the perceived and actual spaciousness internally.
  - The high-quality craftsmanship combined with the incorporation of uncommon construction techniques and features, makes 'Bayview' an important benchmark and reference site.

'Bayview' satisfies Criterion (e) in demonstrating technical / research significance at a local level.

45. In terms of Criterion (f) Rarity (*An item or place possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area)*), the following is to be noted:

- 'Bayview' is attributed to the work of local builder Frederick Rowe, having been built c1928. Rowe is credited with having built numerous houses around Kogarah during the 1920s and 1930s period, however 'Bayview' is considered his best and most distinguished work.
- Other examples of Rowe's domestic work display similarities in themselves, yet 'Bayview' exhibits an unparalleled superiority in the quality of craftsmanship and detailing, containing numerous design features that are unique to 'Bayview', including the distinctive large bay windows and curved balcony as well as many distinct internal features, including the elaborate leadlight windows, timber flooring and ceiling panelling.
- 'Bayview' is a highly intact early 20th century residential property which displays deliberate design intent to address the expansive garden setting and waterfrontage, and is both unusual and uncommon as it is spread across two adjoining allotments, having been originally purchased together and continually maintained as such.
- 'Bayview' evidences early 20th century marine activity, including a boatshed and summerhouse, both built right on the water's edge and the retention of the boatshed, garage / workshop and summerhouse is exceptionally rare in the local context, demonstrating rarity significance accordingly

'Bayview' satisfies Criterion (f) in demonstrating significance through the item's rarity at a local level.

46. In terms of Criterion (g) Representativeness (*An item or place is important in demonstrating the principal characteristics of a class of NSW's: • Cultural or natural places; or • Cultural or natural environments (or a class of the local area's cultural or natural places; or cultural or natural environments.)* the following is to be noted:

- 'Bayview' is described as a single storey dwelling, which displays characteristics attributed to the early 20th century Inter-War period and of the Californian Bungalow architectural style.
- Built c1928 by local builder Frederick Rowe, the dwelling exhibits a high degree of design integrity, having been little altered. It exhibits fine craftsmanship, with exceptional detailing that is uncommon to the architectural style and domestic scale of the building. 'Bayview' is considered of remarkable quality and detailing, making it of high architectural interest and value as an excellent representative example of the style and class.
- The dwelling is complemented by a freestanding boatshed, garage / workshop and summerhouse, each of which exhibit similarity in design and language, having each been constructed around the same time. The high degree of design integrity and intactness of each of the structures make an important group setting of outstanding quality, enhanced by the retention of the original allotment boundaries and garden setting. Collectively, the site is representative of an early 20th century waterfront property.
- The garden setting spread over two adjoining allotments continue to communicate the early functions and relationships, retaining many original landscape plantings including the Canary Island Palms, pathways and front fence.

'Bayview' satisfies Criterion (g) in demonstrating representative significance at a local level.

47. Based upon the assessed cultural significance, the Report provides the following Statement of Cultural Significance:

*'Bayview' at 28 Carlton Crescent, Kogarah Bay, is an Inter-War period waterfront property, containing the main dwelling known as 'Bayview', together with its original detached boatshed, garage / workshop and summerhouse – all of which have been designed in the Inter-War Californian Bungalow architectural style and exhibit deliberate relationship to each other.*

*The property is of historical importance as it evidences early residential development in Kogarah Bay and the changing attitudes to living in the city, instead preferring the outer suburbs in a desire for a healthier lifestyle and environment. This is further demonstrated through the original purchase of two adjoining lots to create a high-quality waterfront property.*

*Constructed c1928 by local builder Frederick Rowe as his place of residence and likely used to showcase his fine craftsmanship to prospective clients, the house exhibits exceptionally fine craftsmanship and detailing that is uncommon to the architectural style and domestic scale of the building. This detailing is unparalleled in Rowe's other domestic work, making 'Bayview' arguably his best and most distinguished work.*

*'Bayview' is considered an important benchmark and reference site for the incorporation of many distinguishing and unique features uncommon to the architectural style and domestic scale of building, notably the large ceiling span of the formal lounge room, being uninterrupted by support columns or partition walls and elaborately detailing internal flooring, ceilings and leadlight windows.*

*Each of the buildings retain a high degree of design integrity, having been little altered and collectively, the group is considered of outstanding quality, making it of high architectural interest and value as an excellent representative example of an early 20<sup>th</sup> century Inter-War period waterfront property.*

*The property has high aesthetic value and significance, being visually distinctive and unique for it comprises two adjoining allotments that create a generously proportioned and well established garden setting with numerous original landscape plantings extant, including a large collection of Canary Island Palms. The garden setting has been self-protected and reinforced through the deliberate positioning of the dwelling, boatshed, garage / workshop and summerhouse to sit in each of the four corners of the site. The deliberate placement of the large bay windows in the dwelling provides a commanding and pleasant outlook over the expansive garden setting and wide water frontage.*

*'Bayview' and its setting is considered an exemplar of its style and class, retaining its original lot configuration and proportion and is strongly associated with water activity, evident through the boatshed and summerhouse and the uninterrupted wide sweeping waterfront views and relationship to Kogarah Bay.*

*Collectively, the site is considered a rare and substantially intact example of an early 20<sup>th</sup> century Inter-War period waterfront property.*

*'Bayview' has some social significance having been used throughout the 1950s until the late 1980s as a function centre, hosting weddings, parties and other social events.*

48. In summary, the Heritage Significance Assessment Report concludes that both Lot 21 and Lot 22 in Section 15 of DP 1963 are considered to be of equal cultural significance and neither one lot is mutually exclusive – they both rely on each other to complete the historical narrative of the Site, retain the original design intent, and protect the curtilage, setting, significant fabric and landscaped features as well as physical and visual relationships. There is also clear evidence that the intent of the heritage listing was to include Lot 21 and Lot 22 both in their entirety and to be managed and protected as a single heritage item, though only Lot 21 was identified in Schedule 5 and mapped accordingly. This is considered erroneous and the heritage listing of the Site should in fact be inclusive of both Lots 21 and 22 in Section 15 of DP 1963 so that the entire Site and all of its built and landscape elements of identified cultural significance and value are afforded appropriate statutory protection.

### Assessment of the Planning Proposal

49. The following **Tables 1 to 5** provide a detailed assessment and justification of the strategic and site-specific merit of the PP. The Tables contain the 12 questions from the DPE's *Local Environmental Plan Making Guideline* dated September 2022 which outlines the matters for consideration when describing, evaluating and justifying a proposal.

**Table 1: Section A – Need for the planning proposal**

Question	Considerations
1. Is the planning proposal a result of an endorsed LSPS, strategic study or report?	<p>The PP is the result of the Heritage Significance Assessment Report by Edwards Heritage Consultants (EHC) dated July 2023.</p> <p>While it is not a direct result of an endorsed LSPS or strategic study, it is consistent with the following Council adopted documents:</p> <ul style="list-style-type: none"> <li>• Council's <i>Community Strategic Plan 2022-2032</i> Goal 1.4 "Georges River area heritage and history are protected" and Strategy 1.4.1 "Encourage and promote heritage and history through collections, programs, heritage trails and protection policies."</li> <li>• <i>Georges River Local Strategic Planning Statement 2040</i> ('LSPS 2040') Planning Priority P11 "Aboriginal and other heritage is protected and promoted."</li> </ul> <p>The Heritage Significance Assessment finds that the Site meets the following NSW Heritage Assessment Criterion at a Local level:</p> <ul style="list-style-type: none"> <li>• Criterion (a) Historical Significance</li> <li>• Criterion (b) Historical Association Significance</li> <li>• Criterion (c) Aesthetic Significance</li> <li>• Criterion (d) Social Significance</li> <li>• Criterion (e) Technical / Research Significance</li> <li>• Criterion (f) Rarity</li> <li>• Criterion (g) Representativeness</li> </ul>
2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?	<p>The PP represents the best means of achieving the intended outcomes established in Section 3.</p> <p>Only part of the Site (i.e. 28A Carlton Crescent, Kogarah Bay) is currently listed as a heritage item in Schedule 5 of the GRLEP 2021. An IHO was made over the Site that is not heritage listed (i.e. 28 Carlton Crescent, Kogarah Bay) on 24 May 2023 to afford the Site protection whilst further heritage assessment is undertaken to inform an understanding of the heritage significance of 28 Carlton Crescent, Kogarah Bay and whether Council should proceed with the planning proposal process to list the Site as a heritage item in the LEP.</p>


**Table 2: Section B – Relationship to the strategic planning framework**

Question	Considerations				
3. Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?	<p>Yes. The PP gives effect to the following objective within the <i>Greater Sydney Region Plan – A Metropolis of Three Cities</i>:</p> <ul style="list-style-type: none"> <li>• <i>Objective 13. Environmental heritage is identified, conserved and enhanced.</i></li> </ul> <p>Comment: The PP gives effect to this objective by seeking to amend the listing for Heritage Item No. I208 in Schedule 5 Environmental heritage of the GRLEP 2021 to include both Lot 21 and 22, therefore ensuring all built and landscape elements of identified cultural significance and value on the Site are afforded appropriate statutory protection.</p> <p>The PP also gives effect to the following planning priority of the <i>South District Plan</i>:</p> <ul style="list-style-type: none"> <li>• <i>Planning Priority S6. Creating and renewing great places and local centres, and respecting the District's heritage.</i></li> </ul> <p>Comment: The PP gives effect to this planning priority by amending the listing of Heritage Item No. I208 in Schedule 5 Environmental heritage and the corresponding Heritage Map of the GRLEP 2021 to include both Lot 21 and Lot 22, therefore ensuring all built and landscape elements of identified cultural significance and value on the Site are afforded appropriate statutory protection.</p>				
4. Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?	<p>Yes. The PP is consistent with the endorsed <i>Georges River Local Strategic Planning Statement 2040</i> ('LSPS 2040'), specifically the following planning priorities:</p> <ul style="list-style-type: none"> <li>• <i>P11. Aboriginal and other heritage is protected and promoted.</i> The PP is consistent with this priority as it seeks to amend Schedule 5 Environmental heritage and the Heritage Map within the GRLEP 2021 to include both Lot 21 and 22 as comprising the listing for Heritage Item No. I208.</li> <li>• <i>P17. Tree canopy, bushland, landscaped settings and biodiversity are protected, enhanced and promoted.</i> The PP is consistent with this priority as it proposes to include both Lot 21 and 22 in the listing of Heritage Item No. I208 in Schedule 5 Environmental heritage of the GRLEP 2021, therefore ensuring all built and landscape elements of identified cultural significance and value on the Site are afforded appropriate statutory protection.</li> </ul>				
5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?	There are no other applicable State and regional studies or strategies.				
6. Is the planning proposal consistent with applicable SEPPs?	<p>The PP is consistent with the following SEPPs:</p> <table border="1"> <thead> <tr> <th data-bbox="555 1514 954 1547">SEPP</th><th data-bbox="954 1514 1489 1547">Comment on consistency</th></tr> </thead> <tbody> <tr> <td data-bbox="555 1547 954 2112"><i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i></td><td data-bbox="954 1547 1489 2112"> <p>This SEPP consolidates, transfers and repeals provisions of the following 11 SEPPs (or deemed SEPPs):</p> <ul style="list-style-type: none"> <li>• <i>SEPP (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP)</i></li> <li>• <i>SEPP (Koala Habitat Protection) 2020 (Koala SEPP 2020)</i></li> <li>• <i>SEPP (Koala Habitat Protection) 2021 (Koala SEPP 2021)</i></li> <li>• <i>Murray Regional Environmental Plan No 2—Riverine Land (Murray REP)</i></li> <li>• <i>SEPP No 19—Bushland in Urban Areas (SEPP 19)</i></li> <li>• <i>SEPP No 50—Canal Estate Development (SEPP 50)</i></li> <li>• <i>SEPP (Sydney Drinking Water Catchment) 2011 (Sydney Drinking Water SEPP)</i></li> <li>• <i>Sydney Regional Environmental Plan No 20 – Hawkesbury – Nepean River (No 2 –</i></li> </ul> </td></tr> </tbody> </table>	SEPP	Comment on consistency	<i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i>	<p>This SEPP consolidates, transfers and repeals provisions of the following 11 SEPPs (or deemed SEPPs):</p> <ul style="list-style-type: none"> <li>• <i>SEPP (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP)</i></li> <li>• <i>SEPP (Koala Habitat Protection) 2020 (Koala SEPP 2020)</i></li> <li>• <i>SEPP (Koala Habitat Protection) 2021 (Koala SEPP 2021)</i></li> <li>• <i>Murray Regional Environmental Plan No 2—Riverine Land (Murray REP)</i></li> <li>• <i>SEPP No 19—Bushland in Urban Areas (SEPP 19)</i></li> <li>• <i>SEPP No 50—Canal Estate Development (SEPP 50)</i></li> <li>• <i>SEPP (Sydney Drinking Water Catchment) 2011 (Sydney Drinking Water SEPP)</i></li> <li>• <i>Sydney Regional Environmental Plan No 20 – Hawkesbury – Nepean River (No 2 –</i></li> </ul>
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Question	Considerations
	<p>1997) (Hawkesbury–Nepean River SREP)</p> <ul style="list-style-type: none"> <li>• Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Sydney Harbour Catchment SREP)</li> <li>• Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment (Georges River REP)</li> <li>• Willandra Lakes Regional Environmental Plan No 1 – World Heritage Property (Willandra Lakes REP)</li> </ul> <p>The PP is not inconsistent with the SEPP.</p>
	<p>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</p> <p>The PP is not inconsistent with the SEPP.</p>
	<p>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</p> <p>The PP is not inconsistent with the SEPP.</p>
	<p>State Environmental Planning Policy (Housing) 2021</p> <p>The PP is not inconsistent with the SEPP. The PP does not change the existing zoning, height or FSR provisions relating to the Site.</p>
	<p>State Environmental Planning Policy (Industry and Employment) 2021</p> <p>This SEPP consolidates, transfers and repeals the provisions of the following 2 SEPPs:</p> <ul style="list-style-type: none"> <li>• SEPP (Western Sydney Employment Area) 2009 (Western Sydney Employment SEPP)</li> <li>• SEPP 64 – Advertising and Signage (SEPP 64)</li> </ul> <p>The PP is not inconsistent with the SEPP.</p>
	<p>State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development</p> <p>The PP is not inconsistent with the SEPP.</p>
	<p>State Environmental Planning Policy (Planning Systems) 2021</p> <p>This SEPP consolidates and repeals the provisions of the following 3 SEPPs:</p> <ul style="list-style-type: none"> <li>• SEPP (State and Regional Development) 2011 (State and Regional Development SEPP)</li> <li>• SEPP (Aboriginal Land) 2019 (Aboriginal Land SEPP)</li> <li>• SEPP (Concurrences and Consents) 2018 (Concurrence SEPP)</li> </ul> <p>The PP is not inconsistent with the SEPP.</p>
	<p>State Environmental Planning Policy (Precincts - Eastern Harbour City) 2021</p> <p>The PP is not inconsistent with the SEPP. The Site is not the subject of a Precinct identified by the SEPP.</p>
	<p>State Environmental Planning Policy (Primary Production) 2021</p> <p>This SEPP consolidates, transfers and repeals the provisions of the following SEPPs:</p> <ul style="list-style-type: none"> <li>• SEPP (Primary Production and Rural Development) 2019 (Primary Production and Rural Development SEPP)</li> <li>• Sydney Regional Environmental Plan No 8 (Central Coast Plateau Areas) (Central Coast Plateau SREP)</li> </ul> <p>The PP is not inconsistent with the SEPP.</p>
	<p>State Environmental Planning Policy (Resilience and Hazards) 2021</p> <p>This SEPP consolidates and repeals the provisions of the following 3 SEPPs:</p> <ul style="list-style-type: none"> <li>• SEPP (Coastal Management) 2018 (Coastal Management SEPP)</li> <li>• SEPP 33 – Hazardous and Offensive Development (SEPP 33)</li> <li>• SEPP 55 – Remediation of Land (SEPP 55)</li> </ul> <p>The PP is not inconsistent with the SEPP. The Site is within a coastal use area as identified by the former State Environmental</p>

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Question	Considerations												
	<p><i>Planning Policy (Coastal Management) 2018.</i> Refer to <b>Figure 3</b> below. The Planning Proposal does not propose a rezoning nor intensification of uses permitted. The Planning Proposal only proposes to amend the Heritage Map in the GRLEP 2021 and not the other maps relating to coastal management.</p>  <p><b>Figure 3 – Area of Site affected by coastal use area</b></p> <p><i>State Environmental Planning Policy (Resources and Energy) 2021</i></p> <p>This SEPP consolidates and repeals the provisions of the following 2 SEPPs:</p> <ul style="list-style-type: none"> <li>SEPP (Mining, Petroleum Production and Extractive Industries) 2007 (Mining SEPP)</li> <li>Sydney Regional Environmental Plan No. 9 – Extractive Industries (No 2 – 1995) (Extractive Industries SREP)</li> </ul> <p>The PP is not inconsistent with the SEPP.</p> <p><i>State Environmental Planning Policy (Sustainable Buildings)</i></p> <p>The PP is not inconsistent with the SEPP.</p> <p><i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i></p> <p>This SEPP consolidates and repeals the provisions of the following 4 SEPPs:</p> <ul style="list-style-type: none"> <li>SEPP (Infrastructure) 2007 (Infrastructure SEPP)</li> <li>SEPP (Educational Establishments and Childcare Facilities) 2017 (Education and Childcare SEPP)</li> <li>SEPP (Major Infrastructure Corridors) 2020 (Corridor SEPP)</li> <li>SEPP (Three Ports) 2013 (Three Ports SEPP)</li> </ul> <p>The PP is not inconsistent with the SEPP.</p>												
<p>7. Is the planning proposal consistent with applicable Ministerial Directions (section 9.1 Directions)?</p>	<p>The PP is consistent with the applicable Ministerial Directions as follows:</p> <table border="1"> <thead> <tr> <th>Ministerial Direction</th><th>Comment on Consistency</th></tr> </thead> <tbody> <tr> <td colspan="2"><b>1 Planning Systems</b></td></tr> <tr> <td><b>1.1 Implementation of Regional Plans</b></td><td>Consistent – The PP is consistent with: <ul style="list-style-type: none"> <li>A Metropolis of Three Cities – Greater Sydney Region Plan – see previous discussion on Question 3.</li> <li>South District Plan – see previous discussion on Question 3.</li> </ul> </td></tr> <tr> <td><b>1.2 Development of Aboriginal Land Council land</b></td><td>N/A – The PP does not affect land shown on the Land Application Map of <i>State Environmental Planning Policy (Planning Systems) 2021</i>.</td></tr> <tr> <td><b>1.3 Approval and Referral Requirements</b></td><td>Consistent – The PP does not seek to make any additional provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority.</td></tr> <tr> <td><b>1.4 Site Specific Provisions</b></td><td>Consistent – The PP does not place unnecessarily restrictive site specific planning</td></tr> </tbody> </table>	Ministerial Direction	Comment on Consistency	<b>1 Planning Systems</b>		<b>1.1 Implementation of Regional Plans</b>	Consistent – The PP is consistent with: <ul style="list-style-type: none"> <li>A Metropolis of Three Cities – Greater Sydney Region Plan – see previous discussion on Question 3.</li> <li>South District Plan – see previous discussion on Question 3.</li> </ul>	<b>1.2 Development of Aboriginal Land Council land</b>	N/A – The PP does not affect land shown on the Land Application Map of <i>State Environmental Planning Policy (Planning Systems) 2021</i> .	<b>1.3 Approval and Referral Requirements</b>	Consistent – The PP does not seek to make any additional provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority.	<b>1.4 Site Specific Provisions</b>	Consistent – The PP does not place unnecessarily restrictive site specific planning
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<b>1.4 Site Specific Provisions</b>	Consistent – The PP does not place unnecessarily restrictive site specific planning												

Question	Considerations
	controls on the Site as it is informed by a Heritage Significance Assessment which recommends the heritage listing of the Site to ensure all built and landscape elements of identified cultural significance and value on the Site are afforded appropriate statutory protection.
	<b>1 Planning Systems – Place-based</b>
	1.5 Parramatta Road Corridor Urban Transformation Strategy NA
	1.6 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan NA
	1.7 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan NA
	1.8 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan NA
	1.9 Implementation of Glenfield to Macarthur Urban Renewal Corridor NA
	1.10 Implementation of the Western Sydney Aerotropolis Plan NA
	1.11 Implementation of Bayside West Precincts 2036 Plan NA
	1.12 Implementation of Planning Principles for the Cooks Cove Precinct NA
	1.13 Implementation of St Leonards and Crows Nest 2036 Plan NA
	1.14 Implementation of Greater Macarthur 2040 NA
	1.15 Implementation of the Pyrmont Peninsula Place Strategy NA
	1.16 North West Rail Link Corridor Strategy NA
	1.17 Implementation of the Bays West Place Strategy NA
	1.18 Implementation of the Macquarie Park Innovation Precinct NA
	1.19 Implementation of the Westmead Place Strategy NA
	1.20 Implementation of the Camellia-Rosehill Place Strategy NA
	1.21 Implementation of the South West Growth Area Structure Plan NA
	1.22 Implementation of the Cherrybrook Station Place Strategy N/A
	<b>2 Design and Place</b>
	<b>3 Biodiversity and Conservation</b>
	3.1 Conservation Zones Consistent – The PP does not affect land within a conservation zone or land otherwise identified for environment conservation/protection purposes in a LEP.

Question	Considerations
	<p><b>3.2 Heritage Conservation</b></p> <p>Consistent – Heritage conservation is covered by a compulsory clause in the <i>Standard Instrument (Local Environmental Plans) Order 2006</i>. The GRLEP 2021 has adopted the Standard Instrument and does identify such items, areas, objects or places of environmental heritage significance or indigenous heritage significance as are relevant to the terms of this direction on the Heritage Map and relevant Schedule of the LEP.</p> <p>The PP seeks amend the listing for Heritage Item No. I208 within Schedule 5 Environmental heritage and on the Heritage Map within the GRLEP 2021 to include both Lot 21 and 22 to ensure the significant features of the Site are protected and conserved. The proposed listing is supported by a Heritage Significance Assessment Report included in <b>Attachment 2</b>.</p>
	<p><b>3.3 Sydney Drinking Water Catchments</b></p> <p>NA – the PP affects the Georges River LGA which the Direction does not apply to.</p>
	<p><b>3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs</b></p> <p>NA</p>
	<p><b>3.5 Recreation Vehicle Areas</b></p> <p>Consistent – The PP does not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the <i>Recreation Vehicles Act 1983</i>).</p>
	<p><b>3.6 Strategic Conservation Planning</b></p> <p>NA – The PP does not affect land under the <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> that is identified as avoided land or a strategic conservation area.</p>
	<p><b>3.7 Public Bushland</b></p> <p>Consistent – The PP does not propose any changes to existing controls protecting bushland in urban areas.</p>
	<p><b>3.8 Willandra Lakes Region</b></p> <p>NA</p>
	<p><b>3.9 Sydney Harbour Foreshores and Waterways Area</b></p> <p>NA – The PP does not affect land within the Foreshores and Waterways Area as defined in the <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i>.</p>
	<p><b>3.10 Water Catchment Protection</b></p> <p>N/A – The PP does not propose any changes to controls that would impact on water catchments.</p>
<b>4 Resilience and Hazards</b>	
	<p><b>4.1 Flooding</b></p> <p>Consistent – The PP does not create, remove or alter a zone or provision that affects flood prone land.</p>
	<p><b>4.2 Coastal Management</b></p> <p>Consistent – The PP affects land within the coastal zone, however, it does not propose an intensification of uses permitted. The PP does not propose any changes relating to coastal management.</p>
	<p><b>4.3 Planning for Bushfire Protection</b></p> <p>Consistent – The PP does not result in controls that place development in hazardous areas. It does not change any existing provisions relating to bushfire prone land.</p>
	<p><b>4.4 Remediation of Contaminated Land</b></p> <p>Consistent – The PP does not affect any known contaminated land.</p>
	<p><b>4.5 Acid Sulfate Soils</b></p> <p>Consistent – The PP does not seek to introduce or change provisions relating to Acid Sulfate Soils.</p>
	<p><b>4.6 Mine Subsidence and Unstable Land</b></p> <p>Consistent – The PP does not permit development on land that:</p> <ul style="list-style-type: none"> <li>(a) is within a mine subsidence district, or</li> <li>(b) has been identified as unstable in a study, strategy or other assessment undertaken: <ul style="list-style-type: none"> <li>(i) by or on behalf of the relevant planning authority, or</li> </ul> </li> </ul>

Question		Considerations
		(ii) by or on behalf of a public authority and provided to the relevant planning authority.
	<b>5 Transport and Infrastructure</b>	
	<b>5.1 Integrating Land Use and Transport</b>	Consistent – The PP will not create, alter or remove a zone or provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.
	<b>5.2 Reserving Land for Public Purposes</b>	Consistent – The PP does not seek to create, alter or reduce existing zonings or reservations of land for public purposes.
	<b>5.3 Development Near Regulated Airports and Defence Airfields</b>	NA – The PP does not create, alter or remove a zone or a provision relating to land near a regulated airport which includes a defence airfield.
	<b>5.4 Shooting Ranges</b>	NA – The PP does not seek to affect, create, alter or remove a zone or a provision relating to land adjacent to and/ or adjoining an existing shooting range.
	<b>6 Housing</b>	
	<b>6.1 Residential Zones</b>	Consistent – The PP does not propose changes to the existing R2 Low Density zone of the Site.
	<b>6.2 Caravan Parks and Manufactured Home Estates</b>	Consistent – The PP does not propose to permit development for the purposes of a caravan park or manufactured home estate.
	<b>7. Industry and Employment</b>	
	<b>7.1 Business and Industrial Zones</b>	N/A – The PP does not affect land within an existing or proposed employment zone (including the alteration of any existing employment zone boundary).
	<b>7.2 Reduction in non-hosted short-term rental accommodation period</b>	NA – The PP does not cover the Byron Shire Council area or identify or reduce the number of days that non-hosted short-term rental accommodation may be carried out within the LGA.
	<b>7.3 Commercial and Retail Development along the Pacific Highway, North Coast</b>	NA
	<b>8 Resources and Energy</b>	
	<b>8.1 Mining, Petroleum Production and Extractive Industries</b>	NA – The PP does not have the effect of: (a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or (b) restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.
	<b>9 Primary Production</b>	
	<b>9.1 Rural Zones</b>	NA – The PP does not affect any land within an existing or proposed rural zone.
	<b>9.2 Rural Lands</b>	NA
	<b>9.3 Oyster Aquaculture</b>	NA – The PP does not propose a change in land use which could impact on a Priority Oyster Aquaculture Area.
	<b>9.4 Farmland of State and Regional Significance on the NSW Far North Coast</b>	NA

**Table 3: Section C – Environmental, social and economic impact**

Question	Considerations
8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?	No. The PP proposes to amend the listing for Item No. I208 in Schedule 5 Environmental heritage of the GRLEP 2021 to include both Lot 21 and 22 of Section 15 in DP 1963, so it is not expected that any critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal.
9. Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?	No other environmental impacts are anticipated.
10. Has the planning proposal adequately addressed any social and economic effects?	The PP seeks to amend the listing for Item No. I208 in Schedule 5 Environmental heritage of the GRLEP 2021 to include both Lot 21 and 22 of Section 15 in DP 1963. The Heritage Significance Assessment notes that the identified and reassessed cultural significance of the property does not preclude any further development or changes being made or undertaken to the building and site. However, the following activities would not be considered acceptable: <ul style="list-style-type: none"> <li>i. Demolition of the dwelling or its ancillary structures.</li> <li>ii. Removal of significant trees and other landscape elements.</li> <li>iii. Further subdivision of the allotments (except a boundary adjustment to amalgamate Lots 21 and 22).</li> <li>iv. Vertical additions to the existing dwelling.</li> <li>v. Horizontal additions to the existing dwelling that involve the obscuration or removal of significant features and elements or serve visual and physical relationships.</li> <li>vi. New development that obscures or severs visual and physical relationships.</li> <li>vii. Removal of the existing heritage listing.</li> </ul>

**Table 4: Section D – Infrastructure (Local, State and Commonwealth)**

Question	Considerations
11. Is there adequate public infrastructure for the planning proposal?	The PP does not create additional requirements for public infrastructure.

**Table 5: Section E – State and Commonwealth Interests**

Question	Considerations
12. What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway Determination?	Council has not yet consulted with relevant State and/or Commonwealth public authorities but will do so in accordance with the conditions of the Gateway Determination.

**Summary of Assessment / Conclusion**

50. In summary, the PP seeks to amend the GRLEP 2021 by amending the listing of Heritage Item No. I208 at 28A Carlton Crescent, Kogarah Bay by:
- a. Revising the item name from '*House and front garden, "Bayview"*' to '*"Bayview" house and garden, boatshed, garage and summerhouse*' in Schedule 5 Environmental heritage.
  - b. Revising the address from '28A Carlton Crescent, Kogarah Bay' to '28 and 28A Carlton Crescent, Kogarah Bay' in Schedule 5 Environmental heritage.
  - c. Revising the property description to include both Lots 21 and 22 in Section 15 of DP 1963 in Schedule 5 Environmental heritage.



- d. Updating the Heritage Map to reflect the above changes.
51. The PP is supported by a Heritage Significance Assessment and meets both the strategic and site-specific merit tests that are outlined in the DPE's *Local Environmental Plan Making Guideline* dated September 2022.
52. As discussed in **Table 2** of this report, the PP demonstrates strategic merit as it:
- Gives effect to the following objectives within the *Greater Sydney Region Plan – A Metropolis of Three Cities*:
    - Objective 13. Environmental heritage is identified, conserved and enhanced.*
  - Gives effect to the following planning priorities of the *South District Plan*:
    - Planning Priority S6. Creating and renewing great places and local centres, and respecting the District's heritage.*
  - Is consistent with the following planning priorities of the endorsed Georges River Local Strategic Planning Statement 2040 ('LSPS 2040'):
    - P11. Aboriginal and other heritage is protected and promoted.*
    - P17. Tree canopy, bushland, landscaped settings and biodiversity are protected, enhanced and promoted.*
53. As discussed in **Table 3** of this report, the PP demonstrates site-specific merit as it:
- Does not adversely affect critical habitat or threatened species, populations or ecological communities, or their habitats.
  - Does not create additional requirements for public infrastructure.

### Community Consultation

54. Should the PP be supported, it will be forwarded to the delegate of the Minister for Planning and Public Spaces requesting a Gateway Determination.
55. If a Gateway Determination is issued, it is anticipated that the PP will be exhibited for a minimum period of 28 days as specified in the Gateway Determination.
56. It is intended to make the PP available for viewing at:
- Council's Your Say website;
  - Georges River Civic Centre, MacMahon Street, Hurstville, between 8.30am and 5.00pm, Monday to Friday;
  - Clive James (Kogarah) Library and Service Centre, during library hours; and
  - Hurstville Library, during library hours.
57. Consultation will also be undertaken with any relevant public authorities / organisations as conditioned by the Gateway Determination.
58. The project timeframe will depend on the Gateway Determination date and the required public exhibition period. The indicative project timeline is below.

### Indicative project timeline

Stage	Timeframe/date
Consideration by the Georges River LPP	17 August 2023
Report to Council's Environment & Planning Committee seeking endorsement to forward the PP for a Gateway Determination	11 September 2023
Report to Council seeking endorsement to forward the PP for a Gateway Determination	25 September 2023

Stage	Timeframe/date
Gateway Determination	November 2023
Pre-exhibition	December 2023
Commencement and completion of public exhibition period	January/February 2024
Consideration of submissions	March 2024
Post-exhibition review and additional studies	March 2024
Report to Council on the results of the community consultation and finalisation of the PP	April 2024
Submission to the Department for finalisation	April 2024
Gazettal of LEP amendment	May 2024

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59. It is noted that the project timeline will be assessed by the DPE and may be amended by the Gateway Determination.

### Next Steps

60. The PP, including the LPP's recommendation, will be presented at a future Environment and Planning (E&P) Committee meeting for consideration. The minutes of the E&P Committee meeting will subsequently be considered at a future Council meeting. If the PP is endorsed by Council, it will be forwarded to the Minister for Planning and Public Spaces for a Gateway Determination under Section 3.34 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

### ATTACHMENTS

Attachment Planning Proposal Document - 28 Carlton Cres - Pre Gateway Version

[1](#) 

Attachment Heritage Significance Assessment - Bayview - 28 Carlton Crescent Kogarah Bay

[2](#) 

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# Planning Proposal

**No. 2023/0003**

Amendment to Heritage

Item No. I208 – 28 and 28A

Carlton Crescent, Kogarah

Bay

July 2023

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## 1. INTRODUCTION

This Planning Proposal (PP) seeks to amend the *Georges River Local Environmental Plan 2021* (GRLEP 2021) by amending the listing of Heritage Item No. I208 at 28A Carlton Crescent, Kogarah Bay by:

- Revising the item name from 'House and front garden, "Bayview"' to "Bayview" house and garden, boatshed, garage and summerhouse' in Schedule 5 Environmental heritage.
- Revising the address from '28A Carlton Crescent, Kogarah Bay' to '28 and 28A Carlton Crescent, Kogarah Bay' in Schedule 5 Environmental heritage.
- Revising the property description to include both Lots 21 and 22 in Section 15 of Deposited Plan (DP) 1963 in Schedule 5 Environmental heritage.
- Updating the Heritage Map to reflect the above changes.

The Site is identified as Lot 21 in Section 15 of DP 1963 (known as 28A Carlton Crescent, Kogarah Bay) and Lot 22 in Section 15 of DP 1963 (known as 28 Carlton Crescent, Kogarah Bay). The Site is highlighted in **Figures 1 and 2** below.

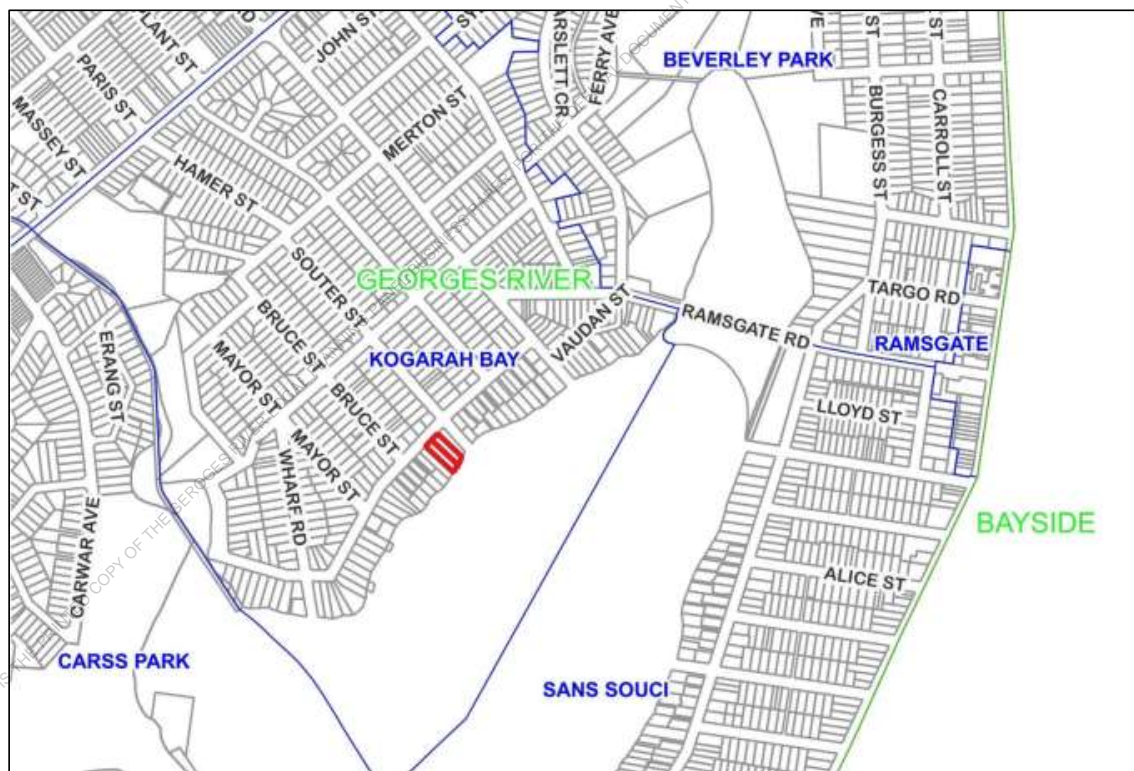


Figure 1 – Locality of the Site (outlined in red)



Presently, only part of the Site is listed in Schedule 5 Environmental heritage of the GRLEP 2021 as *'House and front garden, "Bayview"*, being Lot 21 Section 15 DP 1963, 28A Carlton Crescent, Kogarah Bay.

The Planning Proposal is supported by a Heritage Significance Assessment Report prepared by Council's Heritage Advisor dated July 2023. A copy of the Report is provided in **Attachment 1**. In summary, the Report concludes that both Lot 21 and Lot 22 are considered to be of equal cultural significance and neither one lot is mutually exclusive – they both rely on each other to complete the historical narrative of the Site, retain the original design intent, and protect the curtilage, setting,



significant fabric and landscaped features as well as physical and visual relationships. There is also clear evidence that the intent of the heritage listing was to include Lot 21 and Lot 22 both in their entirety and to be managed and protected as a single heritage item, though only Lot 21 was identified in Schedule 5 and mapped accordingly. This is considered erroneous and the heritage listing of the Site should in fact be inclusive of both Lots 21 and 22 in Section 15 of DP 1963 so that the entire Site and all of its built and landscape elements of identified cultural significance and value are afforded appropriate statutory protection.

## 2. BACKGROUND

### Development Application

A Development Application (DA2023/0025) for No. 28 (Lot 22 Section 15 DP 1963) and 28A (Lot 21 Section 15 DP 1963) Carlton Crescent, Kogarah Bay, was accepted by Council on 21 March 2023. The DA involves a boundary adjustment, tree removal, demolition of an existing detached garage structure and detached secondary dwelling, construction of a new dwelling house with associated in-ground swimming pool and construction of a new hardstand carparking space and vehicular access driveway to Lot 21. The DA is currently subject to a court appeal with the NSW Land and Environment Court.

Given No. 28A (Lot 22) Carlton Crescent, Kogarah Bay is mapped as a local heritage item in the GRLEP 2021 (House and front garden – “Bayview”), the DA was referred to Council’s Heritage Advisor for review and comment.

### Heritage Advisor Comments

Situated on No. 28A is a single storey, detached style dwelling house which displays the principal characteristics attributed to the early 20th century Inter-War period and of the Inter-War Californian Bungalow architectural style. The dwelling displays a remarkably intact form, with many distinguishing features that amplify and accentuate the aesthetic significance and architectural interest and value, making it a good representative example of the style and class.

The dwelling is set within an established landscaped garden setting, comprised of two individual allotments. The Site benefits from direct water access to the Georges River at the rear. No. 28A (Lot 21) contains the dwelling house (towards the front of the Site), with a detached (former) boat shed at the very rear of the Site. No. 28 (Lot 22) contains the detached garage structure (at the front of the Site) and a (former) summerhouse or teahouse at the rear.

Each of the detached structures are positioned in each of the four corners of the Site, interconnected by established landscaped gardens comprising numerous mature Canary Island Palms, lawn areas and circulation paths. Cumulatively, they form a pleasant and deliberately arranged relationship that evokes a strong early 20th century Inter-War period character. The positioning of the dwelling, echoed through the arrangement of large bay windows and the verandahs, evidence a deliberate

design that takes advantage of the double-lot, with outward facing views to the northeast over the sprawling garden setting and to the southeast towards the Georges River.

The deliberate design of the dwelling and arrangement of ancillary structures is evident on the 1937 and 1943 aerial photos, from which the following key observations can be made:

- a. The extant structures and landscaped setting (inclusive of the numerous Canary Island Palms) on the Site display a high degree of integrity, having been largely unaltered since the early inception of the Site, whereby having historical significance.
- b. The footprint of the dwelling is substantially larger by comparison to other extant dwellings in the street at the time, demonstrating a deliberate and clear intent for a more 'substantial' dwelling and garden setting, and the design of the dwelling to have a strongly defined side elevation that exploits views over the garden setting.

The name of the heritage item in Schedule 5 of the GRLEP 2021 identifies the heritage item as 'House and front garden, "Bayview"' and identifies the listing as relating to 28A Carlton Crescent (which can be taken to be the entire Site), though lists only Lot 21. This is evident in the mapping accompanying the LEP, showing only half the Site as being heritage listed – that is, Lot 21 which contains the dwelling, former boat shed and numerous semi-mature palms. All but one of the mature Canary Island Palms, together with the majority of the circulation paths, the detached garage and detached former teahouse are situated on Lot 22.

It is evident from a visual examination of the Site together with historical land titles, that the Site was always intended to be comprised of both lots, evident in the original purchase of two adjoining lots and continued ownership of the same, together with the deliberate regard the dwelling has for its broader landscaped setting and visual relationship with the ancillary structures. Both Lot 21 and Lot 22 are therefore considered to be of equal cultural significance and neither one lot is mutually exclusive – they both rely on each other to complete the historical narrative of the Site, retain the original design intent, and protect the curtilage, setting, significant fabric and landscaped features as well as physical and visual relationships.

Photographs of the heritage item from the 1993 *Kogarah Heritage Study* clearly depict the substantial garden setting (inclusive of both Lots 21 and 22) as forming the key elements of significance.

Schedule 5 of the GRLEP 2021 references the house and 'front garden'. An examination of the existing front garden in the conventional sense of the word, that is, the landscaped area between the street-facing front boundary and the street-facing front elevation of the dwelling, comprises a simple landscaped area, mostly open grass with a dense *Murraya* hedge delineates the front boundary, which is considered a contemporary planting to the Site. There are no other notable or distinguishing features within the 'front garden' area. Consequently, it is understood that the intent

of the listing of the 'front garden' was to in fact include the substantial gardens that envelope the dwelling from the front elevation, wrapping around the northeastern side (Lot 22) and to the rear.

### Interim Heritage Order

The *Heritage Act 1977* (Section 25(2)) allows councils, subject to the authorisation by the Minister, to make an Interim Heritage Order (IHO) over a property, where a council has a reasonable belief that the place or item may have potential heritage significance and that a 'threat of harm' either exists or is perceived to exist. In this case, the lodgement of the current DA (DA2023/0025) constitutes such a threat of harm.

Council considered preliminary heritage advice from Michael Edwards, Heritage Advisor to Georges River Council, dated 24 April 2023, which found that:

- a. There is clear evidence that the intent of the heritage listing for 28A Carlton Crescent was to include 28 Carlton Crescent, though only 28A is identified in Schedule 5 of the GRLEP 2021 and mapped accordingly.
- b. This is considered to incorrect and incomplete, and the heritage listing of the Site should in fact be both 28 and 28A.
- c. 28 Carlton Crescent does not appear to be afforded any statutory heritage protection, meaning the demolition of the garage, summerhouse / teahouse and mature Canary Island Palms could potentially occur via a Complying Development Certificate (CDC). Demolition of those described features would have an adverse impact on the identified heritage values and significance of the Site.
- d. The Development Application which proposes demolition of the garage and summerhouse, together with the construction of a new two-storey dwelling house at 28 Carlton Crescent presents a threat of harm to the heritage item and Council should consider urgently placing an IHO on 28 (Lot 22) to prevent demolition and to allow the anomaly of the heritage listing to be corrected in Schedule 5.

A report to Council on the potential heritage listing of No. 28 Carlton Crescent, Kogarah Bay, was considered by Council at its meeting on 22 May 2023 where it was resolved:

- (a) *That Council acknowledges that the potential heritage listing over No. 28 Carlton Crescent Kogarah Bay is necessary for the protection of the heritage integrity of No. 28A Carlton Crescent as both Nos. 28 and 28A create an historic narrative through retaining the original design intent and the physical and visual relationship of both sites.*
- (b) *That Council make an Interim Heritage Order over No. 28 Carlton Crescent Kogarah Bay (Lot 22, Section 15, DP1963) as the potential heritage item:*
  - a. *is likely to be of heritage significance*
  - b. *is under threat of demolition and unsympathetic alteration through any consent given to Development Application No. 2023/0025*
  - c. *does not have statutory heritage protection under the Environmental Planning and Assessment Act 1979 or the Heritage Act 1977.*

- (c) That Council authorise the preparation of a detailed assessment of the heritage significance of No. 28 Carlton Crescent Kogarah Bay in accordance with Heritage Council guidelines.
- (d) That if the heritage assessment prepared in (c) above determines that No. 28 Carlton Crescent is of heritage significance then Council resolve to prepare a Planning Proposal to amend the listing for Item I208 to include both No. 28 (Lot 22) and No. 28A (Lot 21) Carlton Crescent Kogarah Bay, as a local heritage item in Schedule 5 to the Georges River LEP 2021.

In accordance with Council's resolution, the Director Environment and Planning used her delegation to make the IHO for 28 Carlton Crescent, Kogarah Bay on 24 May 2023. The IHO was gazetted on Friday, 26 May 2023. The IHO was gazetted on Friday, 26 May 2023. A copy of the notice published in the NSW Government Gazette is provided in Appendix C of the Heritage Significance Assessment in **Attachment 1**. It is noted that the IHO will lapse six months from the date that it is made unless, in the case of an item which, in the council's opinion, is of local significance, the local council has passed a resolution before that date to place the item on the heritage schedule of a local environmental plan. The IHO allowed further heritage assessments to be undertaken to inform an understanding of the cultural significance of the Site and whether Council should proceed with the heritage listing.

#### Heritage Significance Assessment

Council commissioned its Heritage Advisor to prepare a Heritage Significance Assessment Report to establish the cultural heritage significance of the dwelling 'Bayview' and its setting at the Site to assist in determining whether the Site reaches the threshold for heritage listing.

A Heritage Significance Assessment Report was completed in July 2023 by Council's Heritage Advisor. The Report provides an assessment of the heritage values and cultural significance of the Site and its heritage curtilage in accordance with 'Assessing Heritage Significance – Guidelines for assessing places and objects against the Heritage Council of NSW criteria' (NSW Department of Planning and Environment, 2023). The Report also provides preliminary guidelines and recommendations to ensure that any identified heritage values are retained, protected and appropriately managed. A copy of the Report is provided in **Attachment 1**.

The Report assessed the Site against the NSW Heritage Assessment criteria, and found that it meets the following Criterion at a Local level:

- Criterion (a) Historical Significance
- Criterion (b) Historical Association Significance
- Criterion (c) Aesthetic Significance
- Criterion (d) Social Significance
- Criterion (e) Technical / Research Significance
- Criterion (f) Rarity
- Criterion (g) Representativeness

In terms of Criterion (a) Historical Significance (*An item or place is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area)*), the following is to be noted:

- 'Bayview' at 28 Carlton Crescent, Kogarah Bay, is of historical significance at the local level as it evidences early residential development in Kogarah Bay following the speculative subdivisions of earlier land grants into residential allotments and the resulting residential development that ensued.
- 'Bayview' is historically significant as it evidences the changing attitudes to living in the city and established populated areas, preferring instead to develop the outer suburbs in a desire for a healthier lifestyle and environment.
- 'Bayview' is historically significant as it retains strong evidence of the original 1911 subdivision pattern, together with its original boathouse, garage / workshop and summerhouse, together with much of the original landscape plantings and theme, which allows the property to be easily understood as a representation of its early 20th century history.

'Bayview' satisfies Criterion (a) in demonstrating historical significance at a local level.

In terms of Criterion (b) Historical Association Significance (*An item or place has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area)*), the following is to be noted:

- 'Bayview' is of historical associative significance for its strong association with builder, Frederick Rowe, who is attributed with building the dwelling and ancillary structures in or about 1928 as his own home and place of business. Rowe is attributed with having built numerous houses in and around Kogarah throughout the 1920s and 1930s period.
- 'Bayview' was also likely used by Rowe to showcase his craftsmanship to prospective clients, exhibiting an unequivocal superiority to the other examples of his work and demonstrates features which are unparalleled in his other work, with a high degree of ornamentation and quality craftsmanship.

'Bayview' satisfies Criterion (b) in demonstrating historical associative significance at a local level.

In terms of Criterion (c) Aesthetic Significance (*An item or place is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area)*) the following is to be noted:

- 'Bayview' exhibits quality craftsmanship with overt detailing and embellishments, making it a fine and highly distinctive example of an early 20th century Inter-War Californian Bungalow.
- The aesthetic qualities and visual distinctiveness of 'Bayview' is directly enhanced by the double allotment width, which creates a generously proportioned garden setting with numerous significant landscape plantings extant, protected and reinforced through the

deliberate positioning of the dwelling, boatshed, garage / workshop and summerhouse to sit in each of the four corners of the site.

- The sensory appeal and aesthetic values of the site are also directly enhanced by uninterrupted wide sweeping waterfront views and relationship to Kogarah Bay at the rear, with the original allotment configuration having been retained.
- The incorporation of multiple large bay windows and verandahs to the dwelling evidence a deliberate design approach to celebrate the contrived aesthetic values of the expansive garden setting and water views.
- 'Bayview' and its garden setting is visually distinctive in the street and broader landscape through the uncharacteristically wide presentation to Carlton Crescent, with the property distinguished by the large collection of mature Canary Island Palms.
- 'Bayview' exhibits a high degree of aesthetic quality that is unparalleled in other similar Inter-War period bungalows, with 'Bayview' retaining its original elements, site features, garden setting, subdivision pattern and visual and physical relationships. This makes 'Bayview' visually distinctive and an exemplar of its style and class because of its setting.

'Bayview' satisfies Criterion (c) in demonstrating aesthetic significance at a local level.

In terms of Criterion (d) Social Significance (*An item or place has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons*) the following is to be noted:

- 'Bayview' contributes to the community's sense of place, being a visually distinctive feature of the local landscape.
- Having functioned throughout the 1950s until the late 1980s as a function centre, hosting weddings, parties and other social events, 'Bayview' is likely to have social significance and importance to the local and broader community, particularly those who attended social events at the property.

'Bayview' satisfies Criterion (d) in demonstrating social significance at a local level.

In terms of Criterion (e) Technical / Research Significance (*An item or place has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area)*) the following is to be noted:

- 'Bayview' exhibits an unusually high degree of ornamentation and quality craftsmanship, with numerous distinguishing, unusual and uncommon features that suggest Rowe used the dwelling to showcase his craftsmanship to prospective clients.
- The dwelling exhibits construction techniques and features which are uncommon to the style and class of domestic building, particularly evidenced in the large floor area and matching ceiling span of the formal lounge room, being uninterrupted by support columns or partition walls and the innovative use of the splayed ceiling panelling to follow the roof profile and maximise the perceived and actual spaciousness internally.

- The high-quality craftsmanship combined with the incorporation of uncommon construction techniques and features, makes 'Bayview' an important benchmark and reference site.

'Bayview' satisfies Criterion (e) in demonstrating technical / research significance at a local level.

In terms of Criterion (f) Rarity (*An item or place possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area)*), the following is to be noted:

- 'Bayview' is attributed to the work of local builder Frederick Rowe, having been built c1928. Rowe is credited with having built numerous houses around Kogarah during the 1920s and 1930s period, however 'Bayview' is considered his best and most distinguished work.
- Other examples of Rowe's domestic work display similarities in themselves, yet 'Bayview' exhibits an unparalleled superiority in the quality of craftsmanship and detailing, containing numerous design features that are unique to 'Bayview', including the distinctive large bay windows and curved balcony as well as many distinct internal features, including the elaborate leadlight windows, timber flooring and ceiling panelling.
- 'Bayview' is a highly intact early 20th century residential property which displays deliberate design intent to address the expansive garden setting and waterfrontage, and is both unusual and uncommon as it is spread across two adjoining allotments, having been originally purchased together and continually maintained as such.
- 'Bayview' evidences early 20th century marine activity, including a boatshed and summerhouse, both built right on the water's edge and the retention of the boatshed, garage / workshop and summerhouse is exceptionally rare in the local context, demonstrating rarity significance accordingly.

'Bayview' satisfies Criterion (f) in demonstrating significance through the item's rarity at a local level.

In terms of Criterion (g) Representativeness (*An item or place is important in demonstrating the principal characteristics of a class of NSW's: • Cultural or natural places; or • Cultural or natural environments (or a class of the local area's cultural or natural places; or cultural or natural environments.)*) the following is to be noted:

- 'Bayview' is described as a single storey dwelling, which displays characteristics attributed to the early 20th century Inter-War period and of the Californian Bungalow architectural style.
- Built c1928 by local builder Frederick Rowe, the dwelling exhibits a high degree of design integrity, having been little altered. It exhibits fine craftsmanship, with exceptional detailing that is uncommon to the architectural style and domestic scale of the building. 'Bayview' is considered of remarkable quality and detailing, making it of high architectural interest and value as an excellent representative example of the style and class.
- The dwelling is complemented by a freestanding boatshed, garage / workshop and summerhouse, each of which exhibit similarity in design and language, having each been constructed around the same time. The high degree of design integrity and intactness of

each of the structures make an important group setting of outstanding quality, enhanced by the retention of the original allotment boundaries and garden setting. Collectively, the site is representative of an early 20th century waterfront property.

- The garden setting spread over two adjoining allotments continue to communicate the early functions and relationships, retaining many original landscape plantings including the Canary Island Palms, pathways and front fence.

'Bayview' satisfies Criterion (g) in demonstrating representative significance at a local level.

Based upon the assessed cultural significance, the Report provides the following Statement of Cultural Significance:

*'Bayview' at 28 Carlton Crescent, Kogarah Bay, is an Inter-War period waterfront property, containing the main dwelling known as 'Bayview', together with its original detached boatshed, garage / workshop and summerhouse – all of which have been designed in the Inter-War Californian Bungalow architectural style and exhibit deliberate relationship to each other.*

*The property is of historical importance as it evidences early residential development in Kogarah Bay and the changing attitudes to living in the city, instead preferring the outer suburbs in a desire for a healthier lifestyle and environment. This is further demonstrated through the original purchase of two adjoining lots to create a high-quality waterfront property.*

*Constructed c1928 by local builder Frederick Rowe as his place of residence and likely used to showcase his fine craftsmanship to prospective clients, the house exhibits exceptionally fine craftsmanship and detailing that is uncommon to the architectural style and domestic scale of the building. This detailing is unparalleled in Rowe's other domestic work, making 'Bayview' arguably his best and most distinguished work.*

*'Bayview' is considered an important benchmark and reference site for the incorporation of many distinguishing and unique features uncommon to the architectural style and domestic scale of building, notably the large ceiling span of the formal lounge room, being uninterrupted by support columns or partition walls and elaborately detailing internal flooring, ceilings and leadlight windows.*

*Each of the buildings retain a high degree of design integrity, having been little altered and collectively, the group is considered of outstanding quality, making it of high architectural interest and value as an excellent representative example of an early 20th century Inter-War period waterfront property.*



*The property has high aesthetic value and significance, being visually distinctive and unique for it comprises two adjoining allotments that create a generously proportioned and well established garden setting with numerous original landscape plantings extant, including a large collection of Canary Island Palms. The garden setting has been self-protected and reinforced through the deliberate positioning of the dwelling, boatshed, garage / workshop and summerhouse to sit in each of the four corners of the site. The deliberate placement of the large bay windows in the dwelling provides a commanding and pleasant outlook over the expansive garden setting and wide water frontage.*

*'Bayview' and its setting is considered an exemplar of its style and class, retaining its original lot configuration and proportion and is strongly associated with water activity, evident through the boatshed and summerhouse and the uninterrupted wide sweeping waterfront views and relationship to Kogarah Bay.*

*Collectively, the site is considered a rare and substantially intact example of an early 20th century Inter-War period waterfront property.*

*'Bayview' has some social significance having been used throughout the 1950s until the late 1980s as a function centre, hosting weddings, parties and other social events.*

In summary, the Heritage Significance Assessment Report concludes that both Lot 21 and Lot 22 in Section 15 of DP 1963 are considered to be of equal cultural significance and neither one lot is mutually exclusive – they both rely on each other to complete the historical narrative of the Site, retain the original design intent, and protect the curtilage, setting, significant fabric and landscaped features as well as physical and visual relationships. There is also clear evidence that the intent of the heritage listing was to include Lot 21 and Lot 22 both in their entirety and to be managed and protected as a single heritage item, though only Lot 21 was identified in Schedule 5 and mapped accordingly. This is considered erroneous and the heritage listing of the Site should in fact be inclusive of both Lots 21 and 22 in Section 15 of DP 1963 so that the entire Site and all of its built and landscape elements of identified cultural significance and value are afforded appropriate statutory protection.

The Statement of Significance above which explains the elements of the Site that form the proposed heritage listing has been incorporated into a draft heritage inventory sheet for the Site and a copy is provided in Appendix D of the Heritage Significance Assessment Report in

**Attachment 1.**

### 3. OBJECTIVE AND INTENDED OUTCOME

#### 3.1 Objective

The objective of the PP is to include 28 and 28A Carlton Crescent, Kogarah Bay as a local heritage item to retain the original design intent, and protect the curtilage, setting, significant fabric and landscaped features as well as physical and visual relationships so that both lots can be managed and protected as a single heritage item.

#### 3.2 Intended Outcome

The intended outcome of the PP is to:

- Amend the listing in Schedule 5 for Heritage Item No. I208 by revising the item name, address and property description to include both Lots 21 and 22.
- Assist in conserving the environmental heritage of the Georges River Local Government Area.
- Conserve the heritage significance of the Site, including all built and landscape elements with identified cultural significance and value.

### 4. EXPLANATION OF PROVISIONS

To achieve the objectives and intended outcomes, the PP proposes to amend the GRLEP 2021 as explained in the following sections.

#### 4.1 Amendment to Schedule 5 of the Georges River LEP 2021

To amend the listing of Heritage Item No. I208 by:

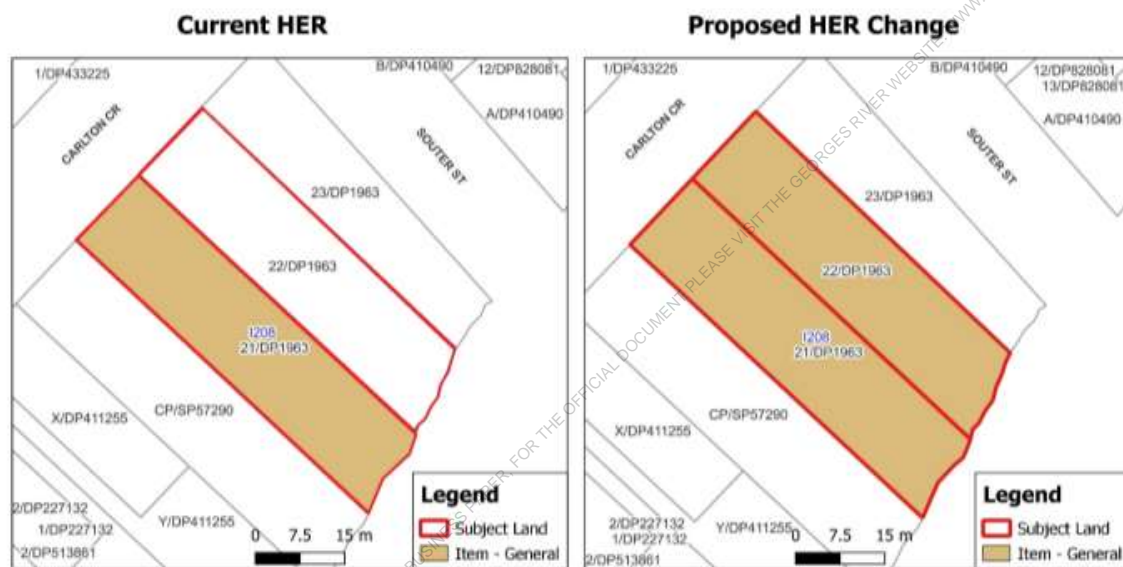
- Revising the item name from 'House and front garden, "Bayview" to "Bayview" house and garden, boatshed, garage and summerhouse'.
- Revising the address from '28A Carlton Crescent, Kogarah Bay' to '28 and 28A Carlton Crescent, Kogarah Bay'.
- Revising the property description to include both Lots 21 and 22 in Sec 15 of DP 1963.

Existing Schedule 5	Proposed Schedule 5
<b>Suburb:</b> Kogarah Bay <b>Item name:</b> House and front garden, "Bayview" <b>Address:</b> 28A Carlton Crescent <b>Property description:</b> Lot 21, Section 15, DP 1963 <b>Significance:</b> Local <b>Item No:</b> I208	<b>Suburb:</b> Kogarah Bay <b>Item name:</b> <del>House and front garden,</del> "Bayview" "Bayview" house and garden, boatshed, garage and summerhouse <b>Address:</b> 28 and 28A Carlton Crescent <b>Property description:</b> Lots 21 and 22, Section 15, DP 1963 <b>Significance:</b> Local

	Item No: I208
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## 4.2 Heritage Map

To amend Heritage Map Sheet HER\_011 to map No. 28 and 28A Carlton Crescent, Kogarah Bay as "Item – General" and labelled I208 ("Bayview" house and garden, boatshed, garage and summerhouse).



## 5. JUSTIFICATION OF STRATEGIC AND SITE-SPECIFIC MERIT

### 5.1 Section A – Need for the planning proposal

Question	Considerations
1. Is the planning proposal a result of an endorsed LSPS, strategic study or report?	<p>The PP is the result of the Heritage Significance Assessment Report by Edwards Heritage Consultants (EHC) dated July 2023.</p> <p>While it is not a direct result of an endorsed LSPS or strategic study, it is consistent with the following Council adopted documents:</p> <ul style="list-style-type: none"> <li>Council's <i>Community Strategic Plan 2022-2032</i> Goal 1.4 "Georges River area heritage and history are protected" and Strategy 1.4.1 "Encourage and promote heritage and history through collections, programs, heritage trails and protection policies."</li> <li><i>Georges River Local Strategic Planning Statement 2040</i> ('LSPS 2040') Planning Priority P11 "Aboriginal and other heritage is protected and promoted."</li> </ul>


Question	Considerations
	<p>The Heritage Significance Assessment finds that the Site meets the following NSW Heritage Assessment Criterion at a Local level:</p> <ul style="list-style-type: none"> <li>• Criterion (a) Historical Significance</li> <li>• Criterion (b) Historical Association Significance</li> <li>• Criterion (c) Aesthetic Significance</li> <li>• Criterion (d) Social Significance</li> <li>• Criterion (e) Technical / Research Significance</li> <li>• Criterion (f) Rarity</li> <li>• Criterion (g) Representativeness</li> </ul>
2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?	<p>The PP represents the best means of achieving the intended outcomes established in Section 3.</p> <p>Only part of the Site (i.e. 28A Carlton Crescent, Kogarah Bay) is currently listed as a heritage item in Schedule 5 of the GRLEP 2021. An IHO was made over part of the Site that is not heritage listed (i.e. 28 Carlton Crescent, Kogarah Bay) on 24 May 2023 to afford the Site protection whilst further heritage assessment is undertaken to inform an understanding of the heritage significance of 28 Carlton Crescent, Kogarah Bay and whether Council should proceed with the planning proposal process to list the Site as a heritage item in the LEP.</p>

## 5.2 Section B – Relationship to the strategic planning framework

Question	Considerations
3. Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?	<p>Yes. The PP gives effect to the following objective within the <i>Greater Sydney Region Plan – A Metropolis of Three Cities</i>:</p> <ul style="list-style-type: none"> <li>• <i>Objective 13. Environmental heritage is identified, conserved and enhanced.</i></li> </ul> <p>Comment: The PP gives effect to this objective by seeking to amend the listing for Heritage Item No. I208 in Schedule 5 Environmental heritage of the GRLEP 2021 to include both Lot 21 and 22, therefore ensuring all built and landscape elements of identified cultural significance and value on the Site are afforded appropriate statutory protection.</p> <p>The PP also gives effect to the following planning priority of the <i>South District Plan</i>:</p> <ul style="list-style-type: none"> <li>• <i>Planning Priority S6. Creating and renewing great places and local centres, and respecting the District's heritage.</i></li> </ul> <p>Comment: The PP gives effect to this planning priority by amending the listing of Heritage Item No. I208 in Schedule 5 Environmental heritage and the corresponding Heritage Map of the GRLEP 2021 to include both Lot 21 and Lot 22, therefore ensuring all built and landscape elements of identified cultural significance and value on the Site are afforded appropriate statutory protection.</p>

Question	Considerations				
4. Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?	<p>Yes. The PP is consistent with the endorsed <i>Georges River Local Strategic Planning Statement 2040</i> ('LSPS 2040'), specifically the following planning priorities:</p> <ul style="list-style-type: none"> <li>• <i>P11. Aboriginal and other heritage is protected and promoted.</i> The PP is consistent with this priority as it seeks to amend Schedule 5 Environmental heritage and the Heritage Map within the GRLEP 2021 to include both Lot 21 and 22 as comprising the listing for Heritage Item No. I208.</li> <li>• <i>P17. Tree canopy, bushland, landscaped settings and biodiversity are protected, enhanced and promoted.</i> The PP is consistent with this priority as it proposes to include both Lot 21 and 22 in the listing of Heritage Item No. I208 in Schedule 5 Environmental heritage of the GRLEP 2021, therefore ensuring all built and landscape elements of identified cultural significance and value on the Site are afforded appropriate statutory protection.</li> </ul>				
5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?	There are no other applicable State and regional studies or strategies.				
6. Is the planning proposal consistent with applicable SEPPs?	<p>The PP is consistent with the following SEPPs:</p> <table> <tr> <th>SEPP</th><th>Comment on consistency</th></tr> <tr> <td><i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i></td><td> <p>This SEPP consolidates, transfers and repeals provisions of the following 11 SEPPs (or deemed SEPPs):</p> <ul style="list-style-type: none"> <li>• <i>SEPP (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP)</i></li> <li>• <i>SEPP (Koala Habitat Protection) 2020 (Koala SEPP 2020)</i></li> <li>• <i>SEPP (Koala Habitat Protection) 2021 (Koala SEPP 2021)</i></li> <li>• <i>Murray Regional Environmental Plan No 2—Riverine Land (Murray REP)</i></li> <li>• <i>SEPP No 19—Bushland in Urban Areas (SEPP 19)</i></li> <li>• <i>SEPP No 50—Canal Estate Development (SEPP 50)</i></li> <li>• <i>SEPP (Sydney Drinking Water Catchment) 2011 (Sydney Drinking Water SEPP)</i></li> <li>• <i>Sydney Regional Environmental Plan No 20 – Hawkesbury – Nepean River (No 2 – 1997) (Hawkesbury–Nepean River SREP)</i></li> <li>• <i>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Sydney Harbour Catchment SREP)</i></li> <li>• <i>Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment (Georges River REP)</i></li> </ul> </td></tr> </table>	SEPP	Comment on consistency	<i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i>	<p>This SEPP consolidates, transfers and repeals provisions of the following 11 SEPPs (or deemed SEPPs):</p> <ul style="list-style-type: none"> <li>• <i>SEPP (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP)</i></li> <li>• <i>SEPP (Koala Habitat Protection) 2020 (Koala SEPP 2020)</i></li> <li>• <i>SEPP (Koala Habitat Protection) 2021 (Koala SEPP 2021)</i></li> <li>• <i>Murray Regional Environmental Plan No 2—Riverine Land (Murray REP)</i></li> <li>• <i>SEPP No 19—Bushland in Urban Areas (SEPP 19)</i></li> <li>• <i>SEPP No 50—Canal Estate Development (SEPP 50)</i></li> <li>• <i>SEPP (Sydney Drinking Water Catchment) 2011 (Sydney Drinking Water SEPP)</i></li> <li>• <i>Sydney Regional Environmental Plan No 20 – Hawkesbury – Nepean River (No 2 – 1997) (Hawkesbury–Nepean River SREP)</i></li> <li>• <i>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Sydney Harbour Catchment SREP)</i></li> <li>• <i>Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment (Georges River REP)</i></li> </ul>
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Question	Considerations
	<ul style="list-style-type: none"> <li>Willandra Lakes Regional Environmental Plan No 1 – World Heritage Property (Willandra Lakes REP)</li> </ul> <p>The PP is not inconsistent with the SEPP.</p>
	<p>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</p> <p>The PP is not inconsistent with the SEPP.</p>
	<p>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</p> <p>The PP is not inconsistent with the SEPP.</p>
	<p>State Environmental Planning Policy (Housing) 2021</p> <p>The PP is not inconsistent with the SEPP. The PP does not change the existing zoning, height or FSR provisions relating to the Site.</p>
	<p>State Environmental Planning Policy (Industry and Employment) 2021</p> <p>This SEPP consolidates, transfers and repeals the provisions of the following 2 SEPPs:</p> <ul style="list-style-type: none"> <li>SEPP (Western Sydney Employment Area) 2009 (Western Sydney Employment SEPP)</li> <li>SEPP 64 – Advertising and Signage (SEPP 64)</li> </ul> <p>The PP is not inconsistent with the SEPP.</p>
	<p>State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development</p> <p>The PP is not inconsistent with the SEPP.</p>
	<p>State Environmental Planning Policy (Planning Systems) 2021</p> <p>This SEPP consolidates and repeals the provisions of the following 3 SEPPs:</p> <ul style="list-style-type: none"> <li>SEPP (State and Regional Development) 2011 (State and Regional Development SEPP)</li> <li>SEPP (Aboriginal Land) 2019 (Aboriginal Land SEPP)</li> <li>SEPP (Concurrences and Consents) 2018 (Concurrence SEPP)</li> </ul> <p>The PP is not inconsistent with the SEPP.</p>
	<p>State Environmental Planning Policy (Precincts - Eastern Harbour City) 2021</p> <p>The PP is not inconsistent with the SEPP. The Site is not the subject of a Precinct identified by the SEPP.</p>
	<p>State Environmental Planning Policy (Primary Production) 2021</p> <p>This SEPP consolidates, transfers and repeals the provisions of the following SEPPs:</p> <ul style="list-style-type: none"> <li>SEPP (Primary Production and Rural Development) 2019 (Primary Production and Rural Development SEPP)</li> <li>Sydney Regional Environmental Plan No 8 (Central Coast Plateau Areas) (Central Coast Plateau SREP)</li> </ul> <p>The PP is not inconsistent with the SEPP.</p>

Question	Considerations
	<p><i>State Environmental Planning Policy (Resilience and Hazards) 2021</i></p> <p>This SEPP consolidates and repeals the provisions of the following 3 SEPPs:</p> <ul style="list-style-type: none"> <li>SEPP (Coastal Management) 2018 (Coastal Management SEPP)</li> <li>SEPP 33 – Hazardous and Offensive Development (SEPP 33)</li> <li>SEPP 55 – Remediation of Land (SEPP 55)</li> </ul> <p>The PP is not inconsistent with the SEPP. The Site is within a coastal use area as identified by the former <i>State Environmental Planning Policy (Coastal Management) 2018</i>. Refer to <b>Figure 3</b> below. The Planning Proposal does not propose a rezoning nor intensification of uses permitted. The Planning Proposal only proposes to amend the Heritage Map in the GRLEP 2021 and not the other maps relating to coastal management.</p>  <p><b>Figure 3 – Area of Site affected by coastal use area</b></p>
	<p><i>State Environmental Planning Policy (Resources and Energy) 2021</i></p> <p>This SEPP consolidates and repeals the provisions of the following 2 SEPPs:</p> <ul style="list-style-type: none"> <li>SEPP (Mining, Petroleum Production and Extractive Industries) 2007 (Mining SEPP)</li> <li>Sydney Regional Environmental Plan No. 9 – Extractive Industries (No 2 – 1995) (Extractive Industries SREP)</li> </ul> <p>The PP is not inconsistent with the SEPP.</p>
	<p><i>State Environmental Planning Policy (Sustainable Buildings)</i></p> <p>The PP is not inconsistent with the SEPP.</p>
	<p><i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i></p> <p>This SEPP consolidates and repeals the provisions of the following 4 SEPPs:</p> <ul style="list-style-type: none"> <li>SEPP (Infrastructure) 2007 (Infrastructure SEPP)</li> </ul>

Question	Considerations																										
	<ul style="list-style-type: none"> <li>SEPP (Educational Establishments and Childcare Facilities) 2017 (Education and Childcare SEPP)</li> <li>SEPP (Major Infrastructure Corridors) 2020 (Corridor SEPP)</li> <li>SEPP (Three Ports) 2013 (Three Ports SEPP)</li> </ul> <p>The PP is not inconsistent with the SEPP.</p>																										
<p>7. Is the planning proposal consistent with applicable Ministerial Directions (section 9.1 Directions)?</p>	<p>The PP is consistent with the applicable Ministerial Directions as follows:</p> <table border="1"> <thead> <tr> <th>Ministerial Direction</th><th>Comment on Consistency</th></tr> </thead> <tbody> <tr> <td colspan="2"><b>1 Planning Systems</b></td></tr> <tr> <td><b>1.1 Implementation of Regional Plans</b></td><td>Consistent – The PP is consistent with: <ul style="list-style-type: none"> <li>A Metropolis of Three Cities – Greater Sydney Region Plan – see previous discussion on Question 3.</li> <li>South District Plan – see previous discussion on Question 3.</li> </ul> </td></tr> <tr> <td><b>1.2 Development of Aboriginal Land Council land</b></td><td>N/A – The PP does not affect land shown on the Land Application Map of State Environmental Planning Policy (Planning Systems) 2021.</td></tr> <tr> <td><b>1.3 Approval and Referral Requirements</b></td><td>Consistent – The PP does not seek to make any additional provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority.</td></tr> <tr> <td><b>1.4 Site Specific Provisions</b></td><td>Consistent – The PP does not place unnecessarily restrictive site specific planning controls on the Site as it is informed by a Heritage Significance Assessment which recommends the heritage listing of the Site to ensure all built and landscape elements of identified cultural significance and value on the Site are afforded appropriate statutory protection.</td></tr> <tr> <td colspan="2"><b>1 Planning Systems – Place-based</b></td></tr> <tr> <td><b>1.5 Parramatta Road Corridor Urban Transformation Strategy</b></td><td>NA</td></tr> <tr> <td><b>1.6 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan</b></td><td>NA</td></tr> <tr> <td><b>1.7 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan</b></td><td>NA</td></tr> <tr> <td><b>1.8 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan</b></td><td>NA</td></tr> <tr> <td><b>1.9 Implementation of Glenfield to Macarthur Urban Renewal Corridor</b></td><td>NA</td></tr> <tr> <td><b>1.10 Implementation of the Western Sydney Aerotropolis Plan</b></td><td>NA</td></tr> </tbody> </table>	Ministerial Direction	Comment on Consistency	<b>1 Planning Systems</b>		<b>1.1 Implementation of Regional Plans</b>	Consistent – The PP is consistent with: <ul style="list-style-type: none"> <li>A Metropolis of Three Cities – Greater Sydney Region Plan – see previous discussion on Question 3.</li> <li>South District Plan – see previous discussion on Question 3.</li> </ul>	<b>1.2 Development of Aboriginal Land Council land</b>	N/A – The PP does not affect land shown on the Land Application Map of State Environmental Planning Policy (Planning Systems) 2021.	<b>1.3 Approval and Referral Requirements</b>	Consistent – The PP does not seek to make any additional provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority.	<b>1.4 Site Specific Provisions</b>	Consistent – The PP does not place unnecessarily restrictive site specific planning controls on the Site as it is informed by a Heritage Significance Assessment which recommends the heritage listing of the Site to ensure all built and landscape elements of identified cultural significance and value on the Site are afforded appropriate statutory protection.	<b>1 Planning Systems – Place-based</b>		<b>1.5 Parramatta Road Corridor Urban Transformation Strategy</b>	NA	<b>1.6 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan</b>	NA	<b>1.7 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan</b>	NA	<b>1.8 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan</b>	NA	<b>1.9 Implementation of Glenfield to Macarthur Urban Renewal Corridor</b>	NA	<b>1.10 Implementation of the Western Sydney Aerotropolis Plan</b>	NA
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<b>1.10 Implementation of the Western Sydney Aerotropolis Plan</b>	NA																										



Question		Considerations
	1.11 Implementation of Bayside West Precincts 2036 Plan	NA
	1.12 Implementation of Planning Principles for the Cooks Cove Precinct	NA
	1.13 Implementation of St Leonards and Crows Nest 2036 Plan	NA
	1.14 Implementation of Greater Macarthur 2040	NA
	1.15 Implementation of the Pyrmont Peninsula Place Strategy	NA
	1.16 North West Rail Link Corridor Strategy	NA
	1.17 Implementation of the Bays West Place Strategy	NA
	1.18 Implementation of the Macquarie Park Innovation Precinct	NA
	1.19 Implementation of the Westmead Place Strategy	NA
	1.20 Implementation of the Camellia-Rosehill Place Strategy	NA
	1.21 Implementation of the South West Growth Area Structure Plan	NA
	1.22 Implementation of the Cherrybrook Station Place Strategy	N/A
	<b>2 Design and Place</b>	
	<b>3 Biodiversity and Conservation</b>	
	3.1 Conservation Zones	Consistent – The PP does not affect land within a conservation zone or land otherwise identified for environment conservation/protection purposes in a LEP.
	3.2 Heritage Conservation	Consistent – Heritage conservation is covered by a compulsory clause in the <i>Standard Instrument (Local Environmental Plans) Order 2006</i> . The GRLEP 2021 has adopted the Standard Instrument and does identify such items, areas, objects or places of environmental heritage significance or indigenous heritage significance as are relevant to the terms of this direction on the Heritage Map and relevant Schedule of the LEP.  The PP seeks to amend the listing for Heritage Item No. I208 within Schedule 5 Environmental heritage and on the Heritage Map within the GRLEP 2021 to include both Lot 21 and 22 to ensure the significant features of the Site are protected and conserved. The proposed listing is supported by a Heritage Significance Assessment Report included in <b>Attachment 1</b> .
	3.3 Sydney Drinking Water Catchments	NA – the PP affects the Georges River LGA which the Direction does not apply to.
	3.4 Application of C2 and C3 Zones and Environmental	NA

Question		Considerations
	<b>Overlays in Far North Coast LEPs</b>	
	<b>3.5 Recreation Vehicle Areas</b>	Consistent – The PP does not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the <i>Recreation Vehicles Act 1983</i> ).
	<b>3.6 Strategic Conservation Planning</b>	NA – The PP does not affect land under the <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> that is identified as avoided land or a strategic conservation area.
	<b>3.7 Public Bushland</b>	Consistent – The PP does not propose any changes to existing controls protecting bushland in urban areas.
	<b>3.8 Willandra Lakes Region</b>	NA
	<b>3.9 Sydney Harbour Foreshores and Waterways Area</b>	NA – The PP does not affect land within the Foreshores and Waterways Area as defined in the <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> .
	<b>3.10 Water Catchment Protection</b>	N/A – The PP does not propose any changes to controls that would impact on water catchments.
	<b>4 Resilience and Hazards</b>	
	<b>4.1 Flooding</b>	Consistent – The PP does not create, remove or alter a zone or provision that affects flood prone land.
	<b>4.2 Coastal Management</b>	Consistent – The PP affects land within the coastal zone, however, it does not propose an intensification of uses permitted. The PP does not propose any changes relating to coastal management.
	<b>4.3 Planning for Bushfire Protection</b>	Consistent – The PP does not result in controls that place development in hazardous areas. It does not change any existing provisions relating to bushfire prone land.
	<b>4.4 Remediation of Contaminated Land</b>	Consistent – The PP does not affect any known contaminated land.
	<b>4.5 Acid Sulfate Soils</b>	Consistent – The PP does not seek to introduce or change provisions relating to Acid Sulfate Soils.
	<b>4.6 Mine Subsidence and Unstable Land</b>	Consistent – The PP does not permit development on land that: (a) is within a mine subsidence district, or (b) has been identified as unstable in a study, strategy or other assessment undertaken: (i) by or on behalf of the relevant planning authority, or (ii) by or on behalf of a public authority and provided to the relevant planning authority.
	<b>5 Transport and Infrastructure</b>	
	<b>5.1 Integrating Land Use and Transport</b>	Consistent – The PP will not create, alter or remove a zone or provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.
	<b>5.2 Reserving Land for Public Purposes</b>	Consistent – The PP does not seek to create, alter or reduce existing zonings or reservations of land for public purposes.

Question	Considerations
<b>5.3 Development Near Regulated Airports and Defence Airfields</b>	NA – The PP does not create, alter or remove a zone or a provision relating to land near a regulated airport which includes a defence airfield.
<b>5.4 Shooting Ranges</b>	NA – The PP does not seek to affect, create, alter or remove a zone or a provision relating to land adjacent to and/ or adjoining an existing shooting range.
<b>6 Housing</b>	
<b>6.1 Residential Zones</b>	Consistent – The PP does not propose changes to the existing R2 Low Density zone of the Site.
<b>6.2 Caravan Parks and Manufactured Home Estates</b>	Consistent – The PP does not propose to permit development for the purposes of a caravan park or manufactured home estate.
<b>7. Industry and Employment</b>	
<b>7.1 Employment Zones</b>	N/A – The PP does not affect land within an existing or proposed employment zone (including the alteration of any existing employment zone boundary).
<b>7.2 Reduction in non-hosted short-term rental accommodation period</b>	NA – The PP does not cover the Byron Shire Council area or identify or reduce the number of days that non-hosted short-term rental accommodation may be carried out within the LGA.
<b>7.3 Commercial and Retail Development along the Pacific Highway, North Coast</b>	NA
<b>8 Resources and Energy</b>	
<b>8.1 Mining, Petroleum Production and Extractive Industries</b>	NA – The PP does not have the effect of: (a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or (b) restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.
<b>9 Primary Production</b>	
<b>9.1 Rural Zones</b>	NA – The PP does not affect any land within an existing or proposed rural zone.
<b>9.2 Rural Lands</b>	NA
<b>9.3 Oyster Aquaculture</b>	NA – The PP does not propose a change in land use which could impact on a Priority Oyster Aquaculture Area.
<b>9.4 Farmland of State and Regional Significance on the NSW Far North Coast</b>	NA

### 5.3 Section C – Environmental, social and economic impact

Question	Considerations
8. Is there any likelihood that critical habitat or	No. The PP proposes to amend the listing for Item No. I208 in Schedule 5 Environmental heritage of the GRLEP 2021 to include both Lot 21 and 22 of

Question	Considerations
threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?	Section 15 in DP 1963, so it is not expected that any critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal.
9. Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?	No other environmental impacts are anticipated.
10. Has the planning proposal adequately addressed any social and economic effects?	<p>The PP seeks to amend the listing for Item No. I208 in Schedule 5 Environmental heritage of the GRLEP 2021 to include both Lot 21 and 22 of Section 15 in DP 1963.</p> <p>The Heritage Significance Assessment notes that the identified and reassessed cultural significance of the property does not preclude any further development or changes being made or undertaken to the building and Site. However, the following activities would not be considered acceptable:</p> <ul style="list-style-type: none"> <li>i. Demolition of the dwelling or its ancillary structures.</li> <li>ii. Removal of significant trees and other landscape elements.</li> <li>iii. Further subdivision of the allotments (except a boundary adjustment to amalgamate Lots 21 and 22).</li> <li>iv. Vertical additions to the existing dwelling.</li> <li>v. Horizontal additions to the existing dwelling that involve the obscuration or removal of significant features and elements or serve visual and physical relationships.</li> <li>vi. New development that obscures or severs visual and physical relationships.</li> <li>vii. Removal of the existing heritage listing.</li> </ul>

#### 5.4 Section D – Infrastructure (Local, State and Commonwealth)

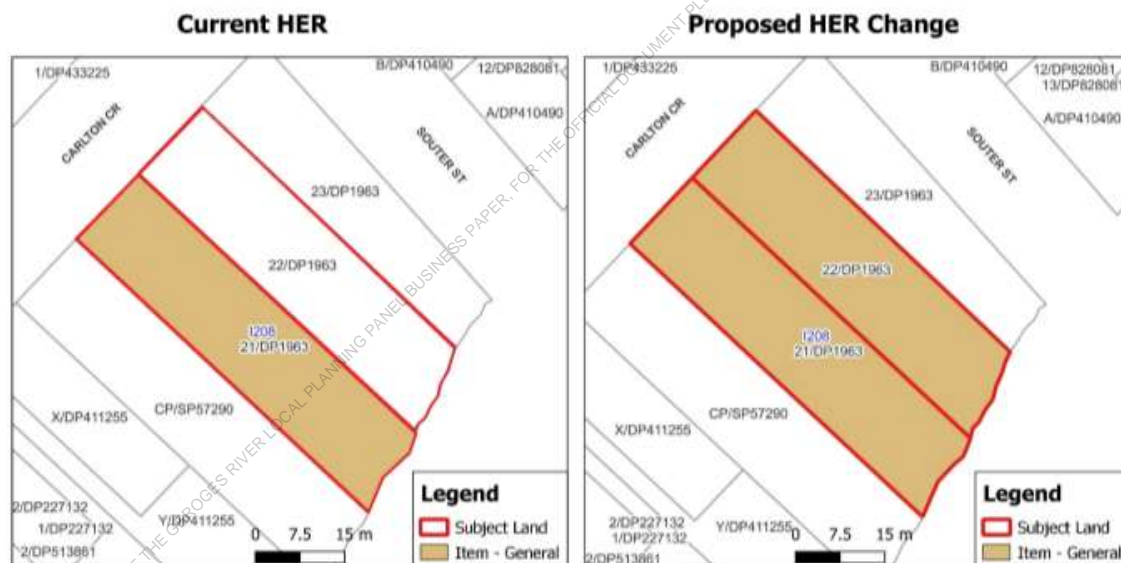
Question	Considerations
11. Is there adequate public infrastructure for the planning proposal?	The PP does not create additional requirements for public infrastructure.

## 5.5 Section E – State and Commonwealth Interests

Question	Considerations
12. What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway Determination?	Council has not yet consulted with relevant State and/or Commonwealth public authorities but will do so in accordance with the conditions of the Gateway Determination.

## 6. MAPS

The PP will result in an amendment to the Heritage (HER) Map sheet HER\_011 of the GRLEP 2021 by mapping No. 28 and 28A Carlton Crescent, Kogarah Bay as “Item – General” and labelled I208 (“Bayview” house and garden, boatshed, garage and summerhouse) as shown below.



Technically compliant mapping of the amendment on Heritage Map Sheet HER\_011 is proposed to be undertaken following the issue of a Gateway Determination.

## 7. GATEWAY DETERMINATION

Subject to Council endorsement, Council intends to forward the PP to the Department of Planning and Environment for a Gateway Determination.

## 8. COMMUNITY CONSULTATION

Council proposes to exhibit the PP in accordance with the requirements of Schedule 1 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and any other requirements as determined by the Gateway process. It is anticipated that the PP will be exhibited for a minimum period of 28 days.

It is intended to make the PP available for viewing at:

- Council's Your Say website;
- Georges River Civic Centre, MacMahon Street, Hurstville, between 8.30am and 5.00pm, Monday to Friday;
- Clive James (Kogarah) Library and Service Centre, during library hours; and
- Hurstville Library, during library hours.

Consultation will also be undertaken with any relevant public authorities / organisations as conditioned by the Gateway Determination.

## 9. PROJECT TIMELINE

The project timeframe is as follows:

### Indicative project timeline

Stage	Timeframe/date
Consideration by the Georges River LPP	17 August 2023
Report to Council's Environment & Planning Committee seeking endorsement to forward the PP for a Gateway Determination	9 October 2023
Report to Council seeking endorsement to forward the PP for a Gateway Determination	23 October 2023
Gateway Determination	November 2023
Pre-exhibition	December 2023
Commencement and completion of public exhibition period	January/February 2024
Consideration of submissions	March 2024
Post-exhibition review and additional studies	March 2024
Report to Council on the results of the community consultation and finalisation of the PP	April 2024
Submission to the Department for finalisation	April 2024
Gazettal of LEP amendment	May 2024

## Attachments

1. Heritage Significance Assessment dated July 2023.

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## Heritage Significance Assessment

'Bayview' 28 Carlton Crescent, Kogarah Bay

July 2023  
EHC2023/0158

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Project No.	Issue Date	Revision	Issue	Prepared	Reviewed
EHC2023/0158	10/07/2023	A	Initial Draft	ME / LC	ME
	26/07/2023	B	Reviewed		
	27/07/2023	C	Client issue		

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## 1.0 EXECUTIVE SUMMARY

### 1.1 Context of the Report

This Heritage Significance Assessment has been prepared at the request of Georges River Council to analyse, assess and establish the heritage values and cultural significance of 'Bayview' and to provide recommendations on the future management of the place.

### 1.2 Background

Situated within the Georges River Council local government area and in the locality of Kogarah Bay, which is 16 kilometres south of Sydney city, the site comprises Lots 21 and 22 in Deposited Plan 1963, respectively known as 28 and 28a Carlton Crescent, Kogarah Bay.

'Bayview' is a single storey, detached-style dwelling house which displays characteristics attributed to the early 20<sup>th</sup> century Inter-War period and of the Californian Bungalow architectural style. 'Bayview' retains a high degree of design integrity, making it a good and representative example of its style and class, which is directly enhanced by the established garden setting that extends across two adjoining allotments (Lot 21 and 22). 'Bayview' is situated on Lot 21, together with a small boatshed at the southernmost rear corner of the site. A garage structure and summerhouse are situated on Lot 22, together with numerous established landscape plantings, including a notable group of Canary Island Palms. The four buildings are effectively positioned at all four corners of the collective site and are interconnected by circulation paths. Cumulatively, 'Bayview' evokes strong evidence of an early 20<sup>th</sup> century 'way of life' and has high aesthetic values.

'Bayview' is presently identified as an item of local heritage significance and is listed on Schedule 5 Environmental Heritage of the *Georges River Local Environmental Plan (LEP) 2021*.

The inscription on Schedule 5 of the *Georges River LEP 2021* describes the item as 'House and front garden, "Bayview"' and identifies the site as Lot 21 at 28A Carlton Crescent, Kogarah Bay. This is supported by the mapping in the *Georges River LEP 2021*, showing only half the site as being heritage listed – that is, Lot 21 which contains the dwelling, the former boat shed and numerous semi-mature palms and shrubbery. All but one of the mature Canary Island Palms, together with the majority of the circulation paths, the detached garage and detached former teahouse / summerhouse are situated on Lot 22.

A Development Application was submitted to Georges River Council in early 2023 (DA2023/0025), which proposes the boundary adjustment of Lots 21 and 22, tree removal, demolition of the existing detached garage structure and detached secondary dwelling on Lot 22 of Section 15, construction of a new dwelling house with associated in-ground swimming pool (also on Lot 22) and construction of a new hardstand carparking space and vehicular access driveway to Lot 21.

In consequence of the lodgement of the Development Application, on 24 May 2023, Georges River Council made an Interim Heritage Order ('IHO') relating to Lot 22 in Deposited Plan 1963. Interim Heritage Order No.2 was published in the NSW Government Gazette No.227 on Friday 26 May 2023, providing temporary statutory protection to Lot 22 while the significance of the site is further investigated.

The IHO obligates Georges River Council to undertake an assessment of significance of the site to determine whether it reaches the threshold for heritage listing and to decide within six (6) months of the gazettal of the IHO, whether to proceed with listing the site as an item of heritage significance on Schedule 5 of the *Georges River Local Environmental Plan 2021*.

This Heritage Significance Assessment has reviewed the existing heritage listing and undertaken further analysis of the site and the built and landscape features thereon, additional historical research and an assessment of cultural significance, applying the NSW Heritage Assessment Criteria as established by the Heritage Council of NSW and the NSW Department of Planning and Environment.

Lot 21 and Lot 22 are both considered of equal cultural significance and neither one lot is mutually exclusive – they both rely on each other to complete the historical narrative of the site, retain the original design intent, and protect the curtilage, setting, significant fabric and landscaped features as well as physical and visual relationships.

In light of the reassessed heritage significance, a revised and updated Statement of Significance has been produced for 'Bayview', which considers the site to be of historical, associative, aesthetic, social, technical, rarity and representative significance at the local level.

### 1.3 Recommendations on future management

The existing heritage listing of the site (Lot 21) under Schedule 5 of the *Georges River Local Environmental Plan 2021* is warranted and it is appropriate that the site continue to be managed and recognised as an item of local heritage significance.

However, the existing heritage listing is incomplete and should be expanded to include Lot 22 so that the entire site is afforded statutory heritage protection and thus ensuring all built and landscape elements of identified cultural significance and value are afforded appropriate statutory protection.

On the basis of this Heritage Significance Assessment, the following key recommendations are made on the future management of 'Bayview' at 28 Carlton Crescent, Kogarah Bay:

1. 'Bayview' should continue to be identified as an item of local heritage significance and remain listed on Schedule 5 of the *Georges River LEP 2021*.
2. Council should prepare a Planning Proposal to amend the listing of Heritage Item No.1208 on Schedule 5 of the *Georges River LEP 2021* by making the following changes:
  - i) Revise the item name from 'House and front garden, "Bayview"' to '"Bayview" house and garden, boatshed, garage and summerhouse'.
  - ii) Revise the address from '28A Carlton Crescent, Kogarah Bay' to '28 and 28A Carlton Crescent, Kogarah Bay'.
  - iii) Revise the property description to include both Lots 21 and 22 in Section 15 of Deposited Plan 1963.
  - iv) Update the Heritage Map in the *Georges River LEP 2021* to correspond with the above changes.
3. The citation for the heritage item on the NSW State Heritage Inventory Database should be revised and updated to reflect the attached revised and updated Inventory Sheet (see **Appendix D**).

## 2.0 INTRODUCTION

### 2.1 Acknowledgement of Country

Edwards Heritage Consultants Pty Ltd (herein referred to as 'EHC') acknowledges the traditional custodians of the land on which we work and we recognise their continuing connection to land, waters and culture.

We pay our respects to Aboriginal Elders past, present and emerging, for they hold the memories, the traditions, the culture and hopes of Aboriginal peoples across the State.

EHC recognises that a better understanding and respect for Aboriginal cultures develops an enriched appreciation of Australia's cultural heritage and is essential to the maturity of Australia as a nation and fundamental to the development of our collective Australian identity.

### 2.2 Context of the report

'Bayview' is presently identified as an item of local heritage significance and is listed on Schedule 5 Environmental Heritage of the *Georges River Local Environmental Plan 2021*.

The inscription on Schedule 5 of the *Georges River LEP 2021* describes the item as 'House and front garden, "Bayview"' and identifies the site as Lot 21 at 28A Carlton Crescent, Kogarah Bay. This is supported by the mapping in the *Georges River LEP 2021*, showing only half the site as being heritage listed – that is, Lot 21 which contains the dwelling, the former boat shed and numerous semi-mature palms and shrubbery. All but one of the mature Canary Island Palms, together with the majority of the circulation paths, the detached garage and detached former teahouse / summerhouse are situated on Lot 22.

A Development Application was submitted to Georges River Council in early 2023 (DA2023/0025), which proposes the boundary adjustment of Lots 21 and 22, tree removal, demolition of the existing detached garage structure and detached secondary dwelling on Lot 22, construction of a new dwelling house with associated in-ground swimming pool (also on Lot 22) and construction of a new hardstand carparking space and vehicular access driveway to Lot 21.

In consequence of the lodgement of the Development Application, on 24 May 2023, Georges River Council made an Interim Heritage Order ('IHO') relating to Lot 22 in Deposited Plan 1963. Interim Heritage Order No.2 was published in the NSW Government Gazette No.227 on Friday 26 May 2023, providing temporary statutory protection to Lot 22 while the significance of the property is further investigated.

This Heritage Significance Assessment has been prepared at the request of Georges River Council to establish the cultural heritage significance of 'Bayview' and its setting at 28 Carlton Crescent, Kogarah Bay and to provide recommendations on the future management of the place.

This report considers:

1. An analysis of the physical attributes and characteristics of the property.
2. An analysis of the historical context of the property.
3. A comparative analysis with other items or places displaying similar characteristics and attributes.
4. An assessment of the property to establish its cultural heritage significance, using the NSW Heritage Significance Assessment Criteria, with the formulation of a Statement of Significance.
5. Recommendations on future management of the item or place, including recommendations on future heritage listing.
6. Completion of an updated Heritage NSW – State Heritage Inventory (SHI) listing sheet.

## 2.3 Methodology

This report has been prepared in accordance with 'Assessing Heritage Significance – Guidelines for assessing places and objects against the Heritage Council of NSW criteria' (NSW Department of Planning and Environment, 2023).

The assessment is based on a visual examination of the subject site and analysis of the site in its context. The historical analysis is based on material sourced from the State Heritage Inventory (SHI), Georges River Council files and Local Studies Library, NSW Land and Property Information and other various archival resources and information repositories.

The analysis of the site in its context and historical analysis is then proceeded by a significance based desktop assessment of the cultural significance of the subject site.

The overarching philosophy and approach to this report is guided by the conservation principles and guidelines of the Australia ICOMOS *Charter for the Conservation of Places of Cultural Significance (Burra Charter)* 2013.

The objective of this report is to analyse, assess and establish the heritage values and cultural significance of the subject site and its heritage curtilage, followed by providing preliminary guidelines and recommendations to ensure that any identified heritage values are retained, protected and appropriately managed.

## 2.4 Authorship

This report has been prepared by Michael Edwards B.Env.Plan M.Herit.Cons, M.ICOMOS, JP, Director & Principal Heritage Consultant / Advisor, Bethany Robinson BA, M.Mus&Herit, Senior Heritage Consultant and Lucy Cooper BA, M.Mus&Herit, Graduate Heritage Consultant for EHC Pty Ltd. The report has been reviewed and endorsed by Michael Edwards.

Mr Edwards has over 17 years extensive experience in both the town planning and heritage conservation disciplines and has held previous positions in Local and State Government. Mr Edwards has previously worked with the former Heritage Division of the NSW Office of Environment and Heritage and is currently Heritage Advisor to Cessnock City Council and Georges River Council.

Unless otherwise noted, all contemporary photography in this report is by EHC.

## 2.5 Limitations

This Heritage Significance Assessment:

- Considers the site, external structures and internal rooms and spaces that were visually and physically accessible by EHC on the day of the inspection.
- Is limited to the investigation of the non-Aboriginal cultural heritage of the site. Therefore, it does not include any identification or assessment of Aboriginal significance of the place.
- Is limited to a due-diligence archaeological assessment only and does not present a detailed archaeological assessment of the site.
- Does not provide a structural assessment or advice. Subsequently, this report should be complemented by advice from a Structural Engineer with demonstrated heritage experience.
- Is not intended to establish a comprehensive conservation management framework to guide the ongoing use, management and protection of the place.

## 2.6 Terminology

The terminology used throughout this report is consistent with the NSW Heritage Manual and the *Burra Charter*.



HERITAGE SIGNIFICANCE ASSESSMENT | 'Bayview' 28 Carlton Crescent, Kogarah Bay

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A glossary of common terms used is listed in Appendix A.

## 2.7 Physical evidence

A visual examination of the site and the surrounding area was undertaken on 30 April 2023. All contemporary photography used in Section 2 of this report was captured at this time.

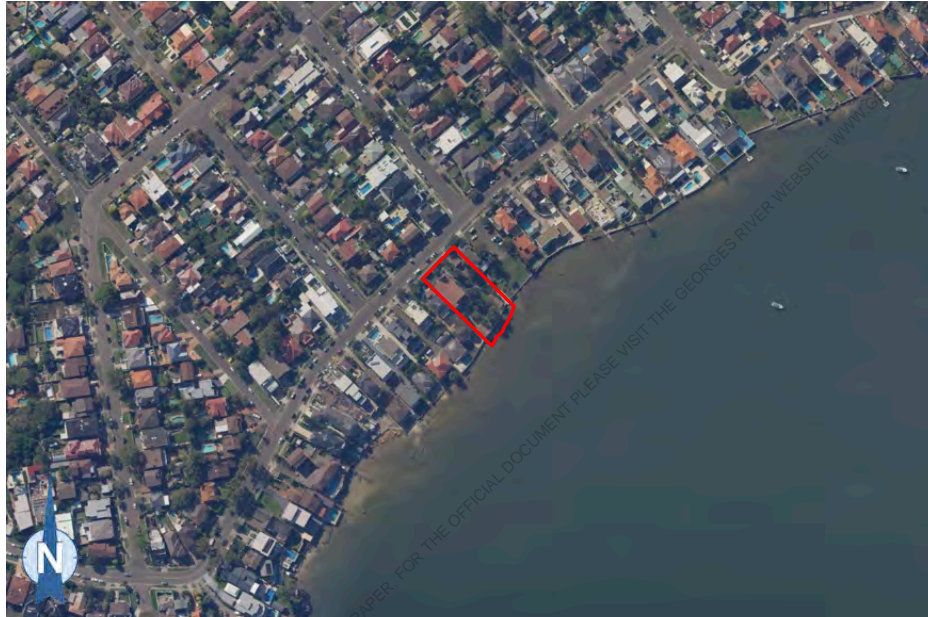
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### 3.0 SITE ASSESSMENT

#### 3.1 Location and Context

The subject site is situated within the Georges River Council local government area and in the locality of Kogarah Bay, which is 16 kilometres south of Sydney city. The site comprises Lots 21 & 22 of Section 15 in Deposited Plan 1963, commonly and collectively known as 28 and 28a Carlton Crescent, Kogarah Bay.



**Figure 1:** Aerial view of the site, subject site denoted in red.  
[Source: NSW Land and Property Information, 2023, with EHC overlay]



**Figure 2:** Aerial view of the locality. The subject site is denoted by red outline.  
[Source: NSW Land and Property Information, 2023 with EHC overlay]

### 3.2 Description of the site

The subject site is located on the southeastern side of Carlton Crescent and is situated within an established urban streetscape, which is largely characterised by detached-style residential housing.

Carlton Crescent has a varied housing typology and architectural style, with many of the surrounding allotments containing large scaled contemporary two-storey dwellings (particularly on the lower side of Carlton Crescent), evidencing renewal of older housing stock, with some surviving examples of original single-storey Inter-War bungalows from the 1920s and 1930s period. Many of the allotments on the lower side of Carlton Crescent have been further subdivided, creating battle-axe allotments, doubling the housing density on this side of the street.

The site itself comprises two separate but adjoining allotments (Lots 21 and 22). Individually and cumulatively, they have a mostly rectangular shape, with direct frontage to Carlton Crescent and an irregularly formed rear boundary that adjoins Kogarah Bay and defined by the mean high water mark.

The site falls from the street front boundary towards Kogarah Bay at the rear and has an undulating surface, with a near-level platform at the front of the site.



Figure 3: View of the site from Carlton Crescent.

### 3.3 The buildings – exterior

Situated on the site are a number of built structures which are described below.

#### *The dwelling*

The most prominent and largest of the buildings on the site, is the dwelling house. Known as 'Bayview', the dwelling is situated entirely on Lot 21 and within close proximity to the front boundary, where the dwelling takes advantage of the higher elevation in topography.

The dwelling is described as single storey and detached style. It is of brick construction typically of stretcher bond, sitting atop of a solid brick wall skirt that conceals the foundations. Owing to the fall in

topography, the brick wall skirt is expressed at the front as only a few string courses in height, increasing in height to a near full storey equivalent at the rear. The entirety of the brick wall skirt has been finished in stucco, with a rendered horizontal band that provides definition between the transition to the residual walls which are of dark 'liver' facebrick.

All elevations of the dwelling are asymmetrically composed, yet the primary front elevation features a striking large single gable that spans the full width of the dwelling. The gabled face features a symmetrical design, with vertical timber battens applied over the panelling and detailed timber lattice battening to the upper apex of the gable framed by a series of small timber brackets arranged in pairs. A rotated square panel containing a cherub in bas-relief plaster, is centrally positioned just below the apex.

The front elevation below the wide gable, contains a verandah that wraps around to the eastern side elevation and finished in decorative tessellated tiles. The verandah is framed by a low-height brick wall with a scalloped string course of bullnosed bricks, supporting trapezoidal shaped brick verandah posts that have been finished in stucco to match the skirt wall. The stuccoed verandah posts continue to the underside of the ceiling, to frame the verandah in a series of openings. A three-sided bay window projects off the western side of the front entry. The main front entry door is of timber joinery and features sidelight and transom windows – all in elaborately detailed leadlight glass. Windows throughout the dwelling are timber framed casements with a consistent leadlight glass pattern.

The eastern side elevation carries the front verandah through before returning to a full height masonry wall that bookends the verandah and contains a three-sided bay window matching the one in the front elevation. The most striking feature of the eastern elevation is the large eight-sided bay window sitting atop of the matching curved facebrick wall in a stacked header bond and awning roof. The stuccoed skirt wall below the centre line of the bay window, features a rotated square panel containing a cherub in bas-relief plaster, matching that to the front gable.

The rear elevation features a large singular gable (matching the detailing to the front elevation) and below the gable is the largest of the bay windows in the house, with a twelve-sided bay window projecting directly of the rear elevation, the detailing of which matches that of the eastern side elevation complete with the cherub bas-relief panel. A large open balcony projects off the rear elevation, framed by a semi-circular wall with castellated string course to form the top of the brick balustrade and with tessellated tile flooring. Separating the semi-circular elevated balcony and semi-circular bay window, is a curved set of external stairs which lead to the back garden.

The western side elevation is the most simplistically formed and detailed of the entire dwelling, sitting in close proximity and parallel to the side property boundary.

A large gabled roof form spans the near entirety of footprint of the dwelling with a smaller gable projecting partly over the rear semi-circular balcony. There are no chimneys, save for a small contemporary steel flue punctuating the eastern roof plane. The roof is clad in unglazed terracotta tiles and features a scrolled finial at the apex of the front and rear gables. Bargeboards are planar and the soffits are all lined with painted tongue-and-groove timber lining boards.

The definitive framework for identifying architectural styles within Australia is that developed by Apperly, Irving and Reynolds in *'Identifying Australian Architecture: Style and Terms from 1788 to the Present'*. The authors provide a perceptive account of what constitutes and defines a style. Mostly concerned with 'high' or 'contrived' architectural styles, rather than the 'popular' styles or the vernacular, it is accepted that the boundaries between identified styles are not always clear-cut.

Subsequently, the terminology for a style and the framework to be applied in defining the style, comprises two parts, firstly identifying the period in which the building belongs and secondly describing the major characteristics.

In this manner, the dwelling displays characteristics that are attributed to the Inter-War period of the early 20<sup>th</sup> century and of the Californian Bungalow architectural style.





Figure 4: View of the dwelling from the front entry gate.



Figure 5: View of the dwelling from the front garden area.



Figure 6: View of the eastern side elevation bay window.



Figure 7: View of the bay window detailing to the eastern side elevation.



Figure 8: View of the cherub bas-relief panel applied beneath the bay window on the eastern side elevation.

#### *The Boatshed*

At the southernmost corner of the site (on Lot 21) is a small freestanding boatshed. This structure has a simple utilitarian form and language, with a rectangular footprint and gabled roof form. The gables present to the northern and southern (waterfront) elevations and feature panelling with vertically applied timber battens matching the language of the gables to the main dwelling.

The boathouse is of brick construction and appears to be in stretcher bond, though has been painted externally and in part, rendered to mimic the stuccoed finish of the dwelling.

Both gabled elevations feature large rectangular openings, which hint at the original use and function of the structure (together with its waterfront placement). These openings have both been later enclosed and contain windows and doors. The gabled roof is clad in unglazed terracotta tiles with scrolled finials to the apex of both gabled ends.

Though utilitarian in form and function, the boatshed displays characteristics that are similar to the main dwelling and is also attributed to the Inter-War period of the early 20<sup>th</sup> century and of the Californian Bungalow architectural style.



Figure 9: View of the boatshed from the Kogarah Bay shoreline.



Figure 10: View of the boatshed.

#### *The Garage*

Situated towards the northernmost corner of the site (on Lot 22) and within proximity to the front boundary, is a freestanding double car garage structure.

The garage sits forward of the alignment of the dwelling, though owing to the spatial separation afforded between the two structures, the garage does not dominate the dwelling.

The garage is of brick construction in stretcher bond, with dark 'liver' bricks used to the front elevation and quoins to windows and doors, while the remainder of the structure uses 'common' bricks of a lighter colour.

Consistent with the main dwelling, the garage has a large rectangular footprint and gabled elevations presenting to the front and rear. The gables both feature panelling with vertically applied timber battens. The gabled roof is clad in unglazed terracotta tiles and feature scrolled finials to the apex of both gabled ends. Fascia boards feature a simple quirk.

A large panelled garage door presents to the front elevation, while the rear and western side elevations contain casement windows and four-panelled timber doors. Window and door openings have a painted concrete lintel inserted.

Though utilitarian in form and function, the garage displays characteristics that are similar to the main dwelling and is also attributed to the Inter-War period of the early 20<sup>th</sup> century and of the Californian Bungalow architectural style.



Figure 11: View of the garage from the front boundary.

#### *The Summerhouse*

Towards the easternmost corner of Lot 22 at the water's edge is a freestanding summerhouse / self-contained cottage.

This structure has an elongated rectangular footprint with a simple gabled form, with the gabled elevations oriented to the front and rear in the same manner as the dwelling, the boatshed and the garage.

The summerhouse is of brick construction, rendered with a stucco finish to the external walls. The gables feature panelling with vertically applied timber battens and planar bargeboards. The gabled roof is clad in unglazed terracotta tiles and, consistent with the roofs of other structures on the site, features a scrolled finial to both apex ends of the roof.

The northern elevation is devoid of any windows or doors, while the two side elevations feature timber framed windows. The rear (waterfront) elevation features large aluminium framed sliding doors – presumably having originally been an open verandah to take advantage of the prevailing breeze.

The summerhouse displays characteristics that are similar to the main dwelling and is also attributed to the Inter-War period of the early 20<sup>th</sup> century and of the Californian Bungalow architectural style.





Figure 12: View of the summerhouse from the rear of the site.



Figure 13: View of the northern elevation of the summerhouse facing towards Kogarah Bay.



Figure 14: View of the side passageway of the Summerhouse towards Kogarah Bay.



Figure 15: View of the southern (waterfront) elevation of the summerhouse, facing west.

### 3.4 The buildings – interior

The interior of the buildings were not inspected. Consequently, an analysis is undertaken on the availability of photography of the interior in relation to a recent real estate marketing campaign, available online.

#### *The dwelling*

The interior of the dwelling is centred off the main hallway, with a series of rooms accessed from both sides of the hall. The short hallway leads to the large formal lounge room, separated by a hallway door complete with sidelight and transom windows matching the primary front entry door with ornate leadlight glazing.

Flooring appears to be timber tongue-and-groove boards throughout, arranged in a parquetry pattern in the hallway and a radiating geometric shape to the formal lounge room, which is considered the most striking room of the dwelling, given its uncharacteristically large open floor plan that is uninterrupted by vertical support columns or partition walls. A brick chimneybreast sits flush with the splayed wall in the formal lounge room.

The ceilings are ornately finished, likely with fibrous plaster panels and timber battening arranged in a geometric pattern. The same turned square panel featuring a cherub in bas-relief plaster is applied to the walls of bedrooms and in a repeat pattern around the splayed ceiling framing the formal lounge room.

The bay windows feature built-in window seat joinery.

The kitchen and bathroom appear to have been contemporaneously refit with modern joinery and fixtures.





**Figure 16:** View of the formal lounge room.  
[Source: Realestate.com.au, c2010]



**Figure 17:** View of the kitchen.



**Figure 18:** View of the bathroom.



**Figure 19:** View of the hallway facing towards the lounge room.



**Figure 20:** View of the front bedroom  
 [Source: Realestate.com.au, c2010]



**Figure 21:** View of the master bedroom at the rear of the dwelling, facing onto the rear semi-circular balcony.  
 [Source: Realestate.com.au, c2010]



**Figure 22:** View of the eastern side bay window off the formal lounge room.  
 [Source: Realestate.com.au, c2010]



**Figure 23:** View of the rear elevated balcony.  
 [Source: Realestate.com.au, c2010]

#### *The Boatshed*

Not inspected.

#### *The Garage*

Not inspected.

#### *The Summerhouse*

The Summerhouse contains a simple three-roomed configuration, with a combined lounge room and kitchen comprising the southern portion of the interior, leading to a small entry lobby off the eastern side elevation at the centre, from which a small bathroom and bedroom are accessed.

The Summerhouse has timber tongue-and-groove floorboards throughout, which appear Cyprus Pine. Walls are plastered and feature decorative timber plate-rails. The southern end of the current lounge room space has a corbelled bulkhead projecting from the ceiling level, suggesting the presence of windows and a centrally positioned door which have been removed to make the present singular opening.



Figure 24: View of the interior of the summerhouse.

### 3.5 Landscape

'Bayview' is set within an established landscaped garden setting, comprised over two individual lots. The site benefits from direct water access to the Georges River at the rear.

The four structures (dwelling, boatshed, garage and summerhouse) are positioned in each of the four corners of the site, interconnected by established landscaped gardens comprising numerous mature Canary Island Palms (*Phoenix canariensis*), lawn areas and circulation paths.

Cumulatively, they form a pleasant and deliberately arranged relationship that evokes a strong early 20<sup>th</sup> century Inter-War period character. The positioning of the dwelling, echoed through the arrangement of large bay windows and the verandahs, evidence a deliberate design that takes advantage of the double-lot, with outward facing views to the northeast over the sprawling garden setting and to the southeast towards the Georges River.

The front boundary of the site is delineated by a low-height brick fence that has a central soldier course with spacing to provide the appearance of an open-style fence. Immediately behind the brick fence is an established hedge of Lilly Pilly. A concrete driveway leads from the street to the front of the garage, with a concrete apron wrapping around the western side of the garage to create a partly elevated hardstand area immediately to the rear of the garage. The driveway is delineated by aluminium gates.

The Canary Island Palms are planted in a structured manner, with the majority planted in a straight line running parallel to the eastern side elevation of the dwelling. Two Canary Island Palms were originally planted immediately at the front of the dwelling, though only one remains.

Circulation paths that connect the various buildings are comprised of terracotta tiles arranged in a two-toned geometric pattern, with continuous-formed concrete edging that has been painted. Towards the rear of the site is a contemporary timber gazebo structure.





Figure 25: View of the front gardens.



Figure 26: View of the front gardens.



Figure 27: View of the front gardens from the driveway.



Figure 28: View of the gardens along the eastern side of the dwelling. The existing boundary between Lot 21 and Lot 22 is approximated by red outline.



Figure 29: View of the concrete apron behind the garage.



Figure 30: View from the concrete apron behind the garage facing west towards the dwelling.



Figure 31: View of the mature-sized Canary Island Palms.





**Figure 32:** View of the gardens along the eastern side of the dwelling.



**Figure 33:** View of the outlook towards Kogarah Bay from the central path.



**Figure 34:** View of elevated garden bed of a removed Canary Island Palm, facing north.



**Figure 35:** View of the dwelling from the central path approaching from the Summerhouse.



**Figure 36:** View of the rear of the dwelling facing towards Carlton Crescent as viewed from the gazebo and Summerhouse.



Figure 37: View of the concrete seawall facing northeast.

### 3.6 Streetscape contribution

Built c1928, 'Bayview' is situated within an established residential streetscape. As identified earlier in this report, the site is situated on the southern and lower side of Carlton Crescent, where many of the allotments have been further subdivided to create battle-axe allotments. Many of the earlier housing stock have been redeveloped and replaced with large two-storeyed dwellings, yet are themselves constrained by their respective allotment configuration and dimensions.

The site presents as an anomaly within the street as it comprises two adjoining allotments, with the various built and landscape features spreading across both Lot 21 and Lot 22, creating a generously proportion landscaped garden setting and has an uncharacteristically wide frontage to Carlton Crescent.

Despite the single storey scale of the dwelling, the dwelling and its garden setting are considered visually distinctive, with the elaborately detailed gable of the dwelling being expressly visible to the street and the site readily distinguished by the numerous mature Canary Island Palms, which were often planted in the early 20<sup>th</sup> century for demarcation given their height at maturity.

### 3.7 Integrity and condition

The integrity of a site, in terms of its heritage significance, can exist on a number of levels. For instance, a site may be an intact example of a particular architectural style or period and thus have a high degree of significance for its ability to illustrate that style or period. Equally, heritage significance may arise from a lack of architectural integrity where the significance lies in an ability to illustrate an important evolution to the building or change in use.

While a detailed structural assessment is beyond the scope of this report, a non-invasive visual inspection of the exterior of the various structures has been undertaken.

Each of the buildings display some evidence of previous cosmetic and structural changes, though the original silhouette and form of the structures remain remarkably intact. Original detailing and features also appear remarkably intact.

Similarly, the landscaped gardens evidence some changes by comparison with contemporary examination and historical documentary evidence. Overall however, the garden setting remains substantially intact and unaltered.

Notable changes to the dwelling include:

- Contemporary cabinetry fitouts to the bathroom and kitchen in the dwelling.
- Construction of a temporary ramp structure at the front entry to the dwelling.
- Likely removal of the original chimney from the western side roof plane.
- Removal of the sub-floor access door on the eastern elevation of the skirt wall.

Notable changes to the boatshed include:

- Changes to the openings on both gabled ends of the building, including the enclosure of the large rectangular opening fronting Kogarah Bay and replacement with windows.

Notable changes to the garage include:

- Replacement of the doors to the front elevation with a contemporary panelled door.

Notable changes to the summerhouse include:

- Contemporary cabinetry fitouts to the bathroom and kitchen in the dwelling.
- Likely removal of an original door and windows on the waterfront elevation to create a large opening and subsequent enclosure of the likely original balcony fronting Kogarah Bay.

Notable changes to the landscaped setting include:

- Removal of the original pathway leading from the front entry to the front boundary and making good the opening to the brick fence along the front boundary, including removal of the two large gateposts (evident in the c1993 photographs).
- Increase in height of brick soldier posts to the driveway opening to support new driveway gates.
- Additional landscape plantings introduced, chiefly the hedge immediately behind the front boundary fence.
- New concrete driveway and apron extending to an elevated hardstand area at the rear of the garage.
- Renewal of the original garden paths with new tiled paths and continuous-formed concrete edging (though the paths appear to retain the original location save for the reconfiguration of the front path from the front entry).
- Removal of at least two established Canary Island Palms, with one removed from immediately out the front of the dwelling in the front garden and one removed from the row along the eastern side elevation.
- Construction of a concrete seawall spanning the rear of the site.

Overall, the changes that have occurred to the buildings and landscaped setting have had little impact on the overall character and appearance when viewed in the context of the streetscape, nor have the changes significantly diminished the integrity of the buildings or the landscaped garden setting.

The boatshed, garage and summerhouse generally appear in sound repair and condition, while the dwelling 'Bayview' appears in a remarkable condition.

## 4.0 HISTORICAL OVERVIEW

### 4.1 Introduction

This section attempts to place 'Bayview' into the context of the broader history of the region as well as outlining the sequence of development, occupation and use of the site.

Analysing and understanding the historical context of the site is an important consideration in the assessment of cultural significance (see Section 9), informing the assessment of historical significance and historical associations of significance.

The history of the site is presented in a narrative form and is mainly derived from the published sources referenced throughout. The historical analysis also builds on existing extensive publication and research and assumes a prior knowledge of the Aboriginal history of the area.

### 4.2 First land grant

When Captain James Cook looked over Botany Bay in 1770, he saw what he regarded as a highly suitable site for European Settlement. He is said to have rowed up Georges River as far as Tom Uglys Point, as well as exploring inland in the Sutherland Shire. Prior to 1800, the district of St George was largely untouched. It was mostly inaccessible, except by water, and much of the land was heavily timbered.

When the First Fleet arrived 18 years later, Captain Arthur Phillip had other ideas, dismissing Cook's choice of settlement site after failing to find fresh water. Additionally, he claimed that Botany Bay did not offer the shelter he required, and that it would be too much work to clear the heavily timbered terrain.<sup>1</sup> Many convicts were forced into building the Cooks River Dam. Timber-getting had become a major attraction for the area; however the land was still considered unsuitable for farming due to the tree growth.

Over the next 36 years, some three million acres were granted, though little of it was put to good use.<sup>2</sup> Apart from the land granted by the Governors, the British Government sometimes bestowed land upon residents, often without consulting Sydney. One such grant occurred in 1808, when 1950 acres was given to John Townson.

John Townson was an army officer and settler, born in 1759 in Yorkshire, England. After serving several years as a lieutenant in the 18<sup>th</sup> Regiment, he transferred to the New South Wales Corps in October 1789 and arrived in the colony in 1790.<sup>3</sup> Most of Townson's military service was spent at Norfolk Island, where he was stationed for about six years. In 1799, he also acted as lieutenant-governor of Norfolk Island while Lieutenant-Governor Philip Gidley King was absent.

After returning to England and retiring, Townson came back to the colony in 1806 with a letter stating the intention of the Secretary of State to direct to Governor William Bligh to grant him 2000 acres. Governor Bligh declined to do so until he received specific instructions from official authority. Townson was ready to return to England, until 1907 when his brother Robert arrived, and the Secretary of State directed that the grant be made – however, the order had not reached Sydney when the rebellion occurred in January 1808.<sup>4</sup>

In July, major George Johnson granted Townson 1950 acres in the Bexley district, and the following year he received a further 250 acres from Lieutenant-Governor William Paterson. All of his land was then re-granted by Governor Lachlan Macquarie in 1810. The subject site was part of 50 acres, Portion 119 of the Parish of St George, that was granted to Townson in April of 1810.<sup>5</sup>

<sup>1</sup> Davis, P. 'The Hurstville Story', 1986.

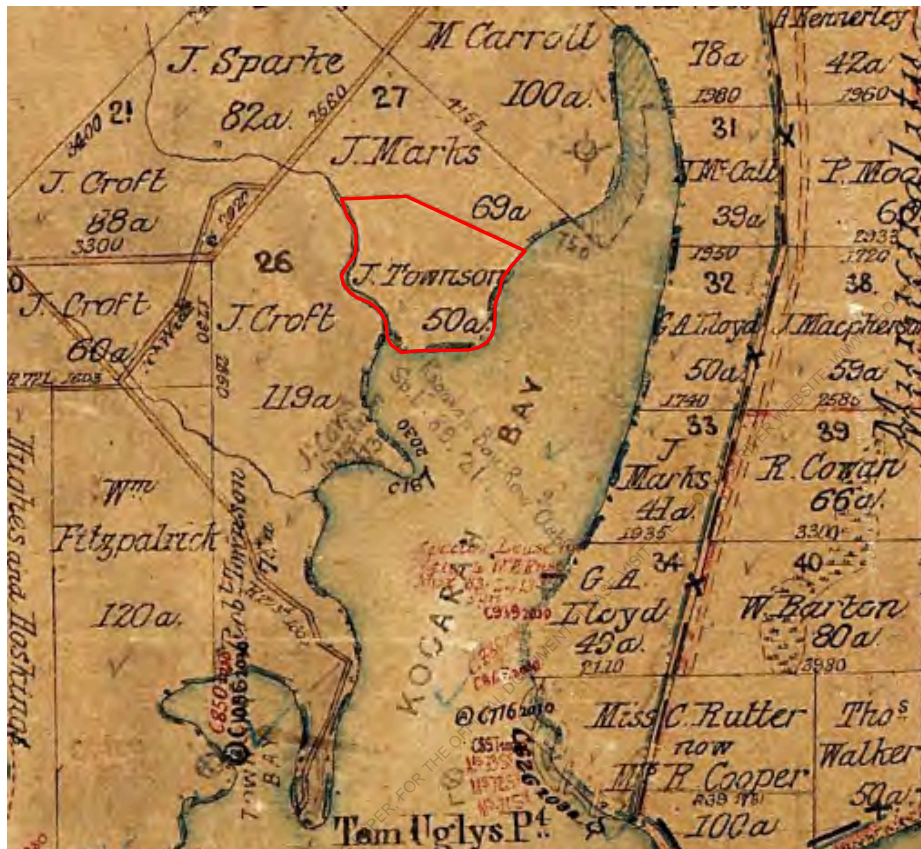
<sup>2</sup> Ibid

<sup>3</sup> Austin, M. 'Townson, John (1759-1835)', 1967.

<sup>4</sup> Ibid

<sup>5</sup> NSW Land and Property Information, 2023. PA6535.





**Figure 38:** Extract of Parish of St George Map, John Townson's Portion 119 outlined in red c.1880s.  
 [Source: NSW Land and Property Information, 2023]

Governor Macquarie made a serious attempt to stop land speculation, and his main task was to restore order in the Colony following the rocky reign of his predecessor, Governor Bligh. Macquarie imposed restrictions on land grants and required those who were granted land to occupy and improve them.

In 1811, Townson sold his land to Simeon Lord. Lord was 20 years old in 1790, when he was sentenced to seven years transportation for theft. Soon after arriving in Sydney, he was assigned to Captain Thomas Rowley, a prominent officer-trader. As soon as Lord received emancipation, Rowley set him up as a baker, and by 1798 he was living in Macquarie Place and on the way to becoming a wealthy businessman.<sup>6</sup>

Lord was quick to realise that land acquisition was a growing industry, and an industry that would continue to grow as the colony itself grew. The purchase of Townson's land was his first major purchase, followed by purchasing King's Grove Farm in 1829. Lord paid 800 pounds for Townson's land, some of the best timber in the St George area. The location then became known as Lord's Bush.

<sup>6</sup> Davis. P. 'The Hurstville Story', 1986.

HERITAGE SIGNIFICANCE ASSESSMENT | 'Bayview' 28 Carlton Crescent, Kogarah Bay

EHC2023/0158

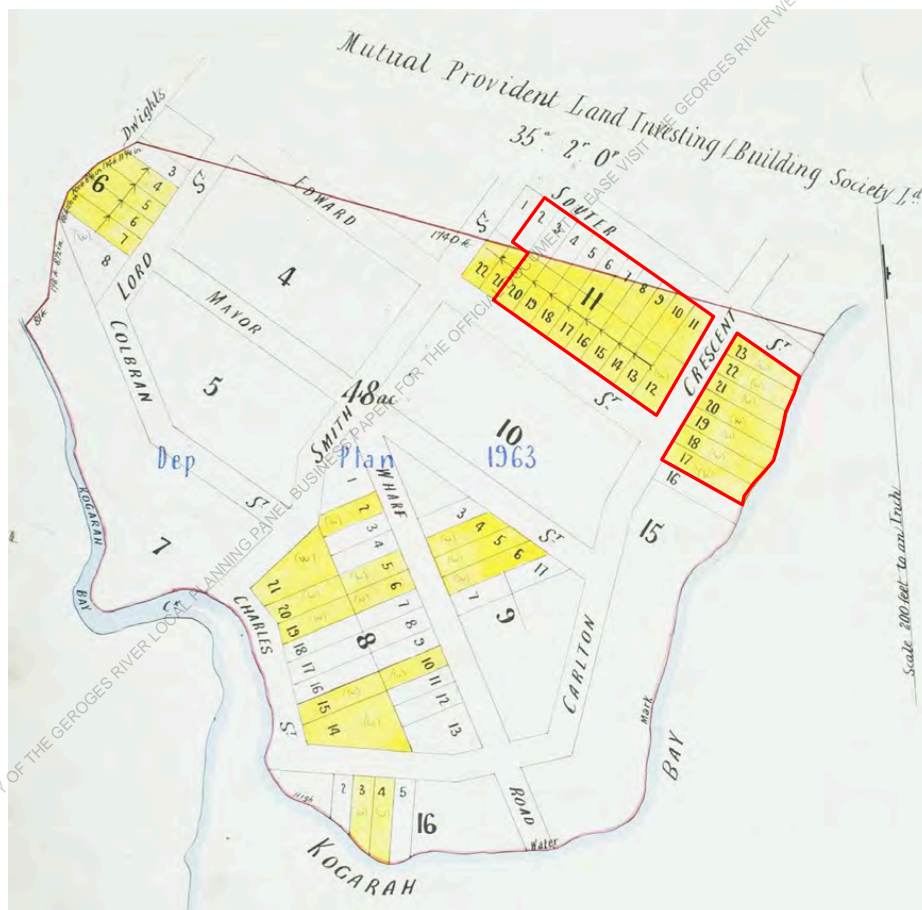


Figure 39: Plan of the Carlton Park subdivision.  
 [Source: NSW Land and Property Information, 2023. Deposited Plan 1963]

#### 4.3 Subdivision of the Estate

In the late 1870s, the land was sold, transferring through several of Lord's trustees. By 1885, the land had been reduced to 48 acres, having been purchased by The Mutual Provident Land Investing and Building Society Limited. Primarily handled by the company's manager Mr Richard William Foxall,<sup>7</sup> The Mutual Provident Land Investing and Building Society Limited set about surveying the land and prepared a plan of subdivision that carved the estate into multiple residential sized allotments, interconnected by new roads.

Known as 'Carlton Park', the first sale of the newly created allotments occurred in mid-December 1885 at an auction on the ground. In 1892, Lucy Jane Macmillan, wife of James Laker Macmillan, purchased Lots 2-20 (inclusive) of Section 11 of Deposited Plan 1963 (equating to 2 acres, three roods, 1 perch) as well as Lots 17-23 (inclusive) of Section 15 of Deposited Plan 1963 (1 acre 2 roods 2 perches). It was Lots 21 and 22 of Section 15 in Deposited Plan 1963 that were to become the subject site.



**Figure 40:** Plan showing the lots purchased by Lucy Macmillan in 1885.  
[Source: NSW Land and Property Information 2023. Certificate of Title Vol.1110 Fol.87, with EHC overlay]

<sup>7</sup> NSW Land and Property Information, 2023. CT Vol. 833 Fol. 100 & CT Vol. 928 Fol. 21.



#### 4.4 Subdivision of the Kogarah Bay Estate

In 1911, Macmillan's land was sold, having been purchased by the New South Wales Realty Co Limited.

Within that same year, the Company had prepared a plan of subdivision, marketing the sale of allotments as the 'Kogarah Bay Estate', though there were no notable changes from the 1885 subdivision.

At an auction on the ground held on 6<sup>th</sup> May 1911, they began selling the allotments<sup>8</sup>, however not all the allotments would sell at that time.

Lots 21 & 22 of Section 15 (the subject site) were finally purchased in 1916 by Bert Pooley, a Plumber from Annandale.<sup>9</sup> Each of the allotments within the Kogarah Bay Estate were subject to a building covenant (evident on the 1911 sales poster) which stated that buyers "need not build or improve their lots" however if they were to erect a building thereon, it must "be of a value of not less that £200", also requiring the land to be fenced.<sup>10</sup> This could be the reason why, despite having the land for a number of years, Mr Pooley did not develop it.



Figure 41: Sales poster for the Kogarah Bay Estate, 1911.  
[Source: State Library of NSW]

In 1920, Pooley sold the land to Elizabeth Maria Rowe, wife of Kogarah builder Frederick Ernest Rowe<sup>11</sup> Frederick Rowe had earlier purchased Lot 19 from the Kogarah Bay Estate, at the time of the initial sale of the estate in 1911.<sup>12</sup>

Throughout the 1920s and 1930s, Frederick Rowe was a prominent figure in the building industry as he was advertised as having conducted numerous building works throughout the Kogarah area. In 1924 under the "Works in Progress" section in *The Daily Telegraph* Rowe is credited to building a 'brick cottage' in Carlton Crescent, Kogarah Bay and in 1927, he was building brick additions to (presumably houses) in Payten and Myee Streets in Kogarah Bay.<sup>13</sup>

<sup>8</sup> NSW Land and Property Information, 2023. CT Vol. 1053 Fol. 31 Transfer No. 602162.

<sup>9</sup> NSW Land and Property Information, 2023. CT Vol. 2709 Fol. 243

<sup>10</sup> State Library of NSW, Blakehurst Subdivision Plans Kogarah Bay Estate, accessed 5 July 2023, <https://collection.sl.nsw.gov.au/record/74VvmK2gpNoy>

<sup>11</sup> NSW Land and Property Information, 2023. CT Vol. 2709 Fol.243 Transfer No. A68464

<sup>12</sup> NSW Land and Property Information, 2023. CT Vol. 2210 Fol. 188

<sup>13</sup> BUILDING & CONSTRUCTION (1924, April 16). *The Daily Telegraph* (Sydney, NSW : 1883 - 1930), p. 3. Retrieved July 5, 2023, from <http://nla.gov.au/nla.news-article245709915>

For the majority of the 1920s, the Rowe's residence was listed as 9 Carlton Crescent on the corner of Carlton Crescent and Payten Street.<sup>14</sup>

This dwelling may have been a prototype for what Rowe would shortly build at 28 Carlton Crescent, as it appears substantially the same in form, detail and language, with the large single gable presenting to the street and rear elevations and with the timber panelling and lattice detailing to the gabled facades. Rowe's cottage at 9 Carlton Crescent would also be a mirror in composition to 28 Carlton Crescent, though as 9 Carlton Crescent was only situated on a single allotment, it would not have the defining bay windows which would be a signature to 28 Carlton Crescent.

In 1928, Frederick Rowe became a joint tenant of the subject site with his wife<sup>15</sup> and the Rowes are listed as residing at 30 Carlton Crescent in the 1931 Sands Directory as well as the electoral rolls of 1931 and 1937. However, at the similar time, Eleanora Eager is listed as living at 32 Carlton Crescent in 1935 then 30 Carlton Crescent in 1938. It is possible that the street numbers shifted during this time and it took time for residents to adjust. Mr Rowe, as a builder, may also have used multiple addresses for his businesses. More likely, Rowe's two adjoining lots probably added confusion – was it No.28 or No.30?



**Figure 42:** View of the dwelling built by Frederick Rowe at 9 Carlton Crescent in c2011. The dwelling was demolished sometime after 2015. The similarities to 28 Carlton Crescent are remarkable, with this dwelling largely presenting as a mirrored composition, yet lacking the defining bay windows.

[Source: Realestate.com.au, 2011]

#### 4.5 A dwelling is built

In any case, reference to the address '28 Carlton Crescent' first appears in newspapers, the Sands Directory and NSW electoral rolls in 1928, suggesting that Rowe had built a house on the land by this time, coinciding with the transfer of title that same year to Mr and Mrs Rowe as joint tenants.

<sup>14</sup> Wise's New South Wales Post Office Directory 1926. Accessed June 30, 2023, <http://nla.gov.au/nla.obj-601156679>  
<sup>15</sup> NSW Land and Property Information, 2023. CT Vol. 2709 Fol. 243 Transfer No. B657480

Designed in what is contemporaneously referred to as the 'Inter-War Californian Bungalow' architectural style, the dwelling was designed as a single storey structure, fashionable for the period and architectural style, yet would occupy an uncharacteristically large footprint by comparison to the other early dwellings that had been erected on their respective lots within the emerging streetscape.

The purchase of Lots 21 and 22 together appears to have largely influenced the design, placement and construction of the dwelling. Despite being constructed entirely upon Lot 21, the dwelling displays a judicious design that exploits the outlook eastwards over the adjoining Lot 22 and Kogarah Bay to the south, with the considered placement of large bay windows.

In 1937, the St George County Council commissioned a run of aerial photography from Adastra Airways, producing the earliest aerial photography for the area.



**Figure 44:** Aerial photo of the site from 1937 by Adastra Airways.  
[Source: Georges River Council Local Studies Collection, AER37-041LHP1079]

The 1937 aerial photograph evidences the considerably larger footprint of the dwelling by comparison with the other extant dwellings within Carlton Crescent at that time. It also evidences that a number of ancillary structures had been erected on both Lots 21 and 22, including a small boatshed at the southernmost corner of Lot 21, a detached garage structure in the northernmost corner of Lot 22 and a summerhouse / self-contained cottage in the easternmost corner of Lot 22. The various structures were all evidently interconnected by formed pathways, set within what appears as an established landscaped garden setting, with numerous plantings of Canary Island Palms and other shrubbery. A definitive shadow line also evidences the existence of a low-height fence along the street-front boundary. Similarly, a defined rectilinear line at the rear of the site indicates that a seawall had also been constructed to protect the property from the fluctuating tides.

**KOGARAH, New Modern Dark Brick Bungalow, 2 large bedrooms, lounge, dining, breakfast rooms, tiled kitchen, tiled bathroom, shower recess, separate laundry, beautiful leadlight windows, Morris Green fittings throughout, beautiful water views, plenty of cupboards, cement paths, a beautifully-finished job inside and out. Price £850, terms arranged. Rowe, Builder, 28 Carlton Crescent, Kogarah Bay.**

**Figure 43:** Rowe's 1936 advertisement from 'The Propeller' advertising one of his recently completed houses for sale.  
[Source: Trove]



Throughout the 1930s, Frederick Rowe continued to advertise his building services as well as sales of properties with his contact address being listed as 28 Carlton Crescent.<sup>16</sup> With private motor vehicle ownership still relatively uncommon and remaining so until the Post-War period, it is probable that Rowe used what is now the garage as a workshop and shed for the storage of his tools and equipment. The fact that Rowe specifically referenced his address in the newspaper advertisements rather than a telephone number, suggests either Rowe hadn't subscribed to a telephone service, or he deliberately wanted prospective clients to view an example of one of his completed projects, somewhat of a 'display home'.

During this time, Rowe was letting the small summerhouse as a self-contained 3-roomed cottage for 30 shillings a week.<sup>17</sup>

It was here that the Rowe's continued to reside until 1949, when Frederick died at the age of 70 at St George Hospital in May.<sup>18</sup> By November 1949, an advertisement appeared in the local newspaper *The Propeller*, advertising inspections of a '*Luxurious Waterfront Home*' describing the subject site as '*face brick and double fronted in new condition*'.<sup>19</sup> The site was said to have land of 100ft. and a frontage of 200 ft. with the additional 3-roomed self-sustained cottage.

The sales advertisement also particularly noted that the house contained a ballroom with a polished Jarrah timber floor, large verandahs, with a double garage, large workshop, boat shed and tiled and cement paths that led to the waterfront from the front entrance and that the property was '*well-laid out with palms and gardens*'.

Following Frederick's death, the property transferred into the sole ownership of his wife, who in turn was looking to sell it for immediate possession for £6,500.<sup>20</sup>



Figure 45: Aerial view of the site in 1943.  
[Source: NSW Land and Property Information, 2023 with EHC overlay]



Figure 46: Aerial view of the site in 1951.  
[Source: NSW Land and Property Information, 2023 with EHC overlay]

<sup>16</sup> Advertising (1936, May 7). *The Propeller* (Hurstville, NSW : 1911 - 1954), p. 5. Retrieved July 5, 2023, from <http://nla.gov.au/nla.news-article235632575>

<sup>17</sup> Advertising (1938, July 21). *The Propeller* (Hurstville, NSW : 1911 - 1954), p. 5. Retrieved July 5, 2023, from <http://nla.gov.au/nla.news-article235631962>

<sup>18</sup> Family Notices (1949, May 9). *The Sydney Morning Herald* (NSW : 1842 - 1954), p. 14. Retrieved July 5, 2023, from <http://nla.gov.au/nla.news-article27579312>

<sup>19</sup> Advertising (1949, November 10). *The Propeller* (Hurstville, NSW : 1911 - 1954), p. 4. Retrieved July 5, 2023, from <http://nla.gov.au/nla.news-article235267216>

<sup>20</sup> Advertising (1949, November 10).

#### 4.6 The 'Bay-Vista'

Interestingly, the sales advertisement from 1949 noted that a possible function for the "beautiful home" would be to convert it into a private hospital.<sup>21</sup>

Instead, it was purchased in 1950 by Mervyn Augustus Vollmer of Kogarah and his registered trade was a 'taxi proprietor', who was known for often using his black cabs as wedding cars.<sup>22</sup> That same year, Vollmer mortgaged the property to the Commercial Bank of Australia and within three years, advertisements started to appear in newspapers advertising "Bay-Vista" for wedding receptions and other parties.

Vollmer began using the property commercially for wedding receptions in November 1952 and from then till 1969, approximately two functions were hosted there each week.<sup>23</sup> The events would usually take place inside, and no outside wedding ceremonies were conducted on site.

These advertisements boasted the property's ballroom and noted that they had an orchestra for hire and a bride's room. This is the first documented use of the name 'Bay-Vista' for the property that over time, transformed into 'Bayview' as the property remains known to the present-day.

Mervyn Vollmer, a former member of the RAAF, was also listed as living at the property with his wife Patricia Vollmer – possibly residing in the small summerhouse / cottage on Lot 22.

A few years previously, Mr Vollmer had been in the news in a very public divorce case involving his previous wife Rona Vollmer, who discovered his affair with Mrs Patricia Harrison and took him to court. The Vollmers are listed as living at 28 Carlton Crescent for the decade of the 1950s, however by 1963, Mervyn Vollmer was listed as living in Windsor as a farmer whilst Patricia's address remains at Carlton Crescent until 1968.

In 1968, 'Bay-Vista' was sold, transferring in ownership to Elise Linda Burcher, a widow of Hurstville. Burcher did not live at the property, but did live close-by at 22a Carlton Crescent in the late 1970s and early 1980s. 'Bay-Vista' was leased to Gavin George Robert Morton and his wife Joan Mary Morton in 1968, with both the Mortons professions being recorded as 'caterers'. It is evident through newspaper



Figure 48: Advertisement for the "Bay-Vista" 1954.  
[Source: *The St George Call* (Kogarah, NSW: 1904-1957)]



Figure 47: Advertisement for the "Bay-Vista" 1981.  
[Source: The St George District Amateur Athletic Club]

<sup>21</sup> Ibid.

<sup>22</sup> NSW Land and Property Information, 2023. CT Vol. 2709 Fol. 243 Transfer F188751

<sup>23</sup> Kyriacos Kyriacou, Mary Kyriacou and Bonhomie Pty Limited v Kogarah Municipal Council and Sophie Antoniadis No. 13869/92 [1995] NSWSC 32 (8 September 1995). Early 1990s Statutory Declaration made by Mrs Patricia Vollmer.



articles regarding weddings and advertisements that the subject site continued to be used as the Bay-Vista function centre.<sup>24</sup> When Elise Burcher died in 1988, the property was sold, transferring in equal shares to her children Leslie Ronald Burcher and Norma Winifred Treloar.<sup>25</sup>

'Bay Vista' or 'Bayview' as it had also become known, was subsequently advertised for sale by auction in 1989, advertised as a 'prestige waterfront subdividable land' with 'existing use rights for Wedding receptions.'

It was purchased by Kyriacos and Mary Kyriacou who had just recently sold their wedding car hire business that same year. Several years of legal challenges ensued, with the Kyriacou's trying to continue and expand the function centre use of the site, with such a land use being otherwise prohibited in the residential zoning under the Council's planning regime. In 1991, the NSW Land and Environment Court granted injunctions, restraining the Kyriacou's from using the property for any other purpose other than as a private dwelling house.<sup>26</sup>

This likely prompted the sale of the property in 1992, when it was purchased by Demetre Dimitropoulos and in 1995, new legal proceedings were commenced against the (then) Kogarah Municipal Council and their Solicitor Sophie Antoniadis for negligence. The case of *Kyriacou v Kogarah MC (1995)* dealt with the issue of existing use rights and whether or not the Council and Council's Solicitor were negligent in misinforming the Kyriacou's about their lawful ability to use the property as a wedding reception centre. The Kyriacous were awarded costs of \$1,353, 426<sup>27</sup> and the case has since been regularly cited, having influenced reforms to conveyancing laws.

#### 4.7 Heritage listing

Towards the latter half of the 20<sup>th</sup> Century, there was increasing interest and awareness in the conservation and protection of significant buildings and places. This led to the introduction of the *Heritage Act* in 1977 and the establishment of very early heritage studies across NSW.

In the early 1990s, a heritage study was undertaken across the Kogarah Municipal Council local government area as part of the NSW National Estate Grants Program 1990/91 and 1992/93. Undertaken by Tropman and Tropman Architects in conjunction with Kogarah Municipal Council, '*Kogarah Heritage Study Stages I and II*' (the study) sought to 'identify and analyse the environmental heritage and significance of the Kogarah municipality and allow practical recommendations to be established for its conservation and management'.<sup>28</sup>

The study identified numerous individual places and sites of potential heritage significance across the Kogarah Municipal Council local government area. The study area was divided into smaller precincts, with Kogarah Bay falling within 'Area 1'.

Within Area 1, a total of 66 potential items of heritage significance were identified by the study, which represented '...examples of the development that grew along the main transport routes (Kogarah Road, now Princes Highway and Rocky Point Road) from c1850s; the later developments c1890s that emerged with the establishment of the Illawarra Railway; and the overlays of the large Federation estates c1900s-1920s as the areas close to the bay were opened up...'<sup>29</sup>

The study identified 'Bayview' at 28 Carlton Crescent, Kogarah Bay as an item of potential heritage significance, with the significance of the property being recorded as 'house & garden'.

<sup>24</sup> St George District Amateur Athletic Club, 60<sup>th</sup> Annual Report and Statement of Accounts 1981, accessed 4 July 2023, [https://sgdac.runchive.com/files/documents/annual\\_report/60th\\_Annual\\_Report.pdf](https://sgdac.runchive.com/files/documents/annual_report/60th_Annual_Report.pdf)

<sup>25</sup> NSW Land and Property Information, 2023. CT Vol. 14785 Fol. 164 & Fol.165

<sup>26</sup> Kyriacos Kyriacou, Mary Kyriacou and Bonhomie Pty Limited v Kogarah Municipal Council and Sophie Antoniadis No. 13869/92 [1995] NSWSC 32 (8 September 1995)

<sup>27</sup> Ibid.

<sup>28</sup> Tropman and Tropman Architects, October 1994. '*Kogarah Heritage Study Stages I and II*'.

<sup>29</sup> Ibid.

TROPMAN & TROPMAN ARCHITECTS  
KOGARAH HERITAGE STUDY

60  
OCTOBER 1994  
REFERENCE

GROUP 1

INVENTORY FOR KOGARAH HERITAGE STUDY

AREA 1	2217: KOGARAH, BEVERLEY PARK, KOGARAH BAY	As at October 1994
26	1.68 ENGLISH STREET HOUSE GROUP 52 English Street (house & garden) See English Street House Group GROUP 2	RN 8762/NN C5
27	1.85 186 Princes Highway, McWilliam House (house & garden)	RN 3058/NN 09/10
28	1.89 28 Carlton Crescent 'Bayview', (house & garden)	RN 2053/NN 19 RN 1698/NN 25
29	1.90 6 - 8 Victor Street, 'Undhurst Gallery'	RN 8370/NN 17

**Figure 49:** Extract of the Kogarah Heritage Study showing the identification of the site as a potential item of heritage significance.  
[Source: EHC technical library]



**Figure 50:** 'Bayview' as viewed from Kogarah Bay, c1993. This image was included in the inventory sheet for the site per the Kogarah Heritage Study 1994.

[Source: Georges River Library Local Studies Collection]

'Bayview' was subsequently identified as an item of local heritage significance on *Schedule 3 Heritage Items* of the *Kogarah Local Environmental Plan 1998*. The heritage item was identified by name, address, description of the item and classification (level of listed significance).

The heritage listing of 'Bayview' was identified as Lot 21, 28 Carlton Crescent, Kogarah Bay and described as 'house and front garden'.<sup>30</sup>

<sup>30</sup> NSW Legislation website. *Kogarah Local Environmental Plan 1998* – Schedule 3 Part 1 Heritage Items.



**Figure 51:** 'Bayview' as viewed from Carlton Crescent c1993. This image was included in the inventory sheet for the site per the Kogarah Heritage Study 1994.

[Source: Georges River Library Local Studies Collection]

#### 4.8 Late 20<sup>th</sup> century to the present-day

'Bayview' was sold in 1998 and then again in 2001, before being sold in 2010 to the present owners.

In early 2023, a Development Application was submitted to Georges River Council involving the boundary adjustment of Lots 21 and 22, tree removal, demolition of the existing detached garage structure and detached secondary dwelling on Lot 22, construction of a new dwelling house with associated in-ground swimming pool (also on Lot 22) and construction of a new hardstand carparking space and vehicular access driveway to Lot 21.

On 24 May 2023, Georges River Council made an Interim Heritage Order No.2 relating to Lot 22 of Section 15 in Deposited Plan 1963. Interim Heritage Order No.2 was published in the NSW Government Gazette No.227 on Friday 26 May 2023.

## 5.0 HERITAGE LISTING STATUS

### 5.1 Introduction

Identification of the existing statutory and non-statutory heritage listings applicable to the subject site is as follows:

### 5.2 Statutory heritage listings

Statutory registers and lists provide legal protection for heritage items. Within New South Wales, legal protection generally comes from the *Heritage Act 1977* and the *Environmental Planning and Assessment Act 1979* (EP&A 1979).

Places on the National Heritage List are protected under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act 1999).

The following identifies the statutory heritage listings applicable to 'Bayview', 28 Carlton Crescent, Kogarah Bay.

a) *UNESCO – World Heritage Register*

The site is not listed on the World Heritage Register.

b) *Australian Heritage Council – Australian Heritage Database*

The site is not listed on the Australian Heritage Database.

c) *Heritage Council of NSW – State Heritage Register*

The site is not listed on the State Heritage Register (SHR).

d) *Georges River Local Environmental Plan 2021*

The site is listed as an item of local heritage significance (Item No.1208) on Schedule 5 Environmental Heritage of the Georges River Local Environmental Plan 2021.

However, the listing of Item 1208 (described as 'House and front garden, "Bayview"') relates only to Lot 21 in Section 15 of Deposited Plan 1963, with the listing referring to the property as 28A Carlton Crescent.

The site is **not** located within a Heritage Conservation Area (under Schedule 5 of the Georges River Local Environmental Plan 2021).



**Figure 52:** Map showing the heritage status of the subject site and surrounding allotments. The subject site is denoted by red outline.  
 [Source: Georges River LEP 2021, Heritage Map HER\_011, with EHC overlay]

e) *Heritage Act 1977 – Interim Heritage Order*

The inscription of the heritage item on Schedule 5 Environmental Heritage of the *Georges River LEP 2021* identifies the heritage item as 'house and front garden' and identifies the listing as relating to 28A Carlton Crescent and only Lot 21.

This is evident in the mapping in the *Georges River LEP 2021*, showing only half the site as being heritage listed – that is, Lot 21 which contains the dwelling known as 'Bayview', the former boat shed and numerous semi-mature palm trees. All but one of the mature Canary Island Palms, together with the majority of the circulation paths, the detached garage and detached former teahouse / summerhouse are situated on Lot 22.

A Development Application was submitted to Georges River Council in early 2023 (DA2023/0025), which proposes the boundary adjustment of Lots 21 and 22, tree removal, demolition of the existing detached garage structure and detached secondary dwelling on Lot 22, construction of a new dwelling house with associated in-ground swimming pool (also on Lot 22) and construction of a new hardstand carparking space and vehicular access driveway to Lot 21.

On 24 May 2023, Georges River Council made an Interim Heritage Order ('IHO') relating to Lot 22 of Section 15 in Deposited Plan 1963. Interim Heritage Order No.2 was published in the NSW Government Gazette No.227 on Friday 26 May 2023.

In this manner, Lot 22 is afforded temporary statutory protection by the IHO, with the IHO remaining in force for a period of six (6) months from the date of publication in the NSW Government Gazette, meaning the IHO remains in place until 26 November 2023.

A copy of the IHO is appended to this report (see **Appendix C**).

### 5.3 Non-statutory heritage listings

Non-statutory registers and listings are an advisory registry of items or places, which have heritage significance.

Unlike statutory registers, non-statutory registers and lists do not provide legal protection.

The following identifies the non-statutory heritage listings applicable to 'Bayview' 28A Carlton Crescent, Kogarah Bay.

a) *Commonwealth Government – Register of the National Estate*

The site is not listed on the Register of the National Estate.

b) *National Trust of Australia – National Trust Register*

The site is not listed on the National Trust Register.

c) *Royal Australian Institute of Architects – 20<sup>th</sup> Century Buildings Register*

The site is not listed on the 20<sup>th</sup> Century Buildings Register.

d) *Art Deco Society*

The site is not listed on the Register.



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e) *Section 170 Register*

The site is not owned by a government agency; therefore it is not listed on any s170 Register.

**5.4 Items of heritage significance within the vicinity of the site**

For the purposes of this assessment, the term 'in the vicinity' is taken to be any item or items that:

- i) Are within an approximate 100m radius of the boundaries of the subject site.
- ii) Have a physical relationship to the subject site i.e., adjoin the property boundary.
- iii) Are identified as forming a part of a group i.e., a row of terrace houses.
- iv) Have a visual relationship to and from the site.
- v) Are a combination of any of the above.

In applying the above criteria, there are no items of local heritage significance (listed under Schedule 5 of the *Georges River LEP 2021*) within the vicinity of the subject site.

There are no items of State heritage significance (listed on the State Heritage Register (SHR) under the *Heritage Act 1977*) within the vicinity of the subject site.

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HERITAGE SIGNIFICANCE ASSESSMENT | 'Bayview' 28 Carlton Crescent, Kogarah Bay

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## 6.0 EXISTING HERITAGE SIGNIFICANCE ASSESSMENTS

### 6.1 Existing description of the heritage item – 'House and front garden, "Bayview"'

The NSW State Heritage Inventory (SHI No.1870558) (see **Appendix B**) provides a physical description of 'House and front garden, "Bayview"' as follows:

*'Face brick with stucco gables. Lead light windows. Tiled Roof. Mature plantings of phoenix canaviensis.'* [sic]

### 6.2 Existing Statement of Cultural Significance – 'House and front garden, "Bayview"'

The NSW State Heritage Inventory (SHI No.1870558) (see **Appendix B**) provides a Statement of Cultural Significance of 'House and front garden, "Bayview"' as follows:

*'The bungalow located on the water represents a transition of people with a changing perception of the dirty city, to a healthy area that provided water facilities such as boating and fishing etc close at hand.*

*It is an excellent example of a Federation Californian Bungalow and garden.'*

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## 7.0 HERITAGE CURTLAGE ASSESSMENT

### 7.1 Introduction to heritage curtilage

The NSW Heritage Council publication *Heritage Curtilages*<sup>31</sup> defines 'curtilage' as the area of land surrounding an item or area of heritage significance, which is essential for retaining and interpreting its heritage significance.

This area is most commonly, but not always, the lot or lots on which the item is situated and is usually, but not always, restricted to land in the same ownership as the item.

It is important to note that the heritage curtilage for an item or place of heritage significance does not preclude development within the defined heritage curtilage boundary, but requires particular care in the consideration of the nature and extent of such development.

A suitable heritage curtilage should contain all elements, structures and features that contribute to the heritage significance of the site, including, but not limited to:

- a) The historic site boundaries;
- b) Significant buildings and structures including their settings;
- c) Spatial relationships between buildings, landscape features and other important structures;
- d) Significant or important views both to and from the place; and
- e) Any items of moveable heritage significance.

The Australia ICOMOS *Burra Charter 2013* places increased emphasis on the importance of the settings of cultural heritage places, which states that:

*'Conservation requires the retention of an appropriate visual setting and other relationships that contribute to the cultural significance of the place.'*

*New construction, demolition, intrusions, or other changes that would adversely affect the setting or relationship are not appropriate' (Article 8).*

The Heritage Council of NSW publication *Heritage Curtilages*<sup>32</sup> identifies four different types of heritage curtilages:

TABLE 1 – Heritage curtilage definitions	
Heritage Curtilage Type	How is the heritage curtilage defined?
Lot boundary heritage curtilage	The legal boundary of the allotment is defined as the heritage curtilage. The allotment will in general contain all related features, for example outbuildings and gardens within its boundaries.
Reduced heritage curtilage	An area less than total allotment is defined as the heritage curtilage, and is applicable where not all parts of a property contain places associated with its significance.
Expanded heritage curtilage	The heritage curtilage is actually larger than the allotment, and is predominantly relevant where views to and/or from a place are significant to the place.
Composite heritage curtilage	The heritage curtilage relates to a larger area that includes a number of separate places, such as heritage conservation areas based on a block, precinct or whole village.

Subsequently, care must be taken in the development and management of the surroundings of a significant cultural heritage place.

<sup>31</sup> NSW Heritage Office and the Department of Urban Affairs and Planning. 1996. 'Heritage Curtilages'  
<sup>32</sup> Ibid.



## 7.2 Heritage curtilage assessment

The site is presently identified as an item of local heritage significance, listed on Schedule 5 of the *Georges River LEP 2021*.

The existing heritage listing relates to Lot 21 of Section 15 in Deposited Plan 1963, which means that the heritage listing is defined by and relates to, the entirety of Lot 21, or in other words, defined by the lot boundaries.

The existing heritage listing of the site (Lot 21) references the house and 'front garden', implying that the landscaped gardens extending over onto Lot 22 and even at the rear of the dwelling on Lot 21, are of lesser significance, or no significance at all.

An examination of the existing front garden in the conventional sense of the word, that is, the landscaped area between the street-facing front boundary and the street-facing front elevation of the dwelling, comprises a simple landscaped area, mostly open grass with a dense hedge that delineates the front boundary, of which is considered a contemporary planting to the site. One of the mature Canary Island Palms are situated within the front garden areas immediately in front of the dwelling, however there are no other notable or distinguishing features within the 'front garden' area. Consequently, the listing of the 'front garden' is erroneous as it fails to capture the substantial gardens that envelope the dwelling from the front elevation, wrapping around the northeastern side (Lot 22) and back to the rear of Lot 21.

It is evident from a visual examination of the site together with historical land titles, that the site was always intended to be comprised of both Lot 21 and Lot 22, evident in the original purchase of two adjoining lots and continued ownership of the same, together with the deliberate regard the dwelling has for its broader landscaped setting and visual relationship with the ancillary structures. Both Lot 21 and Lot 22 rely on each other to complete the historical narrative of the site, retain the original design intent, and protect the setting, significant fabric and landscaped features as well as physical and visual relationships.

The deliberate design of the dwelling and arrangement of ancillary structures is evident in 1937 and 1943 aerial photography, from which the following key observations can be made:

- a) The extant structures and landscaped setting (inclusive of the numerous Canary Island Palms) on the site display a high degree of integrity, having been largely unaltered since the early inception of the site, whereby having historical significance.
- b) The dwelling, boatshed, garage and summerhouse are each positioned in each of the four corners of the site, creating a large landscaped garden area, with interconnecting pathways.
- c) The footprint of the dwelling is substantially larger by comparison to other extant dwellings in the street at the time, demonstrating a deliberate and clear intent for a more 'substantial' dwelling and garden setting, and the design of the dwelling to have a strongly defined side elevation that exploits views over the garden setting.

## 7.3 Recommended heritage curtilage

The curtilage assessment establishes that an expanded heritage curtilage (defined by the existing allotment boundaries, but comprising both Lot 21 and Lot 22 in Section 15 of Deposited Plan 1963) is appropriate in any future management of the site as a heritage item, so as to preserve the context, setting and visual and physical relationships.



**Figure 53:** Recommended lot-boundary heritage curtilage for 'Bayview'.  
[Source: NSW Land and Property Information, 2023 with EHC overlay]

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## 8.0 COMPARITIVE ANALYSIS

### 8.1 Introduction

Comparative analysis of the site is an important consideration in the assessment of cultural significance (see Section 9), helping to determine whether a place is 'rare' or 'representative' and helps to locate it within patterns of history or activity.

The level of design and condition integrity may impact upon how a site compares with other similar examples.

It is important that the comparative analysis is based upon selected examples that display similarities in terms of context of place, or share key features, use, characteristics, attributes, style, association and / or historic themes.

This section of the report examines 'Bayview' in the context of place, with the following selection criteria applied:

- Early 20<sup>th</sup> century Inter-War period waterfront housing with ancillary structures such as boat sheds in the Georges River Council local government area and built following speculative residential subdivision (i.e not built pre-dating the subdivision of the surrounding allotments).
- Houses built by Frederick Rowe in the surrounding locality.

#### 8.1.1 Selection of comparative examples

Given the lineal distance of waterfront land within the Georges River Council local government area, there are many residential properties that benefit from direct waterfrontage. A review of contemporary aerial photography shows numerous waterfront properties with boatsheds and other similar ancillary structures, meaning waterfront residential properties with a boatshed and other ancillary structures are not uncommon.

Distilling this, a search of the NSW State Heritage Inventory (SHI) and the various heritage studies of the Georges River Council local government area (LGA), identifies numerous heritage items that are residential properties enjoying a waterfront situation. These range from:

- 'Carss Cottage' in Carss Park, which is a late 19<sup>th</sup> century Victorian era property [Item No.145]
- 'Palmyra' in Vista Street, Sans Souci, which is an early 20<sup>th</sup> century Federation period dwelling [Item No.1310].
- 'House and garden' in Stuart Street, Blakehurst, which is a mid-20<sup>th</sup> century dwelling [Item No.114].
- 'Cuzco' in The Promenade, Sans Souci, which is an early 20<sup>th</sup> century Inter-War bungalow [Item No.1309].

#### 8.1.2 Early 20<sup>th</sup> century Inter-War period waterfront housing in Georges River

Of the search results, 'Cuzco' at 169 The Promenade, Sans Souci [Item No.1309] is the only example of an early 20<sup>th</sup> century Inter-War Bungalow that has ancillary structures and garden setting listed and is a waterfront property.

A comparative analysis of the selected example is provided below.

##### a) 'Cuzco' – 169 The Promenade, Sans Souci

'Cuzco' is a fine representative example of a substantially intact single-storey Inter-War Californian Bungalow, notable for its overall design, contemporary garage and original brick and iron front boundary fence.

Situated on a corner allotment, the site has visual prominence in the streetscape, with a hatchet-shaped allotment extending to the waterfront where the property has direct access to Kogarah Bay. The present subdivision pattern evidences that the site has been further subdivided, having originally had wider frontage to Kogarah Bay.

The dwelling is described as making a positive contribution to the streetscape and retains many original distinctive features, such as the gabled roof form with large gables presenting to the side elevations, facebrick walls in a stretcher bond and of dark 'liver' bricks to the front elevation and common brick to the remainder of the dwelling, with a rendered stucco base to the walls.

The dwelling retains a garden setting, with numerous established plantings, including palms and has a defining masonry and iron fence along the front boundary.

TABLE 2 – Comparative analysis evaluation		
Indicator	Response	Similar ✓/X
Class of building	'Cuzco' is a detached style dwelling	✓
Level of significance	'Cuzco' is identified as an item of local heritage significance	✓
Context	'Cuzco' is situated on a corner allotment	X
Allotment	'Cuzco' is situated on a single allotment	X
Location	'Cuzco' has waterfront access, but via a small access handle	✓
Design integrity	'Cuzco' is considered substantially intact	✓
Condition	'Cuzco' is considered in very good repair	✓
Setting	Set within an established garden setting	✓
Use	'Cuzco' maintains a residential land use	✓
Remaining structures	Detached garage	✓
Architectural Style	Inter-War Californian Bungalow	✓
Materiality	Face brick with terracotta tile roofing	✓
Scale	Single storey with large building footprint	✓

'Cuzco' displays similarities to 'Bayview', however there are a number of distinct differences. 'Cuzco' is situated on a single allotment, which evidences previous re-subdivision and subsequent development of the intervening allotment, whereby 'Cuzco' no longer has uninterrupted views and relationship to Kogarah Bay. 'Bayview' is situated over two allotments and retains the original subdivision pattern from 1911, together with its uninterrupted views and relationship to Kogarah Bay.

'Cuzco' is considered a very fine and representative example of the Inter-War Californian Bungalow architectural style, yet does not exhibit the same level of overt detailing and embellishment found in 'Bayview'. In particular, 'Cuzco' employs the traditionally more expensive 'liver bricks' to the front elevation with common bricks used on all other elevations of the dwelling, whereas 'Bayview' is consistently comprised of dark liver bricks on all full elevations.

'Cuzco' has an asymmetrical composition, which is similar to 'Bayview', but has a loft level within the roof form, whereas 'Bayview' is single storey. 'Cuzco' has also been modified from its original form, with sympathetic additions extending off the rear (waterfront) elevation, whereas 'Bayview' retains a high degree of design integrity, having not previously been extended horizontally or vertically.

The garden setting of 'Cuzco' complements the dwelling, though much of the space has been lost from subdivision and the remaining garden areas are largely at the front of the dwelling and do not contain any significant or notable early plantings. There are two extant Cocos Palms, which appear to have been planted in the late 20th century.

While 'Cuzco' is considered a fine example of its style and class and is identified as a listed item of local heritage significance in its own right, 'Cuzco' has distinct differences from 'Bayview',

amplifying the rarity and unique and uncommon characteristics of 'Bayview' and its garden setting.

### 8.1.3 Houses built by Frederick Rowe

Section 4 of this report establishes the historical context of 'Bayview', which evidences that the dwelling was built c1928 by local builder Frederick Rowe.

Frederick Rowe is documented as having built numerous houses and commercial buildings in the Kogarah locality, with 28 Carlton Crescent, Kogarah Bay listed not only as his place of residency (per Sands Directories and land title records) but also as his business address (per newspaper advertisements).

Known examples of Rowe's residential works include:

- i) A house at 9 Carlton Crescent, Kogarah Bay (demolished c2015), which is where Rowe is recorded as residing prior to building 'Bayview' (see Figure 42 of this report).
- ii) Two houses in Torwood Street, Sans Souci (possibly No.9 and No.15).
- iii) A house in Ramsgate Road, Beverley Park (possibly No.50).
- iv) A house in Park Road, Kogarah Bay (possibly No.100).

None of the above listed examples are identified as listed items of heritage significance and a detailed historical analysis of each property has not been undertaken so they cannot be cogently attributed to the work of Rowe.

Each of the above listed examples display characteristics attributed to the early 20<sup>th</sup> century Inter-War period and of the Californian Bungalow architectural style, with a mix of detached style and semi-detached dwellings.

The former dwelling at 9 Carlton Crescent displayed a remarkable resemblance to 'Bayview', being a near exact mirror in composition, with a single large and elaborately detailed gable presenting to the front and rear, three-sided bay windows on the side elevation and a deep verandah framed by bullnosed brick balustrade and scalloped edges. The design integrity of 9 Carlton Crescent however, had been diminished by what appears a later conversion of the roof void for an attic level, with large dormer windows punctuating the roof planes. The external brick walls had also been rendered.

9 Carlton Crescent was also situated on a single allotment and occupied a corner site, making it visually distinctive in the street, but did not enjoy the deep landscaped garden setting as exists at 'Bayview'. Furthermore, 9 Carlton Crescent did not include any ancillary structures such as a shed or garage nor did it have direct water frontage. It would nonetheless, likely have enjoyed some water views being situated on the higher side of Carlton Crescent.

The other known examples of Rowe's work each display similarities in themselves, particularly through the large single gable presenting to the street front elevation, which is a consistent (and possibly a 'signature') design element evident in each of Rowe's domestic work. However, a consistent feature of the other examples is that they are modest sized dwellings, typically situated on a single allotment. None of the other examples enjoy waterfrontage nor do they include ancillary structures that demonstrate a deliberate regard to the dwelling. They are each considered typical but unremarkable examples of the style and class.

### 8.1.4 Summary observations of the comparative analysis

From the comparative analysis, there is only one other known example of an early 20<sup>th</sup> century Inter-War Californian Bungalow with water frontage and ancillary structures that demonstrate a deliberate regard to the dwelling.

As discussed above, the example of 'Cuzco' at 169 The Promenade, Sans Souci, shows some similarities to 'Bayview', however is more dissimilar than it is similar, with 'Bayview' displaying superiority in its design, architectural embellishments and detailing. 'Bayview' retains its original boatshed, garage and summerhouse, expanding over two adjoining allotments and with those lots together retaining their original c1911 configuration. 'Bayview' has also retained an uninterrupted view and relationship with Kogarah Bay.

'Bayview' retains its original established landscaped garden, while 'Cuzco' has been reduced and diminished from subdivision. 'Cuzco' also does not contain significant tree plantings or other landscape features. Unlike 'Bayview', 'Cuzco' has a higher degree of visual prominence in the streetscape, being situated on a corner allotment and not obscured by existing vegetation.

In considering other known domestic work by Frederick Rowe, while the selected examples cannot be cogently attributed to Frederick Rowe, they do show similarities and consistencies which strongly hint at being Rowe's work. The former dwelling at 9 Carlton Crescent (demolished c2015) is the only other known example to show remarkable resemblance to 'Bayview', being a near mirror image of the dwelling.

Despite the similarities between 9 and 28 Carlton Crescent, 9 Carlton Crescent is more restrained in its detailing, lacking the large distinctive bay windows and numerous other embellishments that have been employed at 'Bayview', such as the stucco render and the bas-relief plaster panels. However, imagery available online from a c2011 real estate sales campaign for 9 Carlton Crescent, showed that the dwelling had elaborately detailed leadlight glass windows and tessellated tile flooring to the verandah. Internally, timber floors were laid in a herringbone pattern, with the dwelling displaying a higher-than-usual degree of craftsmanship and detailing.

The historical analysis in Section 4 documents that Rowe lived at 9 Carlton Crescent before relocating to 28 Carlton Crescent and it is thought that Rowe may have built 9 Carlton Crescent as a prototype to what would be built at 28 Carlton Crescent.

'Bayview' was also likely used by Rowe to showcase his craftsmanship to prospective clients, exhibiting an unequivocal superiority to the other examples of his work and demonstrates features which are inconsistent with the numerous indicators applied, appearing to be a rare example of its style and class.

The size and integrity of the site makes it particularly unique in comparison to other similar sites selected. Each of the other examples lack the integrity of their early 20<sup>th</sup> century curtilage and the physical and visual connections with the waterfront, which is demonstrated in 'Bayview'. 'Bayview' retains its original 1911 allotment boundaries and is unique in that the placement of the extant structures in all four corners of the cumulative site, demonstrates a deliberate intent for the site to have been developed as two adjoining lots. None of the other examples retain, or ever had, a separate boatshed, garage and summerhouse, nor do any of the other sites have an expansive garden setting.

'Bayview' is considered easily understood as a representation of its early 20<sup>th</sup> century history and appears to be rare and unique within the local context, having no known equal.

## 9.0 ASSESSMENT OF CULTURAL SIGNIFICANCE

### 9.1 Introduction

Within New South Wales, there are different types of statutory heritage listings for local, State and national heritage items.

A property is considered a 'heritage item' if it is:

- Listed in the heritage schedule of a local Council's Local Environmental Plan (LEP) or a State Environmental Planning Policy (SEPP); or
- Listed on the State Heritage Register (SHR), a register of places and items of particular importance to the people of NSW; or
- Listed on the National Heritage List established by the Australian Government to list places of outstanding heritage significance to Australia.

### 9.2 Identifying heritage significance

Assessments of heritage significance aim to identify whether a place has heritage values, establish what those values may be, and determine why the item or place (or element of a place) may be considered important and valuable to the community.

The terms 'heritage value' and 'heritage significance' are broadly synonymous with 'cultural significance', which is the term that the Burra Charter uses to mean '*aesthetic, historic, scientific or social value for past, present or future generations*'<sup>33</sup>.

These definitions are broadly consistent with the definitions used and adopted by other organisations including the Australian Heritage Council, the National Trust of Australia (NSW) and the Heritage Division (Office of Environment and Heritage).

Assessments of cultural significance rely on an understanding and analysis of these values, which have been derived from an examination of the context of the item or place, the way in which the extant fabric demonstrates function, associations and aesthetic qualities. An understanding of the historical context of an item or place and consideration of the physical evidence are therefore, key components in the heritage significance assessment.

In order to make informed decisions regarding the ongoing use and future management of 'Bayview', it is necessary to establish the nature of the significance involved.

Article 26.1 of the *Burra Charter* states that:

*'Work on a place should be preceded by studies to understand the place which should include analysis of physical, documentary oral and other evidence, drawing on appropriate knowledge, skills and disciplines'.*

### 9.3 Methodology

The assessment of cultural significance follows the methodology recommended in *Assessing Heritage Significance*<sup>34</sup> by using the NSW Heritage Assessment Criteria and is consistent with the guidelines as set out in the *Australia ICOMOS Charter for the Conservation of Places of Cultural Significance (The Burra Charter 2013)*<sup>35</sup>.

<sup>33</sup> Australia ICOMOS, 2013. '*The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance*', 2013.

<sup>34</sup> NSW Heritage Branch, 2001. '*Assessing Heritage Significance*'.

<sup>35</sup> Australia ICOMOS, 2013. '*Burra Charter*'.



An item or place will be considered to be of heritage significance if it meets at least one or more of the following criteria:

TABLE 3 – Significance Assessment Criteria

Criterion:	Significance theme:	Explanation:
<b>Criterion (a)</b>	Historical	An item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area).
<b>Criterion (b)</b>	Historical association	An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area).
<b>Criterion (c)</b>	Aesthetic	An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area).
<b>Criterion (d)</b>	Social	An item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons.
<b>Criterion (e)</b>	Technical / Research	An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area).
<b>Criterion (f)</b>	Rarity	An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area).
<b>Criterion (g)</b>	Representative	An item is important in demonstrating the principal characteristics of a class of NSW's (or the local area's) cultural or natural places or cultural or natural environments.

It is important to note that only one of the above criteria needs to be satisfied for an item or place to have heritage significance. Furthermore, an item or place is not excluded from having heritage significance because other items with similar characteristics have already been identified or listed.

#### 9.4 Assessment against NSW Heritage Assessment Criteria

##### 9.4.1 Criterion (a) – Historical Significance

An item or place is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area).

TABLE 4 – Criterion (a) – Historical Significance

Guidelines for Inclusion	✓/X	Guidelines for Exclusion	✓/X
• Shows evidence of a significant human activity.	✓	• Has incidental or unsubstantiated connections with historically important activities or processes.	X
• Is associated with a significant activity or historical phase.	✓	• Provides evidence of activities or processes that are of dubious historical importance.	X
• Maintains or shows the continuity of a historical process or activity.	✓	• Has been so altered that it can no longer provide evidence of a particular association.	X

#### Assessment of Significance

- 'Bayview' at 28 Carlton Crescent, Kogarah Bay, is of historical significance at the local level as it evidences early residential development in Kogarah Bay following the speculative subdivisions of earlier land grants into residential allotments and the resulting residential development that ensued.
- 'Bayview' is historically significant as it evidences the changing attitudes to living in the city and established populated areas, preferring instead to develop the outer suburbs in a desire for a healthier lifestyle and environment.



- 'Bayview' is historically significant as it retains strong evidence of the original 1911 subdivision pattern, together with its original boathouse, garage / workshop and summerhouse, together with much of the original landscape plantings and theme, which allows the property to be easily understood as a representation of its early 20<sup>th</sup> century history.

'Bayview' satisfies this criterion in demonstrating historical significance at a local level.

#### 9.4.2 Criterion (b) – Historical Association Significance

An item or place has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area).

TABLE 5 – Criterion (b) – Historical Association Significance

Guidelines for Inclusion	✓/X	Guidelines for Exclusion	✓/X
<ul style="list-style-type: none"> <li>Shows evidence of a significant human occupation.</li> </ul>	✓	<ul style="list-style-type: none"> <li>Has incidental or unsubstantiated connections with historically important people or events.</li> </ul>	X
<ul style="list-style-type: none"> <li>Is associated with a significant event, person or group of persons.</li> </ul>	✓	<ul style="list-style-type: none"> <li>Provides evidence of people or events that are of dubious historical importance.</li> </ul>	X
		<ul style="list-style-type: none"> <li>Has been so altered that it can no longer provide evidence of a particular association.</li> </ul>	X

#### Assessment of Significance

- 'Bayview' is of historical associative significance for its strong association with builder, Frederick Rowe, who is attributed with building the dwelling and ancillary structures in or about 1928 as his own home and place of business. Rowe is attributed with having built numerous houses in and around Kogarah throughout the 1920s and 1930s period.
- 'Bayview' was also likely used by Rowe to showcase his craftsmanship to prospective clients, exhibiting an unequivocal superiority to the other examples of his work and demonstrates features which are unparalleled in his other work, with a high degree of ornamentation and quality craftsmanship.

'Bayview' satisfies this criterion in demonstrating historical associative significance at a local level.

#### 9.4.3 Criterion (c) – Aesthetic Significance

An item or place is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area).

TABLE 6 – Criterion (c) – Aesthetic Significance

Guidelines for Inclusion	✓/X	Guidelines for Exclusion	✓/X
<ul style="list-style-type: none"> <li>Shows or is associated with, creative or technical innovation or achievement.</li> </ul>	✓	<ul style="list-style-type: none"> <li>Is not a major work by an important designer or artist.</li> </ul>	X
<ul style="list-style-type: none"> <li>Is the inspiration for a creative or technical innovation or achievement.</li> </ul>	✓	<ul style="list-style-type: none"> <li>Has lost its design or technical integrity.</li> </ul>	X
<ul style="list-style-type: none"> <li>Is aesthetically distinctive.</li> </ul>	✓	<ul style="list-style-type: none"> <li>Its positive visual or sensory appeal or landmark and scenic qualities have been more than temporarily degraded.</li> </ul>	X
<ul style="list-style-type: none"> <li>Has landmark qualities.</li> </ul>	✓	<ul style="list-style-type: none"> <li>Has only a loose association with a creative or technical achievement.</li> </ul>	X
<ul style="list-style-type: none"> <li>Exemplifies a particular taste, style or technology</li> </ul>	✓		

#### Assessment of Significance

- 'Bayview' exhibits quality craftsmanship with overt detailing and embellishments, making it a fine and highly distinctive example of an early 20<sup>th</sup> century Inter-War Californian Bungalow.
- The aesthetic qualities and visual distinctiveness of 'Bayview' is directly enhanced by the double-allotment width, which creates a generously proportioned garden setting with numerous significant landscape plantings extant, protected and reinforced through the deliberate positioning of the dwelling, boatshed, garage / workshop and summerhouse to sit in each of the four corners of the site.
- The sensory appeal and aesthetic values of the site are also directly enhanced by uninterrupted wide sweeping waterfront views and relationship to Kogarah Bay at the rear, with the original allotment configuration having been retained.
- The incorporation of multiple large bay windows and verandahs to the dwelling evidence a deliberate design approach to celebrate the contrived aesthetic values of the expansive garden setting and water views.
- 'Bayview' and its garden setting is visually distinctive in the street and broader landscape through the uncharacteristically wide presentation to Carlton Crescent, with the property distinguished by the large collection of mature Canary Island Palms.
- 'Bayview' exhibits a high degree of aesthetic quality that is unparalleled in other similar Inter-War period bungalows, with 'Bayview' retaining its original elements, site features, garden setting, subdivision pattern and visual and physical relationships. This makes 'Bayview' visually distinctive and an exemplar of its style and class because of its setting.

'Bayview' satisfies this criterion in demonstrating aesthetic significance at a local level.

#### 9.4.4 Criterion (d) – Social Significance

An item or place has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons.

TABLE 7 – Criterion (d) – Social Significance

Guidelines for Inclusion	✓/X	Guidelines for Exclusion	✓/X
<ul style="list-style-type: none"> <li>Is important for its associations with an identifiable group.</li> </ul>	✓	<ul style="list-style-type: none"> <li>Is only important to the community for amenity reasons.</li> </ul>	X
<ul style="list-style-type: none"> <li>Is important to a community's sense of place.</li> </ul>	✓	<ul style="list-style-type: none"> <li>Is retained only in preference to a proposed alternative.</li> </ul>	X

#### Assessment of Significance

- 'Bayview' contributes to the community's sense of place, being a visually distinctive feature of the local landscape.
- Having functioned throughout the 1950s until the late 1980s as a function centre, hosting weddings, parties and other social events, 'Bayview' is likely to have social significance and importance to the local and broader community, particularly those who attended social events at the property.

'Bayview' satisfies this criterion in demonstrating social significance at a local level.

#### 9.4.5 Criterion (e) – Technical / Research Significance

An item or place has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area).

TABLE 8 – Criterion (e) – Technical / Research Significance

Guidelines for Inclusion	✓/X	Guidelines for Exclusion	✓/X
• Has the potential to yield new or further substantial scientific and/or archaeological information	✓	• The knowledge gained would be irrelevant to research on science, human history or culture.	X
• Is an important benchmark or reference site or type.	✓	• Has little archaeological or research potential.	X
• Provides evidence of past human cultures that is unavailable elsewhere.	X	• Only contains information that is readily available from other resources or archaeological sites.	✓

#### Assessment of Significance

- 'Bayview' exhibits an unusually high degree of ornamentation and quality craftsmanship, with numerous distinguishing, unusual and uncommon features that suggest Rowe used the dwelling to showcase his craftsmanship to prospective clients.
- The dwelling exhibits construction techniques and features which are uncommon to the style and class of domestic building, particularly evidenced in the large floor area and matching ceiling span of the formal lounge room, being uninterrupted by support columns or partition walls and the innovative use of the splayed ceiling panelling to follow the roof profile and maximise the perceived and actual spaciousness internally.
- The high-quality craftsmanship combined with the incorporation of uncommon construction techniques and features, makes 'Bayview' an important benchmark and reference site.

'Bayview' satisfies this criterion in demonstrating technical / research significance at a local level.

#### 9.4.6 Criterion (f) – Rarity

An item or place possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area).

TABLE 9 – Criterion (f) – Rarity Significance

Guidelines for Inclusion	✓/X	Guidelines for Exclusion	✓/X
• Provides evidence of a defunct custom, way of life, or process.	✓	• Is not rare.	X
• Demonstrates a process, custom or other human activity that is in danger of being lost.	X	• Is numerous but under threat.	X
• Shows unusually accurate evidence of a significant human activity.	✓		
• Is the only example of its type.	✓		
• Demonstrates designs or techniques of exceptional interest.	✓		
• Shows rare evidence of a significant human activity important to the community	✓		

### Assessment of Significance

- 'Bayview' is attributed to the work of local builder Frederick Rowe, having been built c1928. Rowe is credited with having built numerous houses around Kogarah during the 1920s and 1930s period, however 'Bayview' is considered his best and most distinguished work.
- Other examples of Rowe's domestic work display similarities in themselves, yet 'Bayview' exhibits an unparalleled superiority in the quality of craftsmanship and detailing, containing numerous design features that are unique to 'Bayview', including the distinctive large bay windows and curved balcony as well as many distinct internal features, including the elaborate leadlight windows, timber flooring and ceiling panelling.
- 'Bayview' is a highly intact early 20<sup>th</sup> century residential property which displays deliberate design intent to address the expansive garden setting and waterfrontage, and is both unusual and uncommon as it is spread across two adjoining allotments, having been originally purchased together and continually maintained as such.
- 'Bayview' evidences early 20<sup>th</sup> century marine activity, including a boatshed and summerhouse, both built right on the water's edge and the retention of the boatshed, garage / workshop and summerhouse is exceptionally rare in the local context, demonstrating rarity significance accordingly.

'Bayview' satisfies this criterion in demonstrating significance through the item's rarity at a local level.

#### 9.4.7 Criterion (g) - Representativeness

An item or place is important in demonstrating the principal characteristics of a class of NSW's:

- Cultural or natural places; or
- Cultural or natural environments (or a class of the local area's cultural or natural places; or cultural or natural environments.).

TABLE 10 – Criterion (g) – Representative Significance

Guidelines for Inclusion	✓/X	Guidelines for Exclusion	✓/X
• Is a fine example of its type.	✓	• Is a poor example of its type.	X
• Has the principal characteristics of an important class or group of items.	✓	• Does not include or has lost the range of characteristics of a type.	X
• Has attributes typical of a particular way of life, philosophy, custom, significant process, design, technique or activity.	✓	• Does not represent well the characteristics that make up a significant variation of a type.	X
• Is a significant variation to a class of items.	✓		
• Is part of a group which collectively illustrates a representative type.	✓		
• Is outstanding because of its setting, condition or size.	✓		
• Is outstanding because of its integrity or the esteem in which it is held.	✓		

### Assessment of Significance

- 'Bayview' is described as a single storey dwelling, which displays characteristics attributed to the early 20<sup>th</sup> century Inter-War period and of the Californian Bungalow architectural style.
- Built c1928 by local builder Frederick Rowe, the dwelling exhibits a high degree of design integrity, having been little altered. It exhibits fine craftsmanship, with exceptional detailing that is

uncommon to the architectural style and domestic scale of the building. 'Bayview' is considered of remarkable quality and detailing, making it of high architectural interest and value as an excellent representative example of the style and class.

- The dwelling is complemented by a freestanding boatshed, garage / workshop and summerhouse, each of which exhibit similarity in design and language, having each been constructed around the same time. The high degree of design integrity and intactness of each of the structures make an important group setting of outstanding quality, enhanced by the retention of the original allotment boundaries and garden setting. Collectively, the site is representative of an early 20<sup>th</sup> century waterfront property.
- The garden setting spread over two adjoining allotments continue to communicate the early functions and relationships, retaining many original landscape plantings including the Canary Island Palms, pathways and front fence.

'Bayview' satisfies this criterion in demonstrating representative significance at a local level.

## 9.5 Summary level of significance

The following table summarises the assessed level of significance against each criterion for assessing heritage significance:

TABLE 11 – Assessed levels of significance

Criterion	What is the assessed level of significance?
Criterion (a) – Historical Significance	LOCAL
Criterion (b) – Historical Association Significance	LOCAL
Criterion (c) – Aesthetic Significance	LOCAL
Criterion (d) – Social Significance	LOCAL
Criterion (e) – Technical / Research Significance	LOCAL
Criterion (f) – Rarity Significance	LOCAL
Criterion (g) – Representativeness Significance	LOCAL
<b>Overall assessed level of cultural significance</b>	<b>LOCAL</b>

## 9.6 Statement of Cultural Significance

A statement of cultural significance is a declaration of the value and importance given to a place or item, by the community. It acknowledges the concept of a place or item having an intrinsic value, which is separate from its economic value.

Based upon the assessment of cultural significance in Section 9 above, a Statement of Cultural Significance has been developed as follows:

*'Bayview' at 28 Carlton Crescent, Kogarah Bay, is an Inter-War period waterfront property, containing the main dwelling known as 'Bayview', together with its original detached boatshed, garage / workshop and summerhouse – all of which have been designed in the Inter-War Californian Bungalow architectural style and exhibit deliberate relationship to each other.*

*The property is of historical importance as it evidences early residential development in Kogarah Bay and the changing attitudes to living in the city, instead preferring the outer suburbs in a desire for a healthier lifestyle and environment. This is further demonstrated through the original purchase of two adjoining lots to create a high-quality waterfront property.*

Constructed c1928 by local builder Frederick Rowe as his place of residence and likely used to showcase his fine craftsmanship to prospective clients, the house exhibits exceptionally fine craftsmanship and detailing that is uncommon to the architectural style and domestic scale of the building. This detailing is unparalleled in Rowe's other domestic work, making 'Bayview' arguably his best and most distinguished work.

'Bayview' is considered an important benchmark and reference site for the incorporation of many distinguishing and unique features uncommon to the architectural style and domestic scale of building, notably the large ceiling span of the formal lounge room, being uninterrupted by support columns or partition walls and elaborately detailing internal flooring, ceilings and leadlight windows.

Each of the buildings retain a high degree of design integrity, having been little altered and collectively, the group is considered of outstanding quality, making it of high architectural interest and value as an excellent representative example of an early 20<sup>th</sup> century Inter-War period waterfront property.

The property has high aesthetic value and significance, being visually distinctive and unique for it comprises two adjoining allotments that create a generously proportioned and well-established garden setting with numerous original landscape plantings extant, including a large collection of Canary Island Palms. The garden setting has been self-protected and reinforced through the deliberate positioning of the dwelling, boatshed, garage / workshop and summerhouse to sit in each of the four corners of the site. The deliberate placement of the large bay windows in the dwelling provides a commanding and pleasant outlook over the expansive garden setting and wide water frontage.

'Bayview' and its setting is considered an exemplar of its style and class, retaining its original lot configuration and proportion and is strongly associated with water activity, evident through the boatshed and summerhouse and the uninterrupted wide sweeping waterfront views and relationship to Kogarah Bay.

Collectively, the site is considered a rare and substantially intact example of an early 20<sup>th</sup> century Inter-War period waterfront property.

'Bayview' has some social significance having been used throughout the 1950s until the late 1980s as a function centre, hosting weddings, parties and other social events.



## 10.0 CONCLUSION AND RECOMMENDATIONS

### 10.1 Conclusion

This Heritage Significance Assessment has been prepared at the request of Georges River Council to establish the cultural heritage significance of the dwelling 'Bayview' and its setting at 28 Carlton Crescent, Kogarah Bay.

The objective of this report is to analyse, assess and establish the heritage values and cultural significance of 'Bayview' and to provide recommendations on the future management of the place.

'Bayview' is presently identified as an item of local heritage significance and is listed on Schedule 5 Environmental Heritage of the *Georges River Local Environmental Plan 2021*.

The item name on Schedule 5 of the *Georges River LEP 2021* describes the item as 'House and front garden, "Bayview"' and identifies the site as Lot 21 at 28A Carlton Crescent, Kogarah Bay. This is supported by the mapping in the *Georges River LEP 2021*, showing only half the site as being heritage listed – that is, Lot 21 which contains the dwelling, the former boat shed and numerous semi-mature palms and shrubbery. All but one of the mature Canary Island Palms, together with the majority of the circulation paths, the detached garage and detached former teahouse / summerhouse are situated on Lot 22.

It is evident from a visual examination of the site together with the historical analysis, that there was clear intention for the site to be comprised of both Lot 21 and Lot 22. This evidence is expressed through:

- i) The original purchase in 1916 of two adjoining lots from the c1911 Kogarah Bay Estate subdivision.
- ii) The continual and unsevered ownership of both of those lots since first purchase in 1916 to the present-day.
- iii) The uncharacteristically large footprint of the dwelling by comparison with other modestly-sized early dwellings in the street, made possible by the available open space on Lot 22.
- iv) The deliberate regard the dwelling has for its broader landscaped setting and visual and physical relationships with the ancillary structures, including the former boatshed, garage and teahouse / summerhouse – all interconnected by various circulation paths and set within a pleasant established garden setting that comprises a number of mature Canary Island Palms.

This Heritage Significance Assessment has reviewed the existing heritage listing and undertaken further analysis of the site and the built and landscape features thereon, additional historical research and an assessment of cultural significance, applying the NSW Heritage Assessment Criteria as established by the Heritage Council of NSW.

Both Lot 21 and Lot 22 are considered to be of equal cultural significance and neither one lot is mutually exclusive – they both rely on each other to complete the historical narrative of the site, retain the original design intent, and protect the curtilage, setting, significant fabric and landscaped features as well as physical and visual relationships.

The first identification of the site as a potential heritage item by the *Kogarah Heritage Study 1994* includes photographs that clearly depicts the substantial garden setting (inclusive of both Lots 21 and 22) as forming the key elements of significance. That study also described the site as 'house and garden', rather than the contemporary description of 'house and front garden' as appears in Schedule 5 of the *Georges River LEP 2021*.

An examination of the existing front garden in the conventional sense of the word, that is, the landscaped area between the street-facing front boundary and the street-facing front elevation of the dwelling, comprises a simple landscaped area, mostly open grass with a dense *Murraya paniculata* hedge that delineates the front boundary, which is considered a contemporary planting to the site. There are no

other notable or distinguishing features within the 'front garden' area. Consequently, it is understood that the intent of the listing of the 'front garden' was to in fact include the substantial gardens that envelope the dwelling from the front elevation, wrapping around the northeastern side (extending over Lot 22) and to the rear of the dwelling (on Lot 21).

In light of the above, there is clear evidence that the intent of the heritage listing was to include Lot 21 and Lot 22 both in their entirety and to be managed and protected as a single heritage item, though only Lot 21 was identified on Schedule 5 and mapped accordingly. This is considered erroneous and the heritage listing of the site should in fact be inclusive of both Lots 21 and 22 in Section 15 of Deposited Plan 1963.

The gazettal of Interim Heritage Order No.2 affords temporary statutory heritage protection to Lot 22. While IHO No.2 remains in force, approval is required pursuant to Section 57(1) of the *Heritage Act 1977* for any works including inter-alia, demolition, excavation, altering the building or destroying any tree or vegetation on the land.

If IHO No.2 lapses or is revoked, the demolition of the garage, summerhouse / teahouse and mature Canary Island Palms could potentially occur via a Complying Development Certificate. Demolition of those described features would have an adverse and irreversible impact on the identified heritage values and significance of the site.

Consequently, the existing heritage listing of the site (Lot 21) under Schedule 5 of the *Georges River LEP 2021* is warranted and it is appropriate that the property continue to be managed and recognised as an item of local heritage significance. However, the existing heritage listing is incomplete and should be expanded to include Lot 22 so that the entire site is afforded statutory heritage protection and thus ensuring all built and landscape elements of identified cultural significance and value are afforded appropriate statutory protection.

## 10.2 Recommendations on future management

On the basis of this Heritage Significance Assessment, the following key recommendations are made on the future management of 'Bayview' at 28 Carlton Crescent, Kogarah Bay:

1. 'Bayview' should continue to be identified as an item of local heritage significance and remain listed on Schedule 5 of the *Georges River LEP 2021*.
2. Council should prepare a Planning Proposal to amend the listing of Heritage Item No.1208 on Schedule 5 of the *Georges River LEP 2021* by making the following changes:
  - i) Revise the item name from 'House and front garden, "Bayview"' to "'Bayview" house and garden, boatshed, garage and summerhouse'.
  - ii) Revise the address from '28A Carlton Crescent, Kogarah Bay' to '28 and 28A Carlton Crescent, Kogarah Bay'.
  - iii) Revise the property description to include both Lots 21 and 22 in Section 15 of Deposited Plan 1963.
  - iv) Update the Heritage Map in the *Georges River LEP 2021* to correspond with the above changes.
3. The citation for the heritage item on the NSW State Heritage Inventory Database should be revised and updated to reflect the attached revised and updated Inventory Sheet (see **Appendix D**).
4. It is important to recognise that the identified and reassessed cultural significance of the property does not preclude any further development or changes being made or undertaken to the building and site. However, the following activities would not be considered acceptable:
  - i) Demolition of the dwelling or its ancillary structures.

- ii) Removal of significant trees and other landscape elements.
  - iii) Further subdivision of the allotments (except a boundary adjustment to amalgamate Lots 21 and 22).
  - iv) Vertical additions to the existing dwelling.
  - v) Horizontal additions to the existing dwelling that involve the obscuration or removal of significant features and elements or sever visual and physical relationships.
  - vi) New development that obscures or severs visual and physical relationships.
  - vii) Removal of the existing heritage listing.
5. As an overarching principle, any changes to the site (whether through alterations and additions, change of use or new development), should be sympathetic to the identified heritage values and cultural significance of the site.
  6. It is necessary to recognise that elements and fabric identified as having exceptional and high significance have very little tolerance to change and should be retained in-situ and unaltered, excepting conservation works to ensure survival.
  7. Elements and fabric identified as having moderate significance generally have a reasonable degree of tolerance to change and adaptation, providing that any such changes are carefully considered and well informed with no resulting negative impacts on highly significant fabric or features.
  8. Elements and fabric identified as being of low significance may be retained or replaced as required, subject to exercising due care.
  9. Good conservation practice encourages change, adaptation or removal of elements that have a lesser contribution to the overall significance of the item, whereas elements that provide a high contribution to the overall significance should generally be left intact or altered in a most sympathetic manner that does not detract from the interpretation or understanding of the heritage significance.
  10. Although the zoning and the principal development standards<sup>36</sup> applicable to the site as specified in the *Georges River LEP 2021* may suggest a higher yield could be achieved on the site than what is currently achieved through the present built form, it is necessary to consider that these development controls are intended to be a 'guide' and are not a 'given right'. In this regard, the particular circumstances of the site, including environmental and built form constraints, would be taken into consideration in any redevelopment.
  11. Clause 5.10 of the *Georges River LEP 2021* establishes the statutory framework for the management, identification and protection of listed items of heritage significance. The 'heritage incentive' provisions of clause 5.10(10) are a means of exploring options for alternative uses of a heritage item. For instance, within a residential zone, certain commercial land uses may be prohibited. The heritage incentive provisions allow Council to exercise flexibility and gives the ability to grant consent to what would otherwise be a prohibited land use in the zoning of the site, provided it can be demonstrated that such a new use would result in a positive heritage outcome. It is far better to have a heritage building being occupied than one that is unoccupied, as occupied buildings are more likely to be 'looked after' and afforded the required care and ongoing maintenance.
  12. While it goes beyond the scope of this Heritage Significance Assessment to assess in detail any available opportunities for alterations and additions or new development, it may be possible to:

<sup>36</sup> Principal Development Standards are specific in Part 4 of *Georges River Local Environmental Plan 2021* and include such development controls as building height, floor space ratio and minimum lot sizes.

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- Adaptively re-use the existing building for alternative compatible land use activities.
  - Adaptively re-use the ancillary structures for small-scaled, low-intensity and low-impact uses that provide an active and viable use of the site overall.
  - Maintain the existing single residential use.
  - Undertake small-scaled sympathetic alterations and additions.
13. A detailed heritage impact assessment would be required as part of a Development Application for any such proposal. The heritage impact assessment would need to consider in detail the impact/s that such development would have on the cultural significance of the heritage item and to demonstrate that the works would not adversely impact on or obscure, the identified heritage values.
14. Prior to the development of a specific proposal for the site, further specialist heritage advice should be sought to assist in the formulation of the proposal and to appropriately guide changes to the place.

End of Report

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## Appendix A

### Common Terms Used

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The following is a list of terms and abbreviations adopted for use in the NSW Heritage Manual (prepared by the Heritage Council of NSW), and other terms used by those involved in investigating, assessing and managing heritage, including terms used within this Heritage Significance Assessment:

**Aboriginal significance:** An item is of Aboriginal heritage significance if it demonstrates Aboriginal history and culture. The National Parks and Wildlife Service has the primary responsibility for items of Aboriginal significance in New South Wales.

**Adaptation:** Modification of a heritage item to suit a proposed, compatible use.

**Aesthetic significance:** An item having this value is significant because it has visual or sensory appeal, landmark qualities and/or creative or technical excellence.

**Archaeological assessment:** A study undertaken to establish the archaeological significance (research potential) of a particular site and to propose appropriate management actions.

**Archaeological feature:** Any physical evidence of past human activity. Archaeological features include buildings, works, relics, structures, foundations, deposits, cultural landscapes and shipwrecks. During an archaeological excavation the term 'feature' may be used in a specific sense to refer to any item that is not a structure, a layer or an artefact (for example, a post hole).

**Archaeological significance:** A category of significance referring to scientific value or 'research potential' that is, the ability to yield information through investigation.

**Archaeological sites:** A place that contains evidence of past human activity. Below-ground archaeological sites include building foundations, occupation deposits, features and artefacts. Above-ground archaeological sites include buildings, works, industrial structures and relics that are intact or ruined.

**Archaeology:** The study of material evidence to discover human past. See also historical archaeology.

**Artefacts:** Objects produced by human activity. In historical archaeology the term usually refers to small objects contained within occupation deposits. The term may encompass food or plant remains (for example, pollen) and ecological features.

**Australia ICOMOS:** The national committee of the International Council on Monuments and Sites.

**Burra Charter:** (and its guidelines). Charter adopted by Australia ICOMOS which establishes the nationally accepted principles for the conservation of places of cultural significance.

**Comparative significance:** In the NSW Heritage Assessment Procedure there are two

values used to compare significance: representativeness and rarity.

**Compatible use:** A use for a heritage item, which involves no change to its culturally significant fabric, changes which are substantially reversible or changes, which make a minimal impact.

**Cultural landscapes:** Those areas of the landscape, which have been significantly modified by human activity. They include rural lands such as farms, villages and mining sites, as well as country towns.

**Cultural significance:** A term frequently used to encompass all aspects of significance, particularly in guidelines documents such as the Burra Charter. Also one of the categories of significance listed in the Heritage Act 1977.

**Curtilage:** The geographical area that provides the physical context for an item, and which contributes to its heritage significance. Land title boundaries and heritage curtilages do not necessarily coincide.

**Demolition:** The damaging, defacing, destroying or dismantling of a heritage item or a component of a heritage conservation area, in whole or in part.

**Conjectural reconstruction:** Alteration of a heritage item to simulate a possible earlier state, which is not based on documentary or physical evidence. This treatment is outside the scope of the Burra Charter's conservation principles.

**Conservation:** All the processes of looking after an item so as to retain its cultural significance. It includes maintenance and may, according to circumstances, include preservation, restoration, reconstruction and adaptation and will be commonly a combination of more than one of these.

**Conservation Management Plan: (CMP)** A document explaining the significance of a heritage item, including a heritage conservation area, and proposing policies to retain that significance. It can include guidelines for additional development or maintenance of the place.

**Conservation policy:** A proposal to conserve a heritage item arising out of the opportunities and constraints presented by the statement of heritage significance and other considerations.

**Contact sites:** Sites which are associated with the interaction between Aboriginal and non-Aboriginal people.

**Excavation permit:** A permit issued by the Heritage Council of New South Wales under

section 60 or section 140 of the Heritage Act 1977 to disturb or excavate a relic.

**Façade:** The elevation of a building facing the street.

**Heritage Act 1977:** The statutory framework for the identification and conservation of heritage in New South Wales. The Act also describes the composition and powers of the Heritage Council.

**Heritage Advisor:** A heritage consultant engaged by a local council, usually on a part-time basis, to give advice on heritage matters to both the council and the local community.

**Heritage assessment criteria:** Principles by which values for heritage significance are described and tested. See historical, aesthetic, social, technical/ research, representativeness, rarity.

**Heritage conservation area:** An area which has a distinctive character of heritage significance, which it is desirable to conserve.

**Heritage Council:** The New South Wales Government's heritage advisory body established under the Heritage Act 1977. It provides advice to the Minister for Urban Affairs and Planning and others on heritage issues. It is also the determining authority for section 60 applications.

**Heritage fabric:** All the physical material of an item, including surroundings and contents, which contribute to its heritage significance.

**Heritage inventory:** A list of heritage items, usually in a local environmental plan or regional environmental plan.

**Heritage item:** A landscape, place, building, structure, relic or other work of heritage significance.

**Heritage Division:** The State Government agency of the Office of Environment and Heritage, responsible for providing policy advice to the Minister for Heritage, administrative services to the Heritage Council and specialist advice to the community on heritage matters.

**Heritage precinct:** An area or part of an area which is of heritage significance. See also heritage conservation area.

**Heritage significance:** Of aesthetic, historic, scientific, cultural, social, archaeological, natural or aesthetic value for past, present or future generations.

**Heritage study:** A conservation study of an area, usually commissioned by the local council. The study usually includes a historical



HERITAGE SIGNIFICANCE ASSESSMENT | 'Bayview' 28 Carlton Crescent, Kogarah Bay

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context report, an inventory of heritage items within the area and recommendations for conserving their significance.

**Heritage value:** Often used interchangeably with the term 'heritage significance'. There are four nature of significance values and two comparative significance values. See heritage significance, nature of significance, comparative significance.

**Hierarchy of significance:** Used when describing a complex heritage site where it is necessary to zone or categorise parts of the area assigning each a particular significance. A commonly used four level hierarchy is: considerable, some, little or no, intrusive (that is, reduces the significance of the item).

**Industrial archaeology:** The study of relics, structures and places involved with organised labour extracting, processing or producing services or commodities; for example, roads, bridges, railways, ports, wharves, shipping, agricultural sites and structures, factories, mines and processing plants.

**Integrity:** A heritage item is said to have integrity if its assessment and statement of significance is supported by sound research and analysis, and its fabric and curtilage are still largely intact.

**International Council on Monuments and Sites (ICOMOS):** An international organisation linked to UNESCO that brings together people concerned with the conservation and study of places of cultural significance.

There are also national committees in sixty countries including Australia.

**Level of significance:** There are three management levels for heritage items in New South Wales — local, regional and state. The level is determined by the context in which the

item is significant. For example, items of state heritage significance will either be fine examples or rare state-wide or will be esteemed by a state-wide community.

**Local significance:** Items of heritage significance which are fine examples, or rare, at the local community level.

**Moveable heritage:** Heritage items not fixed to a site or place (for example, furniture, locomotives and archives).

**Occupation deposits:** (In archaeology.) Accumulations of cultural material that result from human activity. They are usually associated with domestic sites, for example, under-floor or yard deposits.

**Post-contact:** Used to refer to the study of archaeological sites and other heritage items dating after European occupation in 1788 which helps to explain the story of the relationship between Aborigines and the new settlers.

**Preservation:** Maintaining the fabric of an item in its existing state and retarding deterioration.

**Rarity:** An item having this value is significant because it represents a rare, endangered or unusual aspect of our history or cultural heritage.

**Reconstruction:** Returning a place as nearly as possible to a known earlier state by the introduction of new or old materials into the fabric (not to be confused with conjectural reconstruction).

**Relic:** The Heritage Act 1977 defines relic as: '...any deposit, object or material evidence relating to non-Aboriginal settlement which is more than fifty years old.' The National Parks and Wildlife Act 1974 defines a relic as: '...any

deposit, object or material evidence (not being a handicraft made for sale) relating to indigenous and non-European habitation of the area that comprises New South Wales, being habitation both prior to and concurrent with the occupation of that area by persons of European extraction, and includes Aboriginal remains.'

**Representativeness:** Items having this value are significant because they are fine representative examples of an important class of significant items or environments.

**Restoration:** Returning the existing fabric of a place to a known earlier state by removing accretions or by reassembling existing components without introducing new material.

**Social significance:** Items having this value are significant through their social, spiritual or cultural association with a recognisable community.

**State heritage inventory:** A list of heritage items of state significance developed and managed by the Heritage Division. The inventory is part of the NSW Heritage Database.

**State significance:** Items of heritage significance which are fine examples, or rare, at a state community level.

**Statement of heritage significance:** A statement, usually in prose form which summarises why a heritage item or area is of importance to present and future generations.

**Technical/research significance:** Items having this value are significant because of their contribution or potential contribution to an understanding of our cultural history or environment.

HERITAGE SIGNIFICANCE ASSESSMENT | 'Bayview' 28 Carlton Crescent, Kogarah Bay

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## Appendix B

### Existing SHI Database Sheets

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## Item Details

### Name

House and front garden, "Bayview"

### SHR/LEP/S170

LEP #

### Address

28A Carlton Crescent KOGARAH BAY NSW 2217

### Local Govt Area

Georges River

### Local Aboriginal Land Council

Unknown

### Item Type

Built

### Group/Collection

Residential buildings (private)

### Category

House

## All Addresses

### Addresses

Records Retrieved: 1

Street No	Street Name	Suburb/Town/Postcode	Local Govt. Area	LALC	Parish	County	Electorate	Address Type
28A	Carlton Crescent	KOGARAH BAY/NSW/2217	Georges River	Unknown			Unknown	Primary Address

## Significance

### Statement Of Significance

The bungalow located on the water represents a transition of people with a changing perception of the dirty city, to a healthy area that provided water facilities such as boating and fishing etc close at hand. It is an excellent example of a Federation Californian Bungalow and garden.

## Owners

Records Retrieved: 0

Organisation	Stakeholder Category	Date Ownership Updated
No Results Found		

## Description

Designer

Builder/Maker

Physical Description

Updated

Face brick with stucco gables. Lead light windows. Tiled Roof. Mature plantings of phoenix canaviensis.

Physical Condition

Updated

Modifications And Dates

Further Comments

Lot 21 only.

Current Use

Former Use

## Listings

Listings

Records Retrieved: 3					
Heritage Listing	Listing Title	Listing Number	Gazette Date	Gazette Number	Gazette Page
Local Environmental Plan	Georges River Local Environmental Plan 2021	I208	1/25/2013 12:00:00 AM		
Local Environmental Plan			10/2/1998 12:00:00 AM		
Heritage study					

## Procedures/Exemptions

Records Retrieved: 0					
Section of Act	Description	Title	Comments	Action Date	Outcome
No Results Found					

## History

Historical Notes or Provenance

Updated

## Historic Themes

Records Retrieved: 0

National Theme	State Theme	Local Theme
No Results Found		

## Recommended Management

### Management Summary

### Management

Records Retrieved: 0

Management Category	Management Name	Date Updated
No Results Found		

## Report/Study

### Heritage Studies

Records Retrieved: 1

Report/Study Name	Report/Study Code	Report/Study Type	Report/Study Year	Organisation	Author
Kogarah Heritage Study 1994			1994		Tropman & Tropman

## Reference & Internet Links

### References

Records Retrieved: 0

Type	Author	Year	Title	Link
No Results Found				

## Data Source

The information for this entry comes from the following source:

Data Source	Record Owner	Heritage Item ID
Local Government	Georges River Council	1870558

Every effort has been made to ensure that information contained in the State Heritage Inventory is correct. If you find any errors or omissions please send your comments to [mail@georgesriver.nsw.gov.au](mailto:mail@georgesriver.nsw.gov.au)

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HERITAGE SIGNIFICANCE ASSESSMENT | 'Bayview' 28 Carlton Crescent, Kogarah Bay

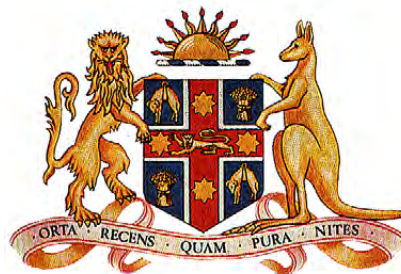
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## Appendix C

### Interim Heritage Order No.2

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# *Government Gazette*

of the State of

New South Wales

**Number 227–Planning and Heritage**

**Friday, 26 May 2023**

The New South Wales Government Gazette is the permanent public record of official NSW Government notices. It also contains local council, non-government and other notices.

Each notice in the Government Gazette has a unique reference number that appears in parentheses at the end of the notice and can be used as a reference for that notice (for example, (n2019-14)).

The Gazette is compiled by the Parliamentary Counsel's Office and published on the NSW legislation website ([www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)) under the authority of the NSW Government. The website contains a permanent archive of past Gazettes.

To submit a notice for gazettal, see the Gazette page.

**HERITAGE ACT 1977**  
**INTERIM HERITAGE ORDER NO. 2**  
28 Carlton Crescent Kogarah Bay

Under Section 25 of the *Heritage Act*, 1977 Georges River Council does by this order:

1. Make an interim heritage order to cover the item of the environmental heritage specified or described in **Schedule 'A'**; and
2. Declare that the Interim Heritage Order shall apply to the curtilage or site of such item, being the land described in **Schedule 'B'**.

This Interim Heritage Order will lapse six months from the date that it is made unless the local council has passed a resolution before that date either:

- 1) In the case of an item which, in the council's opinion, is of local significance, to place the item on the heritage schedule of a local environmental plan with appropriate provisions for protecting and managing the item; and
- 2) In the case of an item which in the council's opinion, is of State heritage significance, nominate the item for inclusion on the State Heritage Register.

Ms Meryl Bishop  
**Director Environment and Planning, Georges River Council**

Sydney, 24 May 2023

**Schedule 'A'**

The property located at 28 Carlton Crescent, Kogarah Bay on land described in Schedule 'B'.

**Schedule 'B'**

All those pieces or parcels of land known as Lot 22, Section 15 DP 1963 in Parish of St George, County of Cumberland.

## HERITAGE ACT 1977

### INTERIM HERITAGE ORDER UNDER SECTION 25

Under section 25(2) of the *Heritage Act 1977*, Willoughby City Council does by this order:

- i. make an Interim Heritage Order to cover the item of environmental heritage specified or described in Schedule 'A'; and
- ii. declare that the Interim Heritage Order shall apply to the curtilage or site of such item, being the land described in Schedule 'B'.

This Interim Heritage Order will lapse six months from the date that it is made unless Willoughby City Council has passed a resolution before that date either:

1. in the case of an item which, in Council's opinion, is of local significance, to place the item on the heritage schedule of a local environmental plan with appropriate provisions for protecting and managing the item; and
2. in the case of an item which, in Council's opinion, is of State heritage significance, nominate the item for inclusion on the State Heritage Register.

#### Schedule 'A'

The place located at 43 Donnelly Road, Naremburn (Lot 1 in Deposited Plan 115889, Lot A in Deposited Plan 341975 and Lot 1 in Deposited Plan 320984), except for all of the land identified as Item 1160 listed in Schedule 5 to the *Willoughby Local Environmental Plan 2012*, described as 'St Leonards Church (including original interiors)'.

#### Schedule 'B'

All those pieces or parcels of land legally described as Lot 1 in Deposited Plan 115889, Lot A in Deposited Plan 341975 and Lot 1 in Deposited Plan 320984, excluding all of the land identified as Item 1160 listed in Schedule 5 to the *Willoughby Local Environmental Plan 2012*, described as 'St Leonards Church (including original interiors)'.

HERITAGE SIGNIFICANCE ASSESSMENT | 'Bayview' 28 Carlton Crescent, Kogarah Bay

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## Appendix D

# Updated NSW SHI Database Sheet

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# NSW State Heritage Inventory form

ITEM DETAILS					
Name of Item	'Bayview' including garden setting, boatshed, garage and summerhouse				
Other Name/s Former Name/s	'Bayview' / 'Bay Vista'				
Item type (if known)	House				
Item group (if known)					
Item category (if known)					
Area, Group, or Collection Name					
Street number	28 and 28A				
Street name	Carlton Crescent				
Suburb/town	Kogarah Bay	Postcode	2217		
Local Government Area/s	Georges River Council				
Property description	<p>'Bayview' is situated within the Georges River Council local government area and in the locality of Kogarah Bay.</p> <p>'Bayview' comprises Lots 21 &amp; 22 of Section 15 in Deposited Plan 1963, commonly and collectively known as 28 and 28A Carlton Crescent, Kogarah Bay.</p>				
Location - Lat/long	Latitude	-33.98507	Longitude	151.12581	
Location - AMG (if no street address)	Zone		Easting	Northing	
Owner					
Current use	Dwelling house				
Former Use	Dwelling house				
Statement of significance	<p>'Bayview' at 28 and 28A Carlton Crescent, Kogarah Bay, is an Inter-War period waterfront property, containing the main dwelling known as 'Bayview', together with its original detached boatshed, garage / workshop and summerhouse – all of which have been designed in the Inter-War Californian Bungalow architectural style and exhibit deliberate relationship to each other.</p> <p>The property is of historical importance as it evidences early residential development in Kogarah Bay and the changing attitudes to living in the city, instead preferring the outer suburbs in a desire for a healthier lifestyle and environment. This is further demonstrated through the original purchase of two adjoining lots to create a high-quality waterfront property.</p> <p>Constructed c1928 by local builder Frederick Rowe as his place of residence and likely used to showcase his fine craftsmanship to prospective clients, the house exhibits exceptionally fine craftsmanship and detailing that is uncommon to the architectural style and domestic scale of the building. This detailing is unparalleled in Rowe's other domestic work, making 'Bayview' arguably his best and most distinguished work.</p>				



## NSW State Heritage Inventory form

	<p>'Bayview' is considered an important benchmark and reference site for the incorporation of many distinguishing and unique features uncommon to the architectural style and domestic scale of building, notably the large ceiling span of the formal lounge room, being uninterrupted by support columns or partition walls and elaborately detailing internal flooring, ceilings and leadlight windows.</p> <p>Each of the buildings retain a high degree of design integrity, having been little altered and collectively, the group is considered of outstanding quality, making it of high architectural interest and value as an excellent representative example of an early 20<sup>th</sup> century Inter-War period waterfront property.</p> <p>The property has high aesthetic value and significance, being visually distinctive and unique for it comprises two adjoining allotments that create a generously proportioned and well-established garden setting with numerous original landscape plantings extant, including a large collection of Canary Island Palms. The garden setting has been self-protected and reinforced through the deliberate positioning of the dwelling, boatshed, garage / workshop and summerhouse to sit in each of the four corners of the site. The deliberate placement of the large bay windows in the dwelling provides a commanding and pleasant outlook over the expansive garden setting and wide water frontage.</p> <p>'Bayview' and its setting is considered an exemplar of its style and class, retaining its original lot configuration and proportion and is strongly associated with water activity, evident through the boatshed and summerhouse and the uninterrupted wide sweeping waterfront views and relationship to Kogarah Bay.</p> <p>Collectively, the site is considered a rare and substantially intact example of an early 20<sup>th</sup> century Inter-War period waterfront property.</p> <p>'Bayview' has some social significance having been used throughout the 1950s until the late 1980s as a function centre, hosting weddings, parties and other social events.</p>	
<b>Level of Significance</b>	State <input type="checkbox"/>	Local <input checked="" type="checkbox"/>



# NSW State Heritage Inventory form

DESCRIPTION	
Designer	Unknown
Builder/ maker	Frederick Rowe
Physical Description	<p>Situated on the site are a number of built structures which are described below.</p> <p><b>The dwelling</b></p> <p>The most prominent and largest of the buildings on the site, is the dwelling house. Known as 'Bayview', the dwelling is situated entirely on Lot 21 and within close proximity to the front boundary, where the dwelling takes advantage of the higher elevation in topography.</p> <p>The dwelling is described as single storey and detached style. It is of brick construction typically of stretcher bond, sitting atop of a solid brick wall skirt that conceals the foundations. Owing to the fall in topography, the brick wall skirt is expressed at the front as only a few string courses in height, increasing in height to a near full storey equivalent at the rear. The entirety of the brick wall skirt has been finished in stucco, with a rendered horizontal band that provides definition between the transition to the residual walls which are of dark 'liver' facebrick.</p> <p>All elevations of the dwelling are asymmetrically composed, yet the primary front elevation features a striking large single gable that spans the full width of the dwelling. The gabled face features a symmetrical design, with vertical timber battens applied over the panelling and detailed timber lattice battening to the upper apex of the gable framed by a series of small timber brackets arranged in pairs. A rotated square panel containing a cherub in bas-relief plaster, is centrally positioned just below the apex.</p> <p>The front elevation below the wide gable, contains a verandah that wraps around to the eastern side elevation and finished in decorative tessellated tiles. The verandah is framed by a low-height brick wall with a scalloped string course of bullnosed bricks, supporting trapezoidal shaped brick verandah posts that have been finished in stucco to match the skirt wall. The stuccoed verandah posts continue to the underside of the ceiling, to frame the verandah in a series of openings. A three-sided bay window projects off the western side of the front entry. The main front entry door is of timber joinery and features sidelight and transom windows – all in elaborately detailed leadlight glass. Windows throughout the dwelling are timber framed casements with a consistent leadlight glass pattern.</p> <p>The eastern side elevation carries the front verandah through before returning to a full height masonry wall that bookends the verandah and contains a three-sided bay window matching the one in the front elevation. The most striking feature of the eastern elevation is the large eight-sided bay window sitting atop of the matching curved facebrick wall in a stacked header bond and awning roof. The stuccoed skirt wall below the centre line of the bay window, features a rotated square panel containing a cherub in bas-relief plaster, matching that to the front gable.</p> <p>The rear elevation features a large singular gable (matching the detailing to the front elevation) and below the gable is the largest of the bay windows in the house, with a twelve-sided bay window projecting directly of the rear elevation, the detailing of which matches that of the eastern side elevation complete with the cherub bas-relief panel. A large open balcony projects off the rear elevation, framed by a semi-circular wall with castellated string course to form the top of the brick balustrade and with tessellated tile flooring. Separating the semi-circular elevated balcony and semi-circular bay window, is a curved set of external stairs which lead to the back garden.</p> <p>The western side elevation is the most simplistically formed and detailed of the entire dwelling, sitting in close proximity and parallel to the side property boundary.</p>





## NSW State Heritage Inventory form

	<p>A large gabled roof form spans the near entirety of footprint of the dwelling with a smaller gable projecting partly over the rear semi-circular balcony. There are no chimneys, save for a small contemporary steel flue punctuating the eastern roof plane. The roof is clad in unglazed terracotta tiles and features a scrolled finial at the apex of the front and rear gables. Bargeboards are planar and the soffits are all lined with painted tongue-and-groove timber lining boards.</p> <p>Overall, the dwelling displays characteristics that are attributed to the Inter-War period of the early 20<sup>th</sup> century and of the Californian Bungalow architectural style.</p> <p><b>The Boatshed</b></p> <p>At the southernmost corner of the site (on Lot 21) is a small freestanding boatshed. This structure has a simple utilitarian form and language, with a rectangular footprint and gabled roof form. The gables present to the northern and southern (waterfront) elevations and feature panelling with vertically applied timber battens matching the language of the gables to the main dwelling.</p> <p>The boathouse is of brick construction and appears to be in stretcher bond, though has been painted externally and in part, rendered to mimic the stuccoed finish of the dwelling.</p> <p>Both gabled elevations feature large rectangular openings, which hint at the original use and function of the structure (together with its waterfront placement). These openings have both been later enclosed and contain windows and doors. The gabled roof is clad in unglazed terracotta tiles with scrolled finials to the apex of both gabled ends.</p> <p>Though utilitarian in form and function, the boatshed displays characteristics that are similar to the main dwelling and is also attributed to the Inter-War period of the early 20<sup>th</sup> century and of the Californian Bungalow architectural style.</p> <p><b>The Garage</b></p> <p>Situated towards the northernmost corner of the site (on Lot 22) and within proximity to the front boundary, is a freestanding double car garage structure.</p> <p>The garage sits forward of the alignment of the dwelling, though owing to the spatial separation afforded between the two structures, the garage does not dominate the dwelling.</p> <p>The garage is of brick construction in stretcher bond, with dark 'liver' bricks used to the front elevation and quoins to windows and doors, while the remainder of the structure uses 'common' bricks of a lighter colour.</p> <p>Consistent with the main dwelling, the garage has a large rectangular footprint and gabled elevations presenting to the front and rear. The gables both feature panelling with vertically applied timber battens. The gabled roof is clad in unglazed terracotta tiles and feature scrolled finials to the apex of both gabled ends. Fascia boards feature a simple quirk.</p> <p>A large panelled garage door presents to the front elevation, while the rear and western side elevations contain casement windows and four-panelled timber doors. Window and door openings have a painted concrete lintel inserted.</p> <p>Though utilitarian in form and function, the garage displays characteristics that are similar to the main dwelling and is also attributed to the Inter-War period of the early 20<sup>th</sup> century and of the Californian Bungalow architectural style.</p>
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# NSW State Heritage Inventory form

	<p><b>The Summerhouse</b></p> <p>Towards the easternmost corner of Lot 22 at the water's edge is a freestanding summerhouse / self-contained cottage.</p> <p>This structure has an elongated rectangular footprint with a simple gabled form, with the gabled elevations oriented to the front and rear in the same manner as the dwelling, the boatshed and the garage.</p> <p>The summerhouse is of brick construction, rendered with a stucco finish to the external walls. The gables feature panelling with vertically applied timber battens and planar bargeboards. The gabled roof is clad in unglazed terracotta tiles and, consistent with the roofs of other structures on the site, features a scrolled finial to both apex ends of the roof.</p> <p>The northern elevation is devoid of any windows or doors, while the two side elevations feature timber framed windows. The rear (waterfront) elevation features large aluminium framed sliding doors – presumably having originally been an open verandah to take advantage of the prevailing breeze.</p> <p>The summerhouse displays characteristics that are similar to the main dwelling and is also attributed to the Inter-War period of the early 20<sup>th</sup> century and of the Californian Bungalow architectural style.</p>				
<p><b>Physical condition and Archaeological potential</b></p>	<p>The boatshed, garage and summerhouse generally appear in sound repair and condition, while the dwelling 'Bayview' appears in a remarkable condition.</p> <p>The site has low potential to yield European built archaeology, with the existing dwelling being the first known built improvement on the site and that there has been very little change to the site since construction of the dwelling in c1928.</p>				
<p><b>Construction years</b></p>	<p><b>Start year</b></p>	<p>c1928</p>	<p><b>Finish year</b></p>	<p>c1928</p>	<p><b>Circa</b> <input checked="" type="checkbox"/></p>
<p><b>Modifications and dates</b></p>	<p>Notable changes to the dwelling include:</p> <ul style="list-style-type: none"> <li>• Contemporary cabinetry fitouts to the bathroom and kitchen in the dwelling.</li> <li>• Construction of a temporary ramp structure at the front entry to the dwelling.</li> <li>• Likely removal of the original chimney from the western side roof plane.</li> <li>• Removal of the sub-floor access door on the eastern elevation of the skirt wall.</li> </ul> <p>Notable changes to the boatshed include:</p> <ul style="list-style-type: none"> <li>• Changes to the openings on both gabled ends of the building, including the enclosure of the large rectangular opening fronting Kogarah Bay and replacement with windows.</li> </ul> <p>Notable changes to the garage include:</p> <ul style="list-style-type: none"> <li>• Replacement of the doors to the front elevation with a contemporary panelled door.</li> </ul> <p>Notable changes to the summerhouse include:</p> <ul style="list-style-type: none"> <li>• Contemporary cabinetry fitouts to the bathroom and kitchen in the dwelling.</li> <li>• Likely removal of an original door and windows on the waterfront elevation to create a large opening and subsequent enclosure of the likely original balcony fronting Kogarah Bay.</li> </ul> <p>Notable changes to the landscaped setting include:</p>				



## NSW State Heritage Inventory form

	<ul style="list-style-type: none"> <li>Removal of the original pathway leading from the front entry to the front boundary and making good the opening to the brick fence along the front boundary, including removal of the two large gateposts (evident in the c1993 photographs).</li> <li>Increase in height of brick soldier posts to the driveway opening to support new driveway gates.</li> <li>Additional landscape plantings introduced, chiefly the hedge immediately behind the front boundary fence.</li> <li>New concrete driveway and apron extending to an elevated hardstand area at the rear of the garage.</li> <li>Renewal of the original garden paths with new tiled paths and continuous-formed concrete edging (though the paths appear to retain the original location save for the reconfiguration of the front path from the front entry).</li> <li>Removal of at least two established Canary Island Palms, with one removed from immediately out the front of the dwelling in the front garden and one removed from the row along the eastern side elevation.</li> <li>Construction of a concrete seawall spanning the rear of the site.</li> </ul> <p>Overall, the changes that have occurred to the buildings and landscaped setting have had little impact on the overall character and appearance when viewed in the context of the streetscape, nor have the changes significantly diminished the integrity of the buildings or the landscaped garden setting.</p>
<b>Further comments</b>	<p>'Bayview' is identified as an item of local heritage significance and is listed on Schedule 5 Environmental Heritage of the Georges River Local Environmental Plan 2021.</p> <p>The inscription on Schedule 5 of the Georges River LEP 2021 describes the item as 'House and front garden, "Bayview"' and identifies the site as Lot 21 at 28A Carlton Crescent, Kogarah Bay. This is supported by the mapping in the Georges River LEP 2021, showing only half the site as being heritage listed – that is, Lot 21 which contains the dwelling, the former boat shed and numerous semi-mature palms and shrubbery. All but one of the mature Canary Island Palms, together with the majority of the circulation paths, the detached garage and detached former teahouse / summerhouse are situated on Lot 22.</p> <p>On 24 May 2023, Georges River Council made an Interim Heritage Order ('IHO') relating to Lot 22 of Section 15 in Deposited Plan 1963. Interim Heritage Order No.2 was published in the NSW Government Gazette No.227 on Friday 26 May 2023.</p>



# NSW State Heritage Inventory form

HISTORY	
Historical notes	<p>In 1808, 1,950 acres was granted to John Townson, an army officer and settler, born in 1759 in Yorkshire, England. After serving several years as a lieutenant in the 18<sup>th</sup> Regiment, he transferred to the New South Wales Corps in October 1789 and arrived in the colony in 1790. Most of Townson's military service was spent at Norfolk Island, where he was stationed for about six years. In 1799, he also acted as lieutenant-governor of Norfolk Island while Lieutenant-Governor Philip Gidley King was absent.</p> <p>After returning to England and retiring, Townson came back to the colony in 1806 with a letter stating the intention of the Secretary of State to direct to Governor William Bligh to grant him 2,000 acres. Governor Bligh declined to do so until he received specific instructions from official authority. Townson was ready to return to England, until 1907 when his brother Robert arrived, and the Secretary of State directed that the grant be made – however, the order had not reached Sydney when the rebellion occurred in January 1808.</p> <p>In July, major George Johnson granted Townson 1,950 acres in the Bexley district, and the following year he received a further 250 acres from Lieutenant-Governor William Paterson. All of his land was then re-granted by Governor Lachlan Macquarie in 1810. The subject site was part of 50 acres, Portion 119 of the Parish of St George, that was granted to Townson in April of 1810.</p> <p>In 1811, Townson sold his land to Simeon Lord, who was quick to realise that land acquisition was a growing industry, and an industry that would continue to grow as the colony itself grew. The purchase of Townson's land was his first major purchase, followed by purchasing King's Grove Farm in 1829. Lord paid £800 for Townson's land, some of the best timber in the St George area. The location then became known as Lord's Bush.</p> <p>In the late 1870s, the land was sold and by 1885, the land had been reduced to 48 acres, having been purchased by The Mutual Provident Land Investing and Building Society Limited. They set about surveying the land and prepared a plan of subdivision that carved the estate into multiple residential sized allotments, interconnected by new roads.</p> <p>Known as 'Carlton Park', the first sale of the newly created allotments occurred in mid-December 1885 at an auction on the ground. In 1892, Lucy Jane Macmillan purchased Lots 2-20 (inclusive) of Section 11 of Deposited Plan 1963 (equating to 2 acres, three roods, 1 perch) as well as Lots 17-23 (inclusive) of Section 15 of Deposited Plan 1963 (1 acre 2 roods 2 perches). It was Lots 21 and 22 of Section 15 of Deposited Plan 1963 that were to become the subject site.</p> <p>In 1911, Macmillan's land was sold to the New South Wales Realty Co Limited. They then prepared a plan of subdivision, marketing the sale of allotments as the 'Kogarah Bay Estate', though there were no notable changes from the 1885 subdivision. At an auction on the ground held on 6<sup>th</sup> May 1911, they began selling the allotments, however not all the allotments would sell at that time.</p> <p>Lots 21 &amp; 22 of Section 15 were finally purchased in 1916 by Bert Pooley. In 1920, Pooley sold the land to Elizabeth Maria Rowe, wife of Kogarah builder Frederick Ernest Rowe, who had earlier purchased Lot 19 from the Kogarah Bay Estate.</p> <p>Throughout the 1920s and 1930s, Frederick Rowe was a prominent figure in the building industry as he was advertised as having conducted numerous building works throughout the Kogarah area. In 1924 under the "Works in Progress" section in The Daily Telegraph Rowe is credited to building a 'brick cottage' in Carlton Crescent, Kogarah Bay and in 1927, he was building brick additions (presumably houses) in Payten and Myee Streets in Kogarah Bay.</p> <p>For the majority of the 1920s, the Rowe's residence was listed as 9 Carlton Crescent on the corner of Carlton Crescent and Payten Street.</p>



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	<p>This dwelling may have been a prototype for what Rowe would shortly build at 28 Carlton Crescent, as it appears substantially the same in form, detail and language, with the large single gable presenting to the street and rear elevations and with the timber panelling and lattice detailing to the gabled facades. Rowe's cottage at 9 Carlton Crescent would also be a mirror in composition to 28 Carlton Crescent, though as 9 Carlton Crescent was only situated on a single allotment, it would not have the defining bay windows which would be a signature to 28 Carlton Crescent.</p> <p>In 1928, Frederick Rowe became a joint tenant of the subject site with his wife and the Rowes are listed as residing at 30 Carlton Crescent in the 1931 Sands Directory as well as the electoral rolls of 1931 and 1937. However, at the similar time, Eleanora Eager is listed as living at 32 Carlton Crescent in 1935 then 30 Carlton Crescent in 1938. It is possible that the street numbers shifted during this time and it took time for residents to adjust. Mr Rowe, as a builder, may also have used multiple addresses for his businesses. More likely, Rowe's two adjoining lots probably added confusion – was it No.28 or No.30?</p> <p>In any case, reference to the address '28 Carlton Crescent' first appears in newspapers, the Sands Directory and NSW electoral rolls in 1928, suggesting that Rowe had built a house on the land by this time, coinciding with the transfer of title that same year to Mr and Mrs Rowe as joint tenants.</p> <p>Designed in what is contemporaneously referred to as the 'Inter-War Californian Bungalow' architectural style, the dwelling was designed as a single storey structure, fashionable for the period and architectural style, yet would occupy an uncharacteristically large footprint by comparison to the other early dwellings that had been erected on their respective lots within the emerging streetscape.</p> <p>The purchase of Lots 21 and 22 together appears to have largely influenced the design, placement and construction of the dwelling. Despite being constructed entirely upon Lot 21, the dwelling displays a judicious design that exploits the outlook eastwards over the adjoining Lot 22 and Kogarah Bay to the south, with the considered placement of large bay windows.</p> <p>In 1937, the St George County Council commissioned a run of aerial photography from Adastra Airways, producing the earliest aerial photography for the area. The 1937 aerial photograph evidences the considerably larger footprint of the dwelling by comparison with the other extant dwellings within Carlton Crescent at that time. It also evidences that a number of ancillary structures had been erected on both Lots 21 and 22, including a small boatshed at the southernmost corner of Lot 21, a detached garage structure in the northernmost corner of Lot 22 and a summerhouse / self-contained cottage in the easternmost corner of Lot 22. The various structures were all evidently interconnected by formed pathways, set within what appears as an established landscaped garden setting, with numerous plantings of Canary Island Palms and other shrubbery. A definitive shadow line also evidences the existence of a low-height fence along the street-front boundary. Similarly, a defined rectilinear line at the rear of the site indicates that a seawall had also been constructed to protect the property from the fluctuating tides.</p> <p>Throughout the 1930s, Frederick Rowe continued to advertise his building services as well as sales of properties with his contact address being listed as 28 Carlton Crescent. With private motor vehicle ownership still relatively uncommon and remaining so until the Post-War period, it is probable that Rowe used what is now the garage as a workshop and shed for the storage of his tools and equipment. The fact that Rowe specifically referenced his address in the newspaper advertisements rather than a telephone number, suggests either Rowe hadn't subscribed to a telephone service, or he deliberately wanted prospective clients to view an example of one of his completed projects, somewhat of a 'display home'.</p> <p>During this time, Rowe was letting the small summerhouse as a self-contained 3-roomed cottage for 30 shillings a week.</p>
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	<p>It was here that the Rowe's continued to reside until 1949, when Frederick died at the age of 70 at St George Hospital in May. By November 1949, an advertisement appeared in the local newspaper The Propeller, advertising inspections of a 'Luxurious Waterfront Home' describing the subject site as 'face brick and double fronted in new condition. The site was said to have land of 100ft. and a frontage of 200 ft. with the additional 3-roomed self-sustained cottage.</p> <p>The sales advertisement also particularly noted that the house contained a ballroom with a polished Jarrah timber floor, large verandahs, with a double garage, large workshop, boat shed and tiled and cement paths that led to the waterfront from the front entrance and that the property was 'well-laid out with palms and gardens'.</p> <p>Following Frederick's death, the property transferred into the sole ownership of his wife, who in turn was looking to sell it for immediate possession for £6,500. Interestingly, the sales advertisement from 1949 noted that a possible function for the "beautiful home" would be to convert it into a private hospital.</p> <p>Instead, it was purchased in 1950 by Mervyn Augustus Vollmer of Kogarah and his registered trade was a 'taxi proprietor', who was known for often using his black cabs as wedding cars. Within three years, advertisements started to appear in newspapers advertising "Bay-Vista" for wedding receptions and other parties. Vollmer began using the property commercially for wedding receptions in November 1952 and from then till 1969, approximately two functions were hosted there each week.</p> <p>These advertisements boasted the property's ballroom and noted that they had an orchestra for hire and a bride's room. This is the first documented use of the name 'Bay-Vista' for the property that over time, transformed into 'Bayview' as the property remains known to the present-day.</p> <p>A few years previously, Mr Vollmer had been in the news in a very public divorce case involving his previous wife Rona Vollmer, who discovered his affair with Mrs Patricia Harrison and took him to court. The Vollmers are listed as living at 28 Carlton Crescent for the decade of the 1950s, however by 1963, Mervyn Vollmer was listed as living in Windsor as a farmer whilst Patricia's address remains at Carlton Crescent until 1968.</p> <p>In 1968, 'Bay-Vista' was sold, transferring in ownership to Elise Linda Burcher. Burcher did not live at the property, but did live close-by. 'Bay-Vista' was leased to Gavin George Robert Morton and his wife Joan Mary Morton in 1968, with both the Mortons professions being recorded as 'caterers'. It is evident through newspaper articles regarding weddings and advertisements that the subject site continued to be used as the Bay-Vista function centre. When Elise Burcher died in 1988, the property was sold, transferring in equal shares to her children Leslie Ronald Burcher and Norma Winifred Treloar.</p> <p>'Bay Vista' or 'Bayview' as it had also become known, was subsequently advertised for sale by auction in 1989, advertised as a 'prestige waterfront subdividable land' with 'existing use rights for Wedding receptions.'</p> <p>It was purchased by Kyriacos and Mary Kyriacou who had just recently sold their wedding car hire business that same year. Several years of legal challenges ensued, with the Kyriacou's trying to continue and expand the function centre use of the site, with such a land use being otherwise prohibited in the residential zoning under the Council's planning regime. In 1991, the NSW Land and Environment Court granted injunctions, restraining the Kyriacou's from using the property for any other purpose other than as a private dwelling house.</p> <p>This likely prompted the sale of the property in 1992, when it was purchased by Demetre Dimitropolous and in 1995, new legal proceedings were commenced against the (then) Kogarah Municipal Council and their Solicitor Sophie Antoniadis for negligence. The case of <i>Kyriacou v</i></p>
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	<p>Kogarah MC (1995) dealt with the issue of existing use rights and whether or not the Council and Council's Solicitor were negligent in misinforming the Kyriacou's about their lawful ability to use the property as a wedding reception centre. The Kyriacous were awarded costs and the case has since been regularly cited, having influenced reforms to conveyancing laws.</p> <p>'Bayview' was sold in 1998 and then again in 2001, before being sold in 2010 to the present owners.</p> <p>In early 2023, a Development Application was submitted to Georges River Council involving the boundary adjustment of Lots 21 and 22, tree removal, demolition of the existing detached garage structure and detached secondary dwelling on Lot 22, construction of a new dwelling house with associated in-ground swimming pool (also on Lot 22) and construction of a new hardstand carparking space and vehicular access driveway to Lot 21.</p> <p>On 24 May 2023, Georges River Council made an Interim Heritage Order No.2 relating to Lot 22 of Section 15 in Deposited Plan 1963. Interim Heritage Order No.2 was published in the NSW Government Gazette No.227 on Friday 26 May 2023.</p>
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APPLICATION OF CRITERIA	
<b>Historical significance</b> SHR criteria (a)	<ul style="list-style-type: none"> <li>'Bayview' at 28 Carlton Crescent, Kogarah Bay, is of historical significance at the local level as it evidences early residential development in Kogarah Bay following the speculative subdivisions of earlier land grants into residential allotments and the resulting residential development that ensued.</li> <li>'Bayview' is historically significant as it evidences the changing attitudes to living in the city and established populated areas, preferring instead to develop the outer suburbs in a desire for a healthier lifestyle and environment.</li> <li>'Bayview' is historically significant as it retains strong evidence of the original 1911 subdivision pattern, together with its original boathouse, garage / workshop and summerhouse, together with much of the original landscape plantings and theme, which allows the property to be easily understood as a representation of its early 20<sup>th</sup> century history.</li> </ul>
<b>Historical association significance</b> SHR criteria (b)	<ul style="list-style-type: none"> <li>'Bayview' is of historical associative significance for its strong association with builder, Frederick Rowe, who is attributed with building the dwelling and ancillary structures in or about 1928 as his own home and place of business. Rowe is attributed with having built numerous houses in and around Kogarah throughout the 1920s and 1930s period.</li> <li>'Bayview' was also likely used by Rowe to showcase his craftsmanship to prospective clients, exhibiting an unequivocal superiority to the other examples of his work and demonstrates features which are unparalleled in his other work, with a high degree of ornamentation and quality craftsmanship.</li> </ul>
<b>Aesthetic significance</b> SHR criteria (c)	<ul style="list-style-type: none"> <li>'Bayview' exhibits quality craftsmanship with overt detailing and embellishments, making it a fine and highly distinctive example of an early 20<sup>th</sup> century Inter-War Californian Bungalow.</li> <li>The aesthetic qualities and visual distinctiveness of 'Bayview' is directly enhanced by the double-allotment width, which creates a generously proportioned garden setting with numerous significant landscape plantings extant, protected and reinforced through the deliberate positioning of the dwelling, boatshed, garage / workshop and summerhouse to sit in each of the four corners of the site.</li> <li>The sensory appeal and aesthetic values of the site are also directly enhanced by uninterrupted wide sweeping waterfront views and relationship to Kogarah Bay at the rear,</li> </ul>





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	<p>with the original allotment configuration having been retained.</p> <ul style="list-style-type: none"> <li>The incorporation of multiple large bay windows and verandahs to the dwelling evidence a deliberate design approach to celebrate the contrived aesthetic values of the expansive garden setting and water views.</li> <li>'Bayview' and its garden setting is visually distinctive in the street and broader landscape through the uncharacteristically wide presentation to Carlton Crescent, with the property distinguished by the large collection of mature Canary Island Palms.</li> <li>'Bayview' exhibits a high degree of aesthetic quality that is unparalleled in other similar Inter-War period bungalows, with 'Bayview' retaining its original elements, site features, garden setting, subdivision pattern and visual and physical relationships. This makes 'Bayview' visually distinctive and an exemplar of its style and class because of its setting.</li> </ul>
<b>Social significance</b> SHR criteria (d)	<ul style="list-style-type: none"> <li>'Bayview' contributes to the community's sense of place, being a visually distinctive feature of the local landscape.</li> <li>Having functioned throughout the 1950s until the late 1980s as a function centre, hosting weddings, parties and other social events, 'Bayview' is likely to have social significance and importance to the local and broader community, particularly those who attended social events at the property.</li> </ul>
<b>Technical/Research significance</b> SHR criteria (e)	<ul style="list-style-type: none"> <li>'Bayview' exhibits an unusually high degree of ornamentation and quality craftsmanship, with numerous distinguishing, unusual and uncommon features that suggest Rowe used the dwelling to showcase his craftsmanship to prospective clients.</li> <li>The dwelling exhibits construction techniques and features which are uncommon to the style and class of domestic building, particularly evidenced in the large floor area and matching ceiling span of the formal lounge room, being uninterrupted by support columns or partition walls and the innovative use of the splayed ceiling panelling to follow the roof profile and maximise the perceived and actual spaciousness internally.</li> <li>The high-quality craftsmanship combined with the incorporation of uncommon construction techniques and features, makes 'Bayview' an important benchmark and reference site.</li> </ul>
<b>Rarity</b> SHR criteria (f)	<ul style="list-style-type: none"> <li>'Bayview' is attributed to the work of local builder Frederick Rowe, having been built c1928. Rowe is credited with having built numerous houses around Kogarah during the 1920s and 1930s period, however 'Bayview' is considered his best and most distinguished work.</li> <li>Other examples of Rowe's domestic work display similarities in themselves, yet 'Bayview' exhibits an unparalleled superiority in the quality of craftsmanship and detailing, containing numerous design features that are unique to 'Bayview', including the distinctive large bay windows and curved balcony as well as many distinct internal features, including the elaborate leadlight windows, timber flooring and ceiling panelling.</li> <li>'Bayview' is a highly intact early 20<sup>th</sup> century residential property which displays deliberate design intent to address the expansive garden setting and waterfrontage, and is both unusual and uncommon as it is spread across two adjoining allotments, having been originally purchased together and continually maintained as such.</li> <li>'Bayview' evidences early 20<sup>th</sup> century marine activity, including a boatshed and summerhouse, both built right on the water's edge and the retention of the boatshed, garage / workshop and summerhouse is exceptionally rare in the local context, demonstrating rarity</li> </ul>



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	significance accordingly.
<b>Representativeness</b> SHR criteria (g)	<ul style="list-style-type: none"> <li>'Bayview' is described as a single storey dwelling, which displays characteristics attributed to the early 20<sup>th</sup> century Inter-War period and of the Californian Bungalow architectural style.</li> <li>Built c1928 by local builder Frederick Rowe, the dwelling exhibits a high degree of design integrity, having been little altered. It exhibits fine craftsmanship, with exceptional detailing that is uncommon to the architectural style and domestic scale of the building. 'Bayview' is considered of remarkable quality and detailing, making it of high architectural interest and value as an excellent representative example of the style and class.</li> <li>The dwelling is complemented by a freestanding boatshed, garage / workshop and summerhouse, each of which exhibit similarity in design and language, having each been constructed around the same time. The high degree of design integrity and intactness of each of the structures make an important group setting of outstanding quality, enhanced by the retention of the original allotment boundaries and garden setting. Collectively, the site is representative of an early 20<sup>th</sup> century waterfront property.</li> <li>The garden setting spread over two adjoining allotments continue to communicate the early functions and relationships, retaining many original landscape plantings including the Canary Island Palms, pathways and front fence.</li> </ul>
<b>Integrity</b>	<p>Each of the buildings display some evidence of previous cosmetic and structural changes, though the original silhouette and form of the structures remain remarkably intact. Original detailing and features also appear remarkably intact.</p> <p>Similarly, the landscaped gardens evidence some changes by comparison with contemporary examination and historical documentary evidence. Overall, the garden setting remains substantially intact and unaltered.</p>



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HERITAGE LISTINGS	
Heritage listing/s	Schedule 3 – Kogarah Local Environmental Plan 1998
	Schedule 5 – Kogarah Local Environmental Plan 2012
	Schedule 5 – Georges River Local Environmental Plan 2021 [Item No.1208] (Lot 21 only)
	Interim Heritage Order No.2 (relating to Lot 22 in Section 15 of DP 1963) made 24 May 2023 and gazetted on 26 May 2023

INFORMATION SOURCES				
Include conservation and/or management plans and other heritage studies.				
Type	Author/Client	Title	Year	Repository
Study	Tropman and Tropman Architects	Kogarah Heritage Study	1993	Georges River Council archives
Study	Edwards Heritage Consultants Pty Ltd	Heritage Significance Assessment – 28 Carlton Crescent, Kogarah Bay	2023	Georges River Council archives

RECOMMENDATIONS	
Recommendations	<ol style="list-style-type: none"> <li>'Bayview' should continue to be identified as an item of local heritage significance and remain listed on Schedule 5 of the Georges River LEP 2021.</li> <li>Council should prepare a Planning Proposal to amend the listing of Heritage Item No.1208 on Schedule 5 of the Georges River LEP 2021 by making the following changes: <ol style="list-style-type: none"> <li>Revise the item name from 'House and front garden, "Bayview"' to '"Bayview" house and garden, boatshed, garage and summerhouse'.</li> <li>Revise the address from '28A Carlton Crescent, Kogarah Bay' to '28 and 28A Carlton Crescent, Kogarah Bay'.</li> <li>Revise the property description to include both Lots 21 and 22 in Section 15 of Deposited Plan 1963.</li> <li>Update the Heritage Map in the Georges River LEP 2021 to correspond with the above changes.</li> </ol> </li> <li>The citation for the heritage item on the NSW State Heritage Inventory Database should be revised and updated to reflect this revised and updated Inventory Sheet.</li> </ol>

SOURCE OF THIS INFORMATION			
Name of study or report	Heritage Significance Assessment – 'Bayview' 28 Carlton Crescent, Kogarah Bay (July 2023)	Year of study or report	2023
Item number in study or report			
Author of study or	Edwards Heritage Consultants Pty Ltd		



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## *NSW State Heritage Inventory form*

<b>report</b>			
<b>Inspected by</b>	Michael Edwards		
<b>NSW Heritage Manual guidelines used?</b>	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	
<b>This form completed by</b>	Michael Edwards	<b>Date</b>	July 2023

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## NSW State Heritage Inventory form

### IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

<b>Image caption</b>	View of 'Bayview' from the front garden.				
<b>Image year</b>	2023	<b>Image by</b>	Edwards Heritage Consultants Pty Ltd	<b>Image copyright holder</b>	Edwards Heritage Consultants Pty Ltd







# NSW State Heritage Inventory form

## IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

<b>Image caption</b>	Aerial view of the site (NSW Land and Property Information aerial imagery with EHC overlay)				
<b>Image year</b>	c2017	<b>Image by</b>	Edwards Heritage Consultants Pty Ltd	<b>Image copyright holder</b>	Edwards Heritage Consultants Pty Ltd





# NSW State Heritage Inventory form

## IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

<b>Image caption</b>	View of 'Bayview' and garage, together with the garden setting.				
<b>Image year</b>	2023	<b>Image by</b>	Edwards Heritage Consultants Pty Ltd	<b>Image copyright holder</b>	Edwards Heritage Consultants Pty Ltd



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## NSW State Heritage Inventory form

### IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

<b>Image caption</b>	View of 'Bayview' from the summerhouse.				
<b>Image year</b>	2023	<b>Image by</b>	Edwards Heritage Consultants Pty Ltd	<b>Image copyright holder</b>	Edwards Heritage Consultants Pty Ltd





## NSW State Heritage Inventory form

### IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

<b>Image caption</b>	View of the summerhouse and garden setting.				
<b>Image year</b>	2023	<b>Image by</b>	Edwards Heritage Consultants Pty Ltd	<b>Image copyright holder</b>	Edwards Heritage Consultants Pty Ltd





# NSW State Heritage Inventory form

## IMAGES - 1 per page

Please supply images of each elevation, the interior and the setting.

<b>Image caption</b>	Aerial view of the site in 1937 by Adastra Airways with EHC overlay.				
<b>Image year</b>	1937	<b>Image by</b>	Georges River Council	<b>Image copyright holder</b>	Georges River Council





# REPORT TO GEORGES RIVER COUNCIL LPP MEETING OF THURSDAY, 17 AUGUST 2023

LPP023-23

<b>LPP Report No</b>	<b>LPP023-23</b>	<b>Development Application No</b>	<b>DA2022/0015</b>
<b>Site Address &amp; Ward Locality</b>	18 Stuart Street, Blakehurst Blakehurst Ward		
<b>Proposed Development</b>	Development Application DA2022/0015 involving demolition of existing structures and the construction of a two storey 78 place childcare centre with basement parking for nineteen (19) vehicles, four (4) bicycle spaces, landscaping and site works at 18 Stuart Street, Blakehurst		
<b>Owners</b>	Souris Enterprises Pty Ltd		
<b>Applicant</b>	Mr Darren Laybutt		
<b>Planner/Architect</b>	GAT & Associates Pty Ltd; Archizen Architects		
<b>Date Of Lodgement</b>	9/02/2022		
<b>Submissions</b>	Fourty Two (42)		
<b>Cost of Works</b>	\$2,557,903.00		
<b>Local Planning Panel Criteria</b>	The instrument of delegations requires all childcare centre developments to be reported to the Georges River Local Planning Panel for determination.		
<b>List of all relevant s.4.15 matters (formerly s79C(1)(a))</b>	Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, State Environmental Planning Policy (Educational and Child Care Facilities) 2017, Draft State Environmental Planning Policy – Environment, Education and Care Services National Regulations, State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, State Environmental Planning Policy No.55 – Remediation of Land, State Environmental Planning Policy (Infrastructure) 2007, Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment, Georges River Local Environmental Plan 2021, Georges River Development Control Plan 2021		
<b>List all documents submitted with this report for the Panel's consideration</b>	Architectural Plan Set, Landscape Plan, Arboricultural Impact Report, Statement of Environmental Effects, Plan of Management, Traffic and Parking Report and Acoustic Report		
<b>Report prepared by</b>	Consultant Planner		

<b>Recommendation</b>	That the development application be approved subject to the draft conditions of development consent referenced at the end of this report.
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<b>Summary of matters for consideration under Section 4.15</b> Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
<b>Legislative clauses requiring consent authority satisfaction</b> 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
<b>Clause 4.6 Exceptions to development standards</b> If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Not Applicable
<b>Special Infrastructure Contributions</b> Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	Not Applicable
<b>Conditions</b> Have draft conditions been provided to the applicant for comment?	No, the conditions can be reviewed when the report is published.

### Site Plan



Aerial Photo - the Subject Site is outlined in blue.

## Executive Summary

### Proposal

1. Council received a development application seeking consent for demolition of existing structures and the construction of a two storey 78 place childcare centre with basement parking, landscaping and site works.

### Site and Locality

2. The subject development site is identified as Lot 9 DP 560354, known as 18 Stuart Street, Blakehurst. The site is located between Vaughan Street to the east, the intersection of Stuart Street and Joseph Street to the west and Orana Crescent and James Street to the south.
3. The subject site is a rectangular shaped allotment with a 20.115m frontage to Stuart Street, an eastern side boundary of 49.95m. western side boundary of 49.87m and with a rear boundary width of 20.115m. It is located on the southern side of Stuart Street. The site has a total area of 1003sqm by DP.
4. A single storey masonry dwelling with tile roof and detached outbuildings including an in-ground swimming pool are currently located on the subject site. The site observes a fall from the rear southern corner to the front north corner of 1.8m. There is also a cross fall of 0.4m from the southern corner to eastern corner at the rear and a cross fall of 0.7m from the western corner to the northern corner at the frontage to Stuart Street.
5. In the wider context, the subject site is located in an established R2 Low Density Residential Area containing dwellings on properties with similar site characteristics and topography.
6. To the north-east, east and south-east of the subject site is land zoned R4 High Density Residential with land fronting the Princes Highway containing land that is zoned E1 – Local Centre zone.
7. Adjoining the site to the west is Stuart Park, which is an irregular shaped allotment which is bounded by Stuart Street, Joseph Street, Orana Crescent and James Street. To the north-east and across Princes Highway (State Road) is Todd Park with Carss Bush Park further to the east of Todd Park.

### Zoning, Permissibility and Georges River Local Environmental Plan (2021) Compliance

8. The subject site is zoned R2 – Low Density Residential under the provisions of Georges River Local Environmental Plan 2021 (GRLEP 2021). Centre based Child Care Facilities are permitted with consent in the zone.
9. The proposal was found to be generally satisfactory having regard to the applicable planning policy documents. A detailed assessment of the proposal against these controls is provided later in this report.

### Georges River Development Control Plan 2021

10. The provisions of Georges River Development Control Plan 2021 are applicable to the proposed development.
11. A detailed assessment of the proposal against these controls is provided later in this report.

**Submissions**

12. The application was notified for a period of fourteen (14) days on two (2) occasions in accordance with the Georges River Development Control Plan and the Georges River Council Community Engagement Strategy notification criterion. Forty-two (42) submissions were received.

**Referrals Internal**

13. The application was referred to the following Council staff for comment on the proposal:
- Building Certification Officer
  - Land Information Officer
  - Development Engineer
  - Traffic Engineer
  - Landscape Officer
  - Environmental Health Officer and
  - Waste Officer
14. All recommended conditions have been included in the conditions referenced at the end of this report.

**Referrals External**

15. The application was referred to Ausgrid for comment on the proposal. Ausgrid advised that there was no response required as there were no assets present.

**Reason for Referral to the Local Planning Panel**

16. The proposal has been referred to the Georges River Local Planning Panel (LPP) as the sub delegations of Council require all childcare centre developments to be determined by the Planning Panel.

**Conclusion**

17. The development application has been assessed having regard to the matters for consideration under section 4.15(1) of the Environmental Planning and Assessment Act 1979, the provisions of the relevant State Environmental Planning Policies, the Local Environmental Plan and the Development Control Plan and found to be acceptable, with DA2022/0015 being recommended for approval subject to conditions.

**Report in Full****Description of the Proposal**

18. Development consent is sought for demolition of existing structures and the construction of a two storey 78 place childcare centre with basement parking for nineteen (19) vehicles, four (4) bicycle spaces, landscaping and site works.



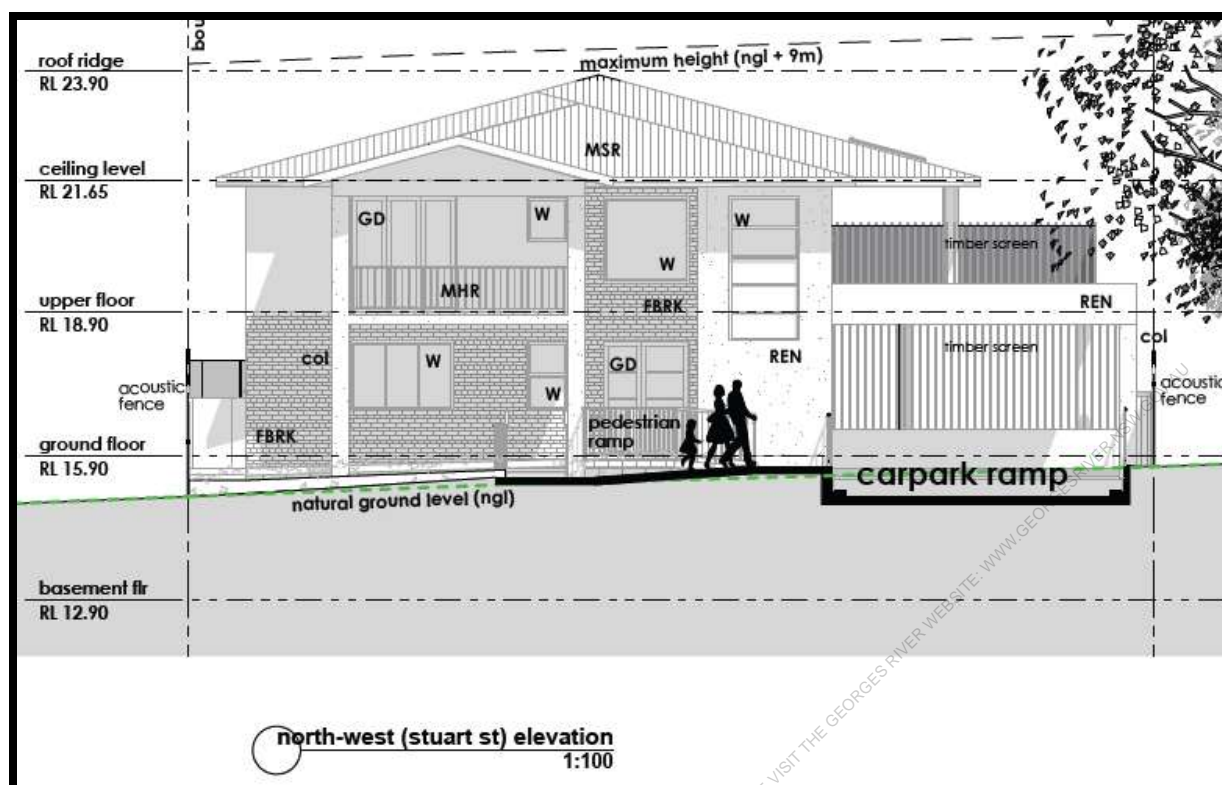


Figure 1: Stuart Street elevation of proposed childcare centre.

19. A detailed breakdown of the proposed works is provided below:

#### Basement Plan

- Six (6) car parking spaces for staff.
- Thirteen (13) car parking spaces for drop off and pick up including one (1) accessible car space.
- Designated pedestrian path.
- Fire Stairs and lift access.
- Lower lobby.
- Four (4) bicycle spaces.
- One (1) motorbike space.

#### Ground Floor Plan

- Reception..
- Office/meeting room.
- Kitchen
- Accessible toilet and shower.
- Accessible entry ramp to front entry.
- Fire stairs and lift access.
- Play room 1 for ages 0-2 for 8 children.
- Play room 2 for ages 2-3 for 20 children (noting play room one has been incorrectly labelled, but it has been confirmed with the applicant).
- Cot room.
- Nappy change and children's toilets.
- Outdoor play area for 58 children at rear and side of allotment.
- Laundry room.
- Storage.
- Garbage store room.

- Infill of swimming pool.

#### First floor Plan

- Play room 3 for ages 3-5 years for 30 children.
- Play room 4 for ages 3-5 years for 20 children.
- Outdoor play terrace for 20 children.
- Accessible WC.
- Fire stairs and lift access.
- Store rooms.
- Children's toilets
- Staff room with kitchenette.
- Staff terrace to the northern elevation.

#### Use and Operational details

20. The operation of the proposed child care use will be as follows:

- **Operating hours:** The applicant is seeking hours of operation to be Monday to Friday inclusive from 7.00am until 6:00pm.
- **Staff:** Eleven (11) staff members.
- **Number of children:** Seventy-eight (78) children with the following age groups:
  - 0-2 years: 8 places;
  - 2-3 years: 20 places, and;
  - 3-5 years: 50 places.

It is noted that the unencumbered indoor space has include areas that are not permitted to be included, as a result the unencumbered space for the development is 241.647sqm equating to 74 children. However the calculation of children numbers based on the available area for each room is as follows:

#### **Number of Children – 72**

- 0-2 years: 7 places – playroom 1
- 2-3 years: 17 places – playroom 2
- 3-5 years: 29 places – playroom 3
- 3-5 years: 19 places – playroom 4
- **Parking:** Nineteen (19) car parking spaces within the basement car park. Thirteen (13) parent drop-off/pick up spaces, one (1) being accessible and six (6) staff parking spaces. Four (4) bicycle spaces and one (1) motorbike space.
- **Acoustics:** The proposal is accompanied by an acoustic report. The acoustic report requires specific acoustic mitigation measures along with restrictions on the number of children within outdoor areas.
- **Plan of Management:** A Plan of Management has been submitted with the application detailing the operation of the premises.
- **Waste Management:** Two (2) waste management plans were submitted detailing satisfactory arrangements for Operational Waste and for Construction and Demolition Waste.

- **Signage:** No signage is proposed as part of this application. Any signage will require separate approval unless classified as exempt development.

### Development Summary

21. A numerical summary of the proposed development is provided as follows:

Element	Proposal
Building Height	8.3m
Site Area	1003sqms
Floor Space	447sqm or (0.446:1)
Unencumbered indoor space	Required 3.25sqm per child = 253.5sqm Proposed 241.647sqm as a result the application can accommodate 74 children. With the allocation of the rooms and the space available, the development can only accommodate 72 children and has been conditioned accordingly.
Unencumbered outdoor space	Required 7sqms per child = 546sqm Proposed 581.793sqm It is acknowledged that there is a condition requiring the planter supporting the first floor water gum which will result in a reduction in the unencumbered outdoor space. It is acknowledged this reduction will maintain compliance with this criterion.
Car parking spaces	19 car parking spaces comprising the following: <ul style="list-style-type: none"> <li>• Thirteen (13) car spaces for drop off and pick up (including one (1) accessible space).</li> <li>• Six (6) car parking spaces for staff.</li> </ul>
Bicycle parking spaces	4 Bicycle spaces and one (1) motorbike parking.

### Background

22. Development Application (DA2022/0015) was lodged on 9 February 2022 seeking consent for demolition of existing structures and the construction of a two (2) storey child care centre catering for 78 children with basement level parking for nineteen (19) motor vehicles and four (4) bicycles, one (1) motorbike parking space, landscaping and site works spaces.
23. Email sent to applicant on 7 June 2022, with a request for additional information to be provided.
24. Amended architectural plans, swept paths, schedule of finishes and Plan of Management and Emergency Evacuation plan submitted to Council on 25 July 2022.
25. Email sent to applicant on 22 March 2023, with a request for additional information to be provided.
26. Amended Waste Management Plans and Architectural Plans submitted 30 May 2023.
27. Site inspection 17 July 2023.

## The Site and Locality

28. The subject development site is identified as Lot 9 DP 560354, known as 18 Stuart Street, Blakehurst. The site is located between Vaughan Street to the east, the intersection of Stuart Street and Joseph Street to the west and Orana Crescent and James Street to the south. The site adjoins Stuart Park to the southwest.



**Figure 2:** Aerial view of the locality, the subject site outlined in blue.

29. The subject site is a rectangular shaped allotment with a 20.115m frontage to Stuart Street, an eastern side boundary of 49.95m. western side boundary of 49.87m and with a rear boundary width of 20.115m. It is located on the southern side of Stuart Street. The site has a total area of 1003qm by DP.
30. A single storey masonry dwelling with a tiled roof and detached outbuildings and an inground swimming pool are currently located on the subject site. The site observes a fall from the rear southern corner to the front north corner of 1.8m. There is also a cross fall of 0.4m from the southern corner to eastern corner at the rear and a cross fall of 0.7m from the western corner to the northern corner at the frontage to Stuart Street.
31. In the wider context, the subject site is located in an established R2 Low Density Residential Area containing dwellings on properties with similar site characteristics and topography.
32. To the north-east, east and south-east of the subject site is land zoned R4 High Density Residential with land fronting the Princes Highway containing land that is zoned E1 – Local Centre zone. This area is being redevelopment as higher density living with residential apartment buildings and mixed use development under construction.
33. Adjoining the site to the south west is Stuart Park, which is an irregular shaped allotment which is bounded by Stuart Street, Orana Crescent, James Street and Joseph Street. To the east and across Princes Highway is Todd Park with Carss Bush Park further to the east of Todd Park.





**Figure 3:** Existing dwelling at 18 Stuart Street Blakehurst with a new duplex development under construction at 16 Stuart Street shown on the left. (Source: Site Inspection 19/07/2023)



**Figure 4:** View from Stuart Park looking towards the existing dwelling at No 18 Stuart Street Blakehurst. (Source: Site Inspection 19/07/2023)

### Surrounding Development

34. Adjoining the site immediately to the south-west is an irregular shaped site containing a number of lots that form Stuart Park, which is bound by Stuart Street, Joseph Street, Orana Crescent, Centre Street and James Street.
35. Adjoining the site to the north-east at No 16 Stuart Steet is a modern dual occupancy development in the final stages of construction.
36. On the northern side of Stuart Street adjacent to the subject site is a mix of single and double storey detached dwellings.





**Figure 5:** Existing dwelling at No 25 Stuart Street Blakehurst (Source: Google Street View 2023)



**Figure 6:** Existing dwelling at No 21 Stuart Street Blakehurst (Source: Google Street View 2023)

37. To the south at 18 James Street is a contemporary double storey dwelling.
38. Stuart Street is a relatively narrow street with a width of 7.5m from top of kerb to top of kerb. No stopping and no parking signs have been erected along the southern side of the street to prevent the parking of vehicles and maintain traffic flow. All on street parking is restricted to the northern side of Stuart Street.



**Figure 7:** View along Stuart Street showing no parking on the southern side and vehicles parked along northern side. (Source: Google Street View 2023)

### Compliance and Assessment

39. The development site has been inspected and assessed having regard to the Matters for Consideration under Section 4.15(1) of the Environmental Planning and Assessment Act 1979.

### State Environmental Planning Instruments

40. Compliance with the relevant State Environmental Planning Policies (SEPP) is detailed below.

State Environmental Planning Policy	Complies
Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment	Yes
State Environmental Planning Policy (Infrastructure) 2007	Yes
State Environmental Planning Policy No.55 – Remediation of Land	Yes
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017	Yes
State Environmental Planning Policy (Resilience and Hazards) 2021	Yes
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Yes
State Environmental Planning Policy (Transport and Infrastructure) 2021	Yes
State Environmental Planning Policy (Industry and Employment) 2021	Yes
State Environmental Planning Policy (Educational and Child Care Facilities) 2017	Yes



41. The following SEPPs have been repealed and replaced with consolidated SEPP's. They have however been included in this report as they were relevant at the time of lodgement of this application. The provisions within the repealed SEPP's have been transferred to the new SEPP's which have been assessed below, with the intent and provisions remaining largely unchanged.
- Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment
  - State Environmental Planning Policy (Infrastructure) 2007
  - State Environmental Planning Policy No.55 – Remediation of Land
  - State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

#### Consolidation of State Environmental Planning Policies.

42. The NSW Government has combined State Environmental Planning Policies and reduced their number.
43. The SEPP changes are part of a package of reforms to consolidate 45 existing SEPPs into 11 new SEPPs based on 9 themed focus areas. The initiative aligns the proposed SEPPs with the new planning principles thematic framework.
44. The following SEPPs began on 1 March 2022. The provisions within the repealed SEPPs have been transferred to the new SEPP and the intent and provisions remain largely unchanged.
45. No policy changes have been made. The SEPP consolidation does not change the legal effect of the existing SEPPs, with section 30A of the Interpretation Act 1987 applying to the transferred provisions. The SEPP consolidation is administrative. It has been undertaken in accordance with section 3.22 of the Environmental Planning and Assessment Act 1979.
46. Savings and transitional provisions, which preserve particular rights and obligations from the SEPPs being repealed, have not been transferred. However, all savings and transitional provisions of the repealed SEPPs are still in force despite their repeal, due to sections 5(6) and 30(2)(d) of the Interpretation Act 1987.

#### **State Environmental Planning Policy (Resilience and Hazards) 2021**

47. The Resilience and Hazards SEPP has replaced and repealed the following SEPPs:
- *State Environmental Planning Policy (Coastal Management) 2018;*
  - *State Environmental Planning Policy No 33—Hazardous and Offensive Development;* and
  - *State Environmental Planning Policy No 55—Remediation of Land.*

#### Chapter 4 Remediation of Land

48. Chapter 4 of the SEPP relating to remediation of land applies to the site.
49. Chapter 4 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. Clause 4.6 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.

50. A review of the site history indicates that the site has been used for residential purposes for extended periods of time, such uses and/or development are not typically associated with activities that would result in the contamination of the site. The applicant has submitted a Preliminary Site investigation (PSI) report prepared by eiaustralia dated 16 August 2021 which concludes that the site was deemed suitable for the proposed childcare centre development.
51. The proposal is therefore considered to be consistent with Chapter 4 and therefore suitable for the proposed development.

### **State Environmental Planning Policy (Biodiversity and Conservation) 2021**

52. The Biodiversity and Conservation SEPP has replaced and repealed the following SEPPs:
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017;*
  - *State Environmental Planning Policy (Koala Habitat Protection) 2020;*
  - *State Environmental Planning Policy (Koala Habitat Protection) 2021;*
  - *Murray Regional Environmental Plan No 2—Riverine Land;*
  - *State Environmental Planning Policy No 19—Bushland in Urban Areas;*
  - *State Environmental Planning Policy No 50—Canal Estate Development;*
  - *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011;*
  - *Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997);*
  - *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;*
  - *Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment; and*
  - *Willandra Lakes Regional Environmental Plan No 1—World Heritage Property.*

### Chapter 2 Vegetation in non-rural areas

53. Chapter 2 of the SEPP relating to vegetation in non-rural areas applies to the site.
54. Chapter 2 regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.
55. Chapter 2 applies to the 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 objectives of the Chapter are to protect the biodiversity values of trees and other vegetation in non-rural areas and preserve the amenity of non-rural areas through the preservation of trees and other vegetation. This policy is applicable pursuant to Clause 2.3 of the SEPP.
57. The proposal was referred to Council's Senior Landscape & Arboriculture Assessment Officer for comment who raised no objection subject to conditions. Conditions include protection of twelve (12) trees on the adjoining Council reserve.

### Chapter 6 Water Catchments.

58. Chapter 6 of the SEPP relating to water catchments applies to the site.

59. The drainage plans were referred to Councils Drainage Engineer who raised no objection to the proposed development subject to the conditions of development consent provided. The proposal will not have a detrimental impact on the Georges River catchment.

### **State Environmental Planning Policy (Transport and Infrastructure) 2021**

60. The Transport and Infrastructure SEPP has replaced and repealed the following SEPPs:
- *State Environmental Planning Policy (Infrastructure) 2007;*
  - *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017;*
  - *State Environmental Planning Policy (Major Infrastructure Corridors) 2020; and*
  - *State Environmental Planning Policy (Three Ports) 2013.*

### Chapter 2 Infrastructure

61. The application was referred to Ausgrid pursuant to clause 2.48 of the SEPP. No objection was raised to the proposal.

### Chapter 3 Educational establishments and childcare facilities

62. Section 1(1) in Schedule 9 of SEPP (Transport and Infrastructure) 2021 provides that Chapter 3 of the SEPP Transport and Infrastructure does not apply to a DA made before the commencement of the SEPP (Transport and Infrastructure) 2021.

*(1) Chapter 3 does not apply to or in respect of the determination of a development application made under Part 4 of the Act, but not finally determined before the commencement of Chapter 3.*

63. Section 1(5) of Schedule 9 provides that a such a DA is to be assessed as if Chapter 3 had not been made.

*(5) Subject to subsection (2), an application to which subsection (1), (3) or (4) applies is to be determined as if Chapter 3 had not been made.*

The State Environmental Planning Policy (Educational establishments and Child Care Facilities) 2017 is therefore the applicable SEPP that the application is to be assessed under.

### **State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017**

64. State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (Education and Child Care SEPP) commenced on 1 September 2017 and aims to facilitate the effective delivery of educational establishments and early education and childcare facilities across the State.

The below compliance table summarises compliance with the SEPP with regards to its specific requirements for early education and care facilities.

Clause	Standard	Proposal	Complies
<b>Part 3 Early education and care facilities—specific development controls</b>			
<b>Clause 22 Centre-based child care facility – concurrence of Regulatory Authority required for certain development</b>			
<b>22(1)</b> This clause applies to development for the purpose of a centre-based childcare facility if—			
<b>22(1)(a)</b>	<p>(a) the floor area of the building or place does not comply with regulation 107 (indoor unencumbered space requirements) of the Education and Care Services National Regulations, or</p> <ul style="list-style-type: none"> <li>3.25sqm per child required</li> </ul>	<p>The proposal provides 241.647sqm of indoor unencumbered space. To comply with the 3.25sqm per child the maximum number of children to be accommodate is 74. Calculations have been undertaken for the space available for each room and as a result only 72 children can be accommodated. The application has been conditioned for the child numbers to be reduced to 72. The development complies with the requirements of Regulation 107 of the Education and Care Services National Regulations for 72 children.</p> <p><u>Ground floor</u>            Playroom 1 – 24.04qm – 7 children            Playroom 2 – 58.143sqm – 17 children  <u>First floor</u>            Playroom 3 – 96.327sqm – 29 children            Playroom 4 – 63.137sqm – 19 children            Total = 241.647sqm</p>	Yes
<b>22(1)(b)</b>	<p>(b) the outdoor space requirements for the building or place do not comply with regulation 108 (outdoor unencumbered space requirements) of those Regulations.</p> <ul style="list-style-type: none"> <li>7sqm per child required</li> </ul>	<p>The proposed development complies with the requirements of Regulation 108 of the Education and Care Services National Regulations.</p> <p>It has been calculated that the unencumbered outdoor area equates to 581.793 sqm equating to 7.6sqm per child. It is noted that there is a condition requiring the size of the planter</p>	Yes

		supporting the water gum on the first floor to be increased in size and volume which will result in a reduction in unencumbered space. This loss will not result in the development becoming non-compliant.	
<b>22 (2)</b>	The consent authority must not grant development consent to development to which this clause applies except with the concurrence of the Regulatory Authority.	No concurrence required as the indoor and outdoor space requirements are met.	Yes
<b>Clause 23 Centre based child care facility - Matters for consideration by consent authority</b>			
<b>23</b>	Before determining a development application for development for the purpose of a centre-based child care facility, the consent authority must take into consideration any applicable provisions of the Child Care Planning Guideline, in relation to the proposed development.	Refer to Table below for an assessment of the proposal against the provisions of the Child Care Planning Guideline.	(refer to table below)
<b>Clause 24A Centre-based child care facility— floor space ratio</b>			
<b>24A (1)</b>	Development consent must not be granted for the purposes of a centre-based child care facility in Zone R2 Low Density Residential if the floor space ratio for the building on the site of the facility exceeds 0.5:1.	420sqm (0.42:1)	Yes, however overridden by GRLEP 2021 (see 24A (2) below)
<b>24A (2)</b>	This section does not apply if another environmental planning instrument or a development control plan sets a maximum floor space ratio for the centre-based child care facility.	GRLEP sets a maximum floor space ratio of 0.55:1.	Yes
<b>Clause 25 – Centre based child care facility - Non-discretionary development standards</b>			
<b>25 (1)</b>	The object of this clause is to identify development standards for particular matters relating to a centre-based child care facility that, if complied with, prevent the consent authority from requiring more onerous	The proposal generally complies with this section.	Yes

	standards for those matters.		
<b>25 (2)</b>	The following are non-discretionary development standards for the purposes of section 4.15 (2) and (3) of the Act in relation to the carrying out of development for the purposes of a centre-based child care facility—	See Assessment below.	
<b>25 (2)(a)</b>	<u>Location</u> The development may be located at any distance from an existing or proposed early education and care facility,	Noted.	Yes
<b>25 (2)(b)</b>	<u>Indoor or outdoor space</u> (i) for development to which regulation 107 (indoor unencumbered space requirements) or 108 (outdoor unencumbered space requirements) of the Education and Care Services National Regulations applies—the unencumbered area of indoor space and the unencumbered area of outdoor space for the development complies with the requirements of those regulations, or (ii) for development to which clause 28 (unencumbered indoor space and useable outdoor play space) of the Children (Education and Care Services) Supplementary Provisions Regulation 2012 applies—the development complies with the indoor space requirements or the useable outdoor play space requirements in that clause,	The proposed development complies with the requirements of Regulation 107 and 108 of the Education and Care Services National Regulations with the reduction of the child numbers from 78 to 72 to meet the indoor unencumbered space criterion relating to each room.	Yes
<b>25 (2)(c)</b>	<u>Site area and site dimensions</u> The development may be located on a site of any size and have any length of street frontage or any allotment depth,	Noted	Yes
<b>25 (2)(d)</b>	<u>Colour of building materials or shade structures</u> The development may be of	Materials and finishes generally acceptable. The site is not a heritage item	Yes



	any colour or colour scheme unless it is a State or local heritage item or in a heritage conservation area.	nor is it located within a heritage conservation area.	
<b>Clause 26 - Centre-based child care facility —development control plans</b>			
<b>26 (1)</b>	<p>A provision of a development control plan that specifies a requirement, standard or control in relation to any of the following matters (including by reference to ages, age ratios, groupings, numbers or the like, of children) does not apply to development for the purpose of a centre-based child care facility:</p> <p>(a) operational or management plans or arrangements (including hours of operation),</p> <p>(b) demonstrated need or demand for child care services,</p> <p>(c) proximity of facility to other early education and care facilities,</p> <p>(d) any matter relating to development for the purpose of a centre-based child care facility contained in:</p> <p>(i) the design principles set out in Part 2 of the Child Care Planning Guideline, or</p> <p>(ii) the matters for consideration set out in Part 3 or the regulatory requirements set out in Part 4 of that Guideline (other than those concerning building height, side and rear setbacks or car parking rates).</p>	<p>The contents of the clause are noted.</p> <p>The proposed child care facility has been assessed under the SEPP and Child Care Planning Guidelines together with the relevant sections of the Georges River Development Control Plan 2021.</p> <p>The controls within GRDCP, with the exception of building height, side and rear setbacks, and car parking, are overridden by the SEPP and do not apply to the proposal.</p>	Noted.
<b>26 (2)</b>	This clause applies regardless of when the development control plan was made	Noted.	Yes

Child Care Planning Guidelines

65. Section 3 of Schedule 5 of the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 states that an amendment to this policy made by the State Environmental Planning Policy (Educational Establishments and Child Care Centre Facilities) Amendment 2021 does not apply to a development application made but not finally determined before the commencement of that Policy.
66. The development application was lodged on 15 January 2022, after the Child Care Planning Guideline approved by the Planning Secretary and published in the Gazette on 1 October 2021, which was updated on the NSW Legislation on 17 December 2021. As such the applicable Child Care Planning Guideline is the document titled 'Child Care Planning Guidelines', published in the gazette on 1 October 2021.
67. The below compliance table summarises compliance with the Child Care Planning Guideline as required by clause 23 of the SEPP (Educational Establishments and Child Care Facilities) 2017.

<b>Table 2 - Child Care Planning Guideline</b>	
<b>Requirement</b>	<b>Comment</b>
<b>3.1 Site selection and location</b>	
<b>To ensure that appropriate zone considerations are assessed when selecting a site</b>	
<b>C1 For proposed developments in or adjacent to a residential zone, particularly if that zone is for low density residential uses, consider:</b>	
<ul style="list-style-type: none"> <li>the acoustic and privacy impacts of the proposed development on the residential properties</li> </ul>	An acoustic report has been submitted with the application and has been reviewed by Councils Environmental Health Officer. The application is acceptable subject to the implementation of the acoustic report recommendations.
<ul style="list-style-type: none"> <li>the setbacks and siting of buildings within the residential context</li> </ul>	The proposed setbacks are compliant with Councils controls and generally consistent with other development within the street.
<ul style="list-style-type: none"> <li>visual amenity impacts (eg additional building bulk and overshadowing, local character)</li> </ul>	The proposed building presents not dissimilar to a two storey dwelling which is consistent with other two storey dwellings and dual occupancies which are common in the locality. Overshadowing impacts are acceptable. The proposal is compatible with local character and streetscape of the area.
<ul style="list-style-type: none"> <li>traffic and parking impacts of the proposal on residential amenity</li> </ul>	Whilst the street is narrow, there is 'No Parking' signage for the full length of the southern side of Stuart Street from the Princes Highway to the intersection of Stuart Street and Joseph Street. This ensures there is parking only on one side of the street to facilitate the movement of vehicles along this street which will enable the movement into and out of the basement parking area proposed.
<b>To ensure that the site selected for a proposed child care facility is suitable for</b>	

<b>the use:</b>	
<b>C2 When selecting a site, ensure that:</b>	
<ul style="list-style-type: none"> <li>the location and surrounding uses are compatible with the proposed development or use</li> </ul>	The use as a child care centre is a permissible land use in the R2 zone.
<ul style="list-style-type: none"> <li>the site is environmentally safe including risks such as flooding, land slip, bushfires, coastal hazards</li> </ul>	The site is not affected by flooding, land slip, bushfire or coastal hazards.
<ul style="list-style-type: none"> <li>there are no potential environmental contaminants on the land, in the building or the general proximity, and whether hazardous materials remediation is needed</li> </ul>	The historical use of the site has been for residential purposes with no known potential contamination activities occurring on site. A PSI assessment was submitted with the application and this report concluded that the site was suitable for the proposed use.
<ul style="list-style-type: none"> <li>the characteristics of the site are suitable for the scale and type of development proposed having regard to:               <ul style="list-style-type: none"> <li>length of street frontage, lot configuration, dimensions and overall size</li> <li>number of shared boundaries with residential properties</li> </ul> </li> </ul>	The characteristics of the site in terms of street frontage lot configuration, dimensions and overall size is considered appropriate for a child care centre. The western side of the allotment adjoins Stuart Park.
<ul style="list-style-type: none"> <li>the development will not have adverse environmental impacts on the surrounding area, particularly in sensitive environmental or cultural areas</li> </ul>	The proposed development will increase traffic movements within the street, however it is not considered to be unacceptable given the capacity of the local road network to accommodate the additional traffic.
<ul style="list-style-type: none"> <li>where the proposal is to occupy or retrofit an existing premises, the interior and exterior spaces are suitable for the proposed use. Where the proposal relates to any heritage item, the development should retain its historic character and conserve significant fabric setting or layout of the item.</li> </ul>	N/A – a new building is proposed, the site is not a heritage item or located within a conservation area.
<ul style="list-style-type: none"> <li>there are suitable and safe drop off and pick up areas, and off and on street parking</li> </ul>	There is suitable provisions for the drop off and pick up areas within the basement car park.
<ul style="list-style-type: none"> <li>the characteristics of the fronting road or roads (for example its operating speed, road classification, traffic volume, heavy vehicle volumes, presence of parking lanes) is appropriate and safe for the proposed use</li> </ul>	Councils Traffic Engineer finds the proposal to be satisfactory and has raised no objection overall to the proposal on traffic and parking grounds.

<ul style="list-style-type: none"> <li>the site avoids direct access to roads with high traffic volumes, high operating speeds, or with high heavy vehicle volumes, especially where there are limited pedestrian crossing facilities.</li> </ul>	<p>The site is approximately 190m from the Princes Highway/King Georges Road intersection which are State Roads. The intersection is signalised and permits pedestrians to cross safely. The Councils Traffic Engineer finds the proposal to be satisfactory and has raised no objection overall to the proposal on traffic and parking grounds.</p>
<ul style="list-style-type: none"> <li>it is not located closely to incompatible social activities and uses such as restricted premises, injecting rooms, drug clinics and the like, premises licensed for alcohol or gambling such as hotels, clubs, cellar door premises and sex services premises</li> </ul>	<p>The site is not located near any of these incompatible uses.</p>
<p><b>To ensure that sites for child care facilities are appropriately located:</b></p>	
<p><b>C3 A child care facility should be located:</b></p>	
<ul style="list-style-type: none"> <li>near compatible social uses such as schools and other educational establishments, parks and other public open space, community facilities, places of public worship</li> </ul>	<p>The site is located in close proximity to educational establishments at Blakehurst, Carss Park and Connells Point. The site adjoins Stuart Park and is in close proximity to Carss Bush Park and other public open space areas.</p>
<ul style="list-style-type: none"> <li>near or within employment areas, town centres, business centres, shops</li> </ul>	<p>Subject site is located near an E1 Local Centre which is to the east of the site fronting the Princes Highway. This centre offers a range of shops and services.</p>
<ul style="list-style-type: none"> <li>with access to public transport including rail, buses, ferries</li> </ul>	<p>Bus services are located within close proximity to the site.</p>
<ul style="list-style-type: none"> <li>in areas with pedestrian connectivity to the local community, businesses, shops, services and the like</li> </ul>	<p>The proposed child care centre is located in proximity to the E1 Local Centre fronting the Princes Highway. This area contains a number of shops and services and is serviced by buses.</p>
<p><b>To ensure that sites for child care facilities do not incur risks from environmental, health or safety hazards.</b></p>	
<p><b>C4 A child care facility should be located to avoid risks to children, staff or visitors and adverse environmental conditions arising from proximity to:</b></p>	
<ul style="list-style-type: none"> <li>heavy or hazardous industry, waste transfer depots or landfill sites</li> <li>Liquefied Petroleum Gas (LPG) tanks or service stations</li> <li>water cooling and water warming systems</li> <li>odour (and other air pollutant) generating uses and sources or sites which, due to prevailing land use zoning, may in future accommodate noise or odour generating uses</li> <li>extractive industries, intensive</li> </ul>	<p>The historical use of the site has been for residential purposes with no known potential contamination activities occurring on site.</p>

<p>agriculture, agriculture spraying activities.</p> <ul style="list-style-type: none"> <li>Any other identified environmental hazard or risk relevant to the site and/or existing buildings within the site.</li> </ul>	
<b>3.2 Local character, streetscape and the public domain interface</b>	
<b>To ensure that the child care facility is compatible with the local character and surrounding streetscape</b>	
<b>C5 The proposed development should:</b>	
<ul style="list-style-type: none"> <li>contribute to the local area by being designed in such a way to respond to the character of the locality and existing streetscape</li> </ul>	The building presents as a two storey built form, which is consistent with the one and two storey dwellings/dual occupancies within Stuart Street and surrounding R2 Low Density zoned land.
<ul style="list-style-type: none"> <li>reflect the predominant form of surrounding land uses, particularly in low density residential areas</li> </ul>	Surrounding land uses are one and two storey dwelling houses. Built form is consistent with the scale of a dwelling house. R4 High Density and E1 Local Centre zones are located to the north-east and east of the subject site.
<ul style="list-style-type: none"> <li>recognise and respond to predominant streetscape qualities, such as building form, scale, materials and colours</li> </ul>	Generally acceptable and consistent with existing residential development within the streetscape.
<ul style="list-style-type: none"> <li>include design and architectural treatments that respond to and integrate with the existing streetscape and local character</li> </ul>	The built form generally responds to other development within the street. A two storey dual occupancy development is currently under construction at 16 Stuart Street, with other two storey developments located on the northern side of the street. Whilst basement parking is not common within the street, it is a permissible form of parking and relieves pressure for on street car parking.
<ul style="list-style-type: none"> <li>use landscaping to positively contribute to the streetscape and neighbouring amenity</li> </ul>	A landscape plan has been provided and is considered to be satisfactory.
<ul style="list-style-type: none"> <li>integrate car parking into the building and site landscaping design in residential areas.</li> </ul>	Car parking has been integrated within the child care centre in the form of basement parking.
<ul style="list-style-type: none"> <li>In R2 Low Density Residential zones, limit outdoor play space to the ground level to reduce impacts on amenity from acoustic fences/barriers onto adjoining residence, except when good design solutions can be achieved.</li> </ul>	The proposed development provides outdoor space on the ground floor and the first floor, with a majority being located on the ground floor. The outdoor space on the first floor is orientated to the west towards the public reserve, Stuart Park to minimise its impacts upon the amenity of neighbouring properties.

<b>To ensure clear delineation between the child care facility and public spaces:</b>	
<b>C6 Create a threshold with a clear transition between public and private realms, including:</b>	
<ul style="list-style-type: none"> <li>fencing to ensure safety for children entering and leaving the facility</li> </ul>	Fencing has been provided to ensure safety for children entering and exiting the premises.
<ul style="list-style-type: none"> <li>windows facing from the facility towards the public domain to provide passive surveillance to the street as a safety measure and a connection between the facility and the community</li> </ul>	Windows within the ground floor reception and office are considered appropriate for surveillance.
<ul style="list-style-type: none"> <li>integrating existing and proposed landscaping with fencing.</li> </ul>	Landscaping is integrated into fencing.
<b>C7 On sites with multiple buildings and/or entries,</b>	
<ul style="list-style-type: none"> <li>On sites with multiple buildings and/or entries, pedestrian entries and spaces associated with the child care facility should be differentiated to improve legibility for visitors and children by changes in materials, plant species and colours.</li> </ul>	The site does not contain multiple buildings or entries.
<b>C8 Where development adjoins public parks, open space or bushland, the facility should provide an appealing streetscape frontage by adopting some of the following design solutions:</b>	
<ul style="list-style-type: none"> <li>Clearly defined street access, pedestrian paths and building entries</li> </ul>	The street access is clearly defined via access gates and paths leading to the main entry from Stuart Street.
<ul style="list-style-type: none"> <li>Low fences and planting which delineate communal/private open space from adjoining public open space.</li> </ul>	<p>The site adjoins Stuart Park and proposes a 1.8m high acoustic fence that will reduce noise to the park and contain the children. The fencing style and height is consistent with other side and rear boundary fences in the locality and is considered to be acceptable in the circumstances.</p> <p>The application will be conditioned to be a lapped and capped fence which is consistent with one of the recommendations of the acoustic report.</p>
<ul style="list-style-type: none"> <li>Minimal use of blank walls and high fences.</li> </ul>	Glazing, balconies and steeping of the building has been utilised to provide appropriate articulation. Blank walls have been minimised. The fencing style and height is consistent with other side and rear boundary fences in the locality and is considered to be acceptable. Front fencing is open style pool fencing of 1.2m in height.
<b>To ensure that front fences and retaining walls respond to and complement the</b>	



<b>context and character of the area and do not dominate the public domain</b>	
<b>C9 Front fences and walls</b>	
Front fences and walls within the front setback should be constructed of visually permeable materials and treatments. Where the site is listed as a heritage item, adjacent to a heritage item or within a conservation area front fencing should be designed in accordance with local heritage provisions.	The subject site is not a heritage item or located in a conservation area or adjacent to a heritage item.
<b>C10 High solid acoustic fencing</b>	
High solid acoustic fencing may be used when shielding the facility from noise on classified roads. The walls should be setback from the property boundary with screen landscaping of a similar height between the wall and the boundary.	The subject site is not on a classified road.
<b>3.3 Building orientation, envelope and design</b>	
<b>To respond to the streetscape and site, mitigate impacts on neighbours, while optimising solar access and opportunities for shade.</b>	
<b>C11 Orient a development on a site and design the building layout to:</b>	
<ul style="list-style-type: none"> <li>ensure visual privacy and minimise potential noise and overlooking impacts on neighbours by               <ul style="list-style-type: none"> <li>facing doors and windows away from private open space, living rooms and bedrooms in adjoining residential properties</li> <li>placing play equipment away from common boundaries with residential properties</li> <li>locating outdoor play areas away from residential dwellings and other sensitive uses</li> </ul> </li> </ul>	<p>The proposed building has been designed to satisfy the requirements of C11.</p> <p>The building has been designed to ensure visual privacy and potential noise impacts are minimised on neighbouring properties.</p>
<ul style="list-style-type: none"> <li>optimise solar access to internal and external play areas</li> </ul>	Solar access to internal and external play areas has been maximised as far as possible having regard to the constraints of the site.
<ul style="list-style-type: none"> <li>avoid overshadowing of adjoining residential properties</li> </ul>	Overshadowing has been minimised through the siting and design of the building.
<ul style="list-style-type: none"> <li>minimise cut and fill</li> </ul>	Cut and fill has been minimised to the extent of the basement.
<ul style="list-style-type: none"> <li>ensure buildings along the street frontage define the street by facing it</li> </ul>	The building has oriented its entry and wayfinding from the street frontage to the front elevation of the development.

<ul style="list-style-type: none"> <li>ensure where a child care facility is located above ground level, outdoor play areas are protected from wind and other climatic conditions.</li> </ul>	Outdoor play areas on both levels include a mix of undercover areas to provide protection from the elements and areas open to the sky.
<b>To ensure that the scale of the child care facility is compatible with adjoining development and the impact on adjoining buildings is minimised</b>	
<b>C12 The following matters may be considered to minimise the impacts of the proposal on local character:</b>	
<ul style="list-style-type: none"> <li>building height should be consistent with other buildings in the locality</li> <li>building height should respond to the scale and character of the street</li> <li>setbacks should allow for adequate privacy for neighbours and children at the proposed child care facility</li> <li>setbacks should provide adequate access for building maintenance</li> <li>setbacks to the street should be consistent with the existing character.</li> </ul>	Building height, front side and rear setbacks are consistent with other developments within Stuart Street.
Where a Local Environmental Plan or Development Control Plan do not specify a floor space ratio for the Low Density Residential zone, a floor space ratio of 0.5:1 is to apply to a child care facility in the R2 zone.	The Georges River Local Environmental Plan specifies a floor space ratio of 0.55:1 for land in the R2 Low density zone on the subject site.
<b>To ensure that setbacks from the boundary of a child care facility are consistent with the predominant development within the immediate context:</b>	
<b>C13 Setbacks</b>	
Where there are no prevailing setback controls minimum setback to a classified road should be 10 metres. On other road frontages where there are existing buildings within 50 metres, the setback should be the average of the two closest buildings. Where there are no buildings within 50 metres, the same setback is required for the predominant adjoining land use	The site is not located on a classified road. The street setback proposed is consistent with the residential development adjoining. See discussion on setbacks required for land in a residential zone in C14 below in the DCP table.
<b>C14 Side and rear boundary setbacks</b>	
On land in a residential zone, side and rear boundary setbacks should observe the prevailing setbacks required for a dwelling house	The side and rear boundary setbacks are consistent with the prevailing setbacks required for a dwelling house. 1200mm to the side boundaries and 16.350m to the rear.

<b>To ensure that buildings are designed to create safe environment for all users.</b>	
<b>C15 Entry to the facility should be limited to one secure point which is:</b>	
<ul style="list-style-type: none"> <li>located to allow ease of access, particularly for pedestrians</li> </ul>	A single entry is proposed from the public domain to the entry of the building via a ramped access directly from Stuart Street.
<ul style="list-style-type: none"> <li>directly accessible from the street where possible</li> </ul>	Ramped access from Stuart Street to the building entry.
<ul style="list-style-type: none"> <li>directly visible from the street frontage</li> </ul>	The entry is directly visible from street frontage.
<ul style="list-style-type: none"> <li>easily monitored through natural or camera surveillance</li> </ul>	Natural surveillance is proposed from the Office and Reception area.
<ul style="list-style-type: none"> <li>not accessed through an outdoor play area.</li> </ul>	The entry is not accessed via an outdoor play area.
<ul style="list-style-type: none"> <li>in a mixed-use development, clearly defined and separate from entrances to other uses in the building.</li> </ul>	N/A not a mixed use development.
<b>To ensure that child care facilities are designed to be accessible by all potential users:</b>	
<b>C16- Accessible design can be achieved by:</b>	
<ul style="list-style-type: none"> <li>providing accessibility to and within the building in accordance with all relevant legislation</li> <li>linking all key areas of the site by level or ramped pathways that are accessible to prams and wheelchairs, including between all car parking areas and the main building entry</li> <li>providing a continuous path of travel to and within the building, including access between the street entry and car parking and main building entrance. Platform lifts should be avoided where possible.</li> <li>Minimising ramping by ensuring building entries and ground floors are well located relative to the level of the footpath.</li> </ul>	The development has been designed to be accessible with ramps and lifts. An access report was submitted with the application which adequately addresses accessibility.
<b>3.4 Landscaping</b>	
<b>To provide landscape design that contributes to the streetscape and amenity.</b>	
<b>C17 Appropriate planting should be provided along the boundary integrated with fencing. Screen planting should not be included in calculations of unencumbered outdoor space. Use the existing landscape where feasible to provide a high quality landscaped area by:</b>	
<ul style="list-style-type: none"> <li>reflecting and reinforcing the local context</li> <li>incorporating natural features of the site, such as trees, rocky</li> </ul>	<p>A landscape plan has been submitted and the landscaping proposed is considered to be acceptable subject to conditions.</p> <p>A condition has been imposed requiring the</p>

outcrops and vegetation communities into landscaping.	planter around the watergum in the first floor outdoor area. A calculation has been undertaken noting that the increased area of the planter will reduce the unencumbered outdoor area. There will be sufficient unencumbered outdoor area on the site for the children numbers conditioned.
<b>C18 Incorporate car parking into the landscape design of the site by:</b>	
<ul style="list-style-type: none"> <li>planting shade trees in large car parking areas to create a cool outdoor environment and reduce summer heat radiating into buildings</li> </ul>	N/A - A basement car park has been proposed.
<ul style="list-style-type: none"> <li>taking into account streetscape, local character and context when siting car parking areas within the front setback.</li> </ul>	N/A - A basement car park has been proposed.
<ul style="list-style-type: none"> <li>using low level landscaping to soften and screen parking areas.</li> </ul>	N/A - A basement car park has been proposed.
<b>3.5 Visual and acoustic privacy</b>	
<b>To protect the privacy and security of children attending the facility.</b>	
<b>C19 Balconies</b>	
Open balconies in mixed use developments should not overlook facilities nor overhang outdoor play spaces.	The proposal is not a mixed use development.
<b>C20 Minimise direct overlooking of indoor rooms and outdoor play spaces from public areas through:</b>	
<ul style="list-style-type: none"> <li>appropriate site and building layout</li> <li>suitably locating pathways, windows and doors</li> <li>permanent screening and landscape design.</li> </ul>	The development has been designed to minimise overlooking of indoor rooms and outdoor play spaces from public areas through appropriate building layouts, setbacks, window design, fencing and landscape planting.
<b>To minimise impacts on privacy of adjoining properties</b>	
<b>C21- Minimise direct overlooking of main internal living areas and private open spaces in adjoining developments through:</b>	
<ul style="list-style-type: none"> <li>appropriate site and building layout</li> <li>suitable location of pathways, windows and doors</li> <li>landscape design and screening</li> </ul>	The development has been designed to minimise impacts upon adjoining properties by orientating the building towards the adjoining park. Windows along the north-eastern elevation adjoining 16 Stuart Street are all fire rated glass bricks and cannot be opened.
<b>To minimise the impact of child care facilities on the acoustic privacy of neighbouring residential developments</b>	
<b>C22- A new development, or development that includes alterations to more than 50 per cent of the existing floor area, and is located adjacent to residential accommodation should:</b>	
<ul style="list-style-type: none"> <li>provide an acoustic fence along any boundary where the adjoining property contains a</li> </ul>	An acoustic report has been provided with the application which requires acoustic fencing to be provided along the side and rear boundaries. It

residential use. An acoustic fence is one that is a solid, gap free fence.	will be conditioned that the development use lapped and capped timber fencing consistent with one of the recommendations of the Acoustic Consultant.
<ul style="list-style-type: none"> <li>ensure that mechanical plant or equipment is screened by solid, gap free material and constructed to reduce noise levels e.g. acoustic fence, building, or enclosure.</li> </ul>	<p>The acoustic assessment provided demonstrates that the acoustic impacts generated will comply with the relevant standards subject to compliance with the acoustic report. This restricts the number of children permitted in the first floor plat area to 18 and no more than 32 to be outside at any one time on the ground floor. The Plan of Management will need to be amended to ensure that the centre operates to meet these restrictions.</p> <p>An acoustic fence is required around the site, it will be conditioned that this fencing be the lapped and capped timber fencing which is one of the fencing options recommended by the acoustic consultant.</p>
<b>C23 A suitably qualified acoustic professional should prepare an acoustic report which will cover the following matters:</b>	
<ul style="list-style-type: none"> <li>identify an appropriate noise level for a child care facility located in residential and other zones</li> <li>determine an appropriate background noise level for outdoor play areas during times they are proposed to be in use</li> <li>determine the appropriate height of any acoustic fence to enable the noise criteria to be met.</li> </ul>	<p>An acoustic report has been provided detailing specific requirements in this regard.</p> <p>Lapped and capped timber fencing will be conditioned in this regard and the operation of the outdoor areas and the restriction of children numbers in these spaces will need to be controlled by detail in the Plan of Management which will need to be amended to reflect these restrictions.</p>
<b>3.6 Noise and air pollution</b>	
<b>To ensure that outside noise levels on the facility are minimised to acceptable levels.</b>	
<b>C24- Adopt design solutions to minimise the impacts of noise</b>	
<ul style="list-style-type: none"> <li>creating physical separation between buildings and the noise source</li> <li>orienting the facility perpendicular to the noise source and where possible buffered by other uses</li> <li>using landscaping to reduce the perception of noise</li> <li>limiting the number and size of openings facing noise sources</li> <li>using double or acoustic glazing, acoustic louvres or enclosed balconies (wintergardens)</li> </ul>	<p>The design of the building, setbacks and layout seeks to minimise acoustic impacts on the locality. An acoustic report has been provided outlining recommendations on ways to minimise the impacts of noise.</p> <p>The recommendations of the acoustic report when implemented will ensure acceptable levels of amenity are afforded to the adjoining allotments.</p>

<ul style="list-style-type: none"> <li>• using materials with mass and/or sound insulation or absorption properties, such as solid balcony balustrades, external screens and soffits</li> <li>• locating cot rooms, sleeping areas and play areas away from external noise sources.</li> </ul>	
<b>C25- An acoustic report should identify appropriate noise levels for sleeping areas and other non play areas and examine impacts and noise attenuation measures where a child care facility is proposed in any of the following locations:</b>	
<ul style="list-style-type: none"> <li>• on industrial zoned land</li> <li>• where the ANEF contour is between 20 and 25,</li> <li>• along a railway or mass transit corridor, as defined by State Environmental Planning Policy (Infrastructure) 2007</li> <li>• on a major or busy road</li> <li>• other land that is impacted by substantial external noise</li> </ul>	<p>The subject site is not located on industrial land or along a railway or mass transit corridor or on a major or busy road. It is also not located on land where the ANEF contour is between 20 and 25.</p> <p>An acoustic report has been provided which addresses noise.</p> <p>The recommendations of the acoustic report when implemented will ensure acceptable levels of amenity are afforded to the adjoining allotments.</p>
<b>To ensure air quality is acceptable where child care facilities are proposed close to external sources of air pollution such as major roads and industrial development</b>	
<b>C26 – Child care location on site</b>	
Locate child care facilities on sites which avoid or minimise the potential impact of external sources of air pollution such as major roads and industrial development.	The site is not located within an industrial area or within the vicinity of a major road.
<b>C27 Air quality report</b>	
A suitably qualified air quality professional should prepare an air quality assessment report to demonstrate that proposed child care facilities close to major roads or industrial developments can meet air quality standards in accordance with relevant legislation and guidelines.	The subject site is not located near a major road or industrial development being in excess of 190m from the Princes Highway/ King Georges Road.
<b>3.7 Hours of operation</b>	
<b>To minimise the impact of the child care facility on the amenity of neighbouring residential developments</b>	
<b>C28 Hours of Operation</b>	
Hours of operation where the predominant land use is residential should be confined to the core hours of 7.00am to 7.00pm	Hours of operation are proposed to be between the hours of 7am to 6pm Monday to Friday and closed on Weekends and Public Holidays.



weekdays. The hours of operation of the proposed child care facility may be extended if it adjoins or is adjacent to non-residential land uses.	
<b>C29 Mixed Use areas</b>	
Within mixed use areas or predominantly commercial areas, the hours of operation for each child care facility should be assessed with respect to its compatibility with adjoining and co-located land uses.	N/A, not within a mixed use area or commercial area.
<b>3.8 Traffic, parking and pedestrian circulation</b>	
<b>To provide parking that satisfies the needs of users and the demand generated by the centre and to minimise conflicts between pedestrians and vehicles</b>	
<b>C30 Off Street Parking</b>	
Off street car parking should be provided at the rates for child care facilities specified in a Development Control Plan that applies to the land.	The parking has been assessed in the DCP section below.
<b>C31 Commercial or industrial zones and mixed use developments</b>	
In commercial or industrial zones and mixed use developments, on street parking may only be considered where there are no conflicts with adjoining uses, that is, no high levels of vehicle movement or potential conflicts with trucks and large vehicles.	N/A, not a mixed use development and not in a commercial or industrial zone.
<b>C32 Traffic and Parking Study</b>	
<p>A Traffic and Parking Study should be prepared to support the proposal to quantify potential impacts on the surrounding land uses and demonstrate how impacts on amenity will be minimised. The study should also address any proposed variations to parking rates and demonstrate that:</p> <ul style="list-style-type: none"> <li>the amenity of the surrounding area will not be affected.</li> <li>There will be no impacts on the safe operation of the surrounding road network</li> </ul>	A Traffic and Parking Assessment Report has been prepared by Varga Traffic Planning and submitted in support of the application. This report identified that the amenity of the surrounding area and road network would not be negatively impacted by this proposal. Council's Traffic Engineer also assessed the proposal and raised no objections on traffic and car parking grounds.
<b>To provide vehicle access from the street in a safe environment that does not disrupt traffic flow</b>	

<b>C33 Alternate vehicular access</b>	
<p>Alternate vehicular access should be provided where child care facilities are on sites fronting:</p> <ul style="list-style-type: none"> <li>• a classified road</li> <li>• roads which carry freight traffic or transport dangerous goods or hazardous materials.</li> </ul> <p>The alternate access must have regard to:</p> <ul style="list-style-type: none"> <li>• the prevailing traffic conditions</li> <li>• pedestrian and vehicle safety including bicycle movements</li> <li>• the likely impact of the development on traffic.</li> </ul>	N/A, not on a classified road.
<b>C34 Child care facilities within cul-de-sacs, narrow lanes or roads</b>	
<p>Child care facilities proposed within cul-de-sacs or narrow lanes or roads should ensure that safe access can be provided to and from the site, and to and from the wider locality in times of emergency.</p>	<p>Not located within a cul-de-sac or narrow lane. The site is however located within a narrow road that has existing no parking signage along the southern side of Stuart Street between Joseph Street and the Princes Highway. Council's Traffic Engineer also assessed the proposal and found it to be satisfactory.</p>
<b>To provide a safe and connected environment for pedestrians both on and around the site</b>	
<b>C35 The following design solutions may be incorporated into a development to help provide a safe pedestrian environment:</b>	
<ul style="list-style-type: none"> <li>• separate pedestrian access from the car park to the facility</li> </ul>	The proposed development provides separate pedestrian and vehicular access.
<ul style="list-style-type: none"> <li>• defined pedestrian crossings included within large car parking areas</li> </ul>	A pedestrian path is to be line marked and defined in the basement.
<ul style="list-style-type: none"> <li>• separate pedestrian and vehicle entries from the street for parents, children and visitors</li> </ul>	Separate pedestrian and vehicular entry points to the development area proposed.
<ul style="list-style-type: none"> <li>• pedestrian paths that enable two prams to pass each other</li> </ul>	The pedestrian path has landings and transitions which permit two prams to pass each other.
<ul style="list-style-type: none"> <li>• delivery loading and vehicle turnaround areas located away from the main pedestrian access to the building and in clearly designated, separate facilities</li> </ul>	Deliveries can be made without impacting the main pedestrian entry.
<ul style="list-style-type: none"> <li>• Minimise the number of locations where pedestrians and vehicles cross each other.</li> </ul>	Pedestrian and vehicle accessing and egressing the site will only cross each other when they intersect in the public domain.
<ul style="list-style-type: none"> <li>• in commercial or industrial zones and mixed use developments, the path of</li> </ul>	N/A as the proposal is not located within commercial, industrial or mixed use zone.

travel from the car parking to the centre entrance physically separated from any truck circulation or parking areas	
<ul style="list-style-type: none"> <li>vehicles can enter and leave the site in a forward direction.</li> </ul>	Vehicles can enter and exit the site in a forward direction.
<ul style="list-style-type: none"> <li>Clear sightlines are maintained for drivers to child pedestrians, particularly at crossing locations.</li> </ul>	The site lines are considered to be acceptable by Council's Traffic Engineer.
<b>C37 Car parking Design should:</b>	
<ul style="list-style-type: none"> <li>Include a child safe fence to separate car parking areas from the building entrance and play areas.</li> </ul>	The play spaces are physically separated from the carparking and carparking entry area.
<ul style="list-style-type: none"> <li>provide clearly marked accessible parking as close as possible to the primary entrance to the building in accordance with appropriate Australian Standards</li> </ul>	An accessible car space has been provided within the basement with a line marked pedestrian zone linking the accessible space to the lift.
<ul style="list-style-type: none"> <li>Includes wheelchair and pram accessible parking</li> </ul>	An accessible space has been provided.
<b>Applying the National Regulations to development proposals</b>	
<b>A. Internal physical environment</b>	
<b>4.1 Indoor space requirements</b>	
<b>Regulation 107 - Education and Care Services National Regulations</b>	
Every child being educated and cared for within a facility must have a minimum of 3.25sqm of unencumbered indoor space.	The proposal provides 241.647sqm of indoor unencumbered space. To comply with the 3.25sqm per child the maximum number of children to be accommodate is 72 based on the room allocation and spaces. The application has been conditioned for the child numbers to be reduced to 72 resulting in 3.26sqm per child. The development complies with the requirements of Regulation 107 of the Education and Care Services National Regulations for 72 children.
<b>Verandahs as indoor space</b> For a verandah to be included as unencumbered indoor space, any opening must be able to be fully closed during inclement weather. It can only be counted once and therefore cannot be counted as outdoor space as well as indoor space.	No verandah has been included as unencumbered indoor space.
<b>Storage</b> It is recommended that a child care facility provide: <ul style="list-style-type: none"> <li>a minimum of 0.3m<sup>3</sup> per child of external storage space</li> <li>a minimum of 0.2m<sup>3</sup> per child of</li> </ul>	Based on 78 children, 23.4m <sup>3</sup> of external storage and 15.6m <sup>3</sup> of internal is required. The proposal provides 25.9m <sup>3</sup> of external storage and 21.2m <sup>3</sup> of internal and therefore complies with the minimum recommended internal and external storage requirements.

internal storage space	
<b>4.2 Laundry and hygiene facilities</b>	
<b>Regulation 106 Education and Care Services National Regulations</b>	
There must be laundry facilities or access to laundry facilities; or other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage prior to their disposal or laundering. The laundry and hygienic facilities must be located and maintained in a way that does not pose a risk to children.	The site laundry facilities are provided on the ground floor of the building which complies with the requirements of Regulation 106 of the Education and Care Services National Regulations.
On site laundry facilities should contain: <ul style="list-style-type: none"> <li>• a washer or washers capable of dealing with the heavy requirements of the facility</li> <li>• a dryer</li> <li>• laundry sinks</li> <li>• adequate storage for soiled items prior to cleaning</li> <li>• an on site laundry cannot be calculated as usable unencumbered play space for children.</li> </ul>	
<b>4.3 Toilet and hygiene facilities</b>	
<b>Regulation 109 Education and Care Services National Regulations</b>	
Child care facilities must comply with the requirements for sanitary facilities that are contained in the National Construction Code	Toilet facilities for both the children and staff are provided.
<b>4.4 Ventilation and natural light</b>	
<b>Regulation 110 Education and Care Services National Regulations</b>	
Services must be well ventilated, have adequate natural light, and be maintained at a temperature that ensures the safety and wellbeing of children	The proposal is considered acceptable.
<b>4.5 Administrative space</b>	
<b>Regulation 111 Education and Care Services National Regulations</b>	
A service must provide adequate area or areas for the purposes of conducting the administrative functions of the service, consulting with parents of children and conducting private conversations.	Adequate areas have been provided within the ground floor office/meeting room and reception area and the first floor staff room.
<b>4.6 Nappy change facilities</b>	
<b>Regulation 112 Education and Care Services National Regulations</b>	
Child care facilities must provide	Nappy change facilities have been provided on

<p>for children who wear nappies, including appropriate hygienic facilities for nappy changing and bathing.</p> <p>Child care facilities must also comply with the requirements for nappy changing and bathing facilities that are contained in the National Construction Code.</p>	<p>the ground floor.</p> <p>A bath has been annotated on the plans within the nappy change area.</p>
<b>4.7 Premises designed to facilitate supervision</b>	
<b>Regulation 115 Education and Care Services National Regulations</b>	
<p>A centre-based service must ensure that the rooms and facilities within the premises (including toilets, nappy change facilities, indoor and outdoor activity rooms and play spaces) are designed to facilitate supervision of children at all times, having regard to the need to maintain their rights and dignity.</p> <p>Child care facilities must also comply with any requirements regarding the ability to facilitate supervision that are contained in the National Construction Code.</p>	<p>The building design is considered to meet these requirements to facilitate supervision. Vision panels have been annotated on the plans as well as glazed windows and doors.</p>
<b>4.8 Emergency and evacuation procedures</b>	
<b>Regulation 97 and 168 Education and Care Services National Regulations</b>	
<p>Facility design and features should provide for the safe and managed evacuation of children and staff from the facility in the event of a fire or other emergency.</p> <p>For all child care facilities, an emergency and evacuation plan should be submitted with a DA and should consider:</p> <ul style="list-style-type: none"> <li>the mobility of children and how this is to be accommodated during an evacuation</li> <li>the location of a safe congregation/assembly point, away from the evacuated building, busy roads and other hazards, and away from evacuation points used by other occupants or tenants of the same building or of surrounding buildings</li> </ul>	<p>An Emergency Evacuation Plan was prepared by SPS Fire and Safety and submitted with the Development Application. The plans show path of travel to evacuate the children as and assemble in Stuart Park.</p> <p>The applicant has advised that an emergency evacuation plan will be displayed in prominent positions near exits, recommended by the Plan of Management.</p> <p>The building is to comply with the requirements of the NCC/BCA.</p>

<ul style="list-style-type: none"> <li>• how children will be supervised during the evacuation and at the congregation/assembly point, relative to the capacity of the facility and governing child-to-staff ratios.</li> </ul>	
<b>B. External physical environment</b>	
<b>4.9 Outdoor space requirements</b>	
<b>Regulation 108 Education and Care Services National Regulations</b>	
<p>An education and care service premises must provide for every child being educated and cared for within the facility to have a minimum of 7.0sqm of unencumbered outdoor space.</p> <p><u>Simulated outdoor environments</u> Simulated outdoor environments are internal spaces that have all the features and experiences and qualities of an outdoor space. They should promote the same learning outcomes that are developed during outdoor play. Simulated outdoor environments should have:</p> <ul style="list-style-type: none"> <li>• more access to natural light and ventilation than required for an internal space through large</li> </ul>	<p>The proposed development complies with the requirements of Regulation 108 of the Education and Care Services National Regulations.</p> <p>The unencumbered indoor space can only accommodate 72 children based on the room sizing, as a result the application will be conditioned to reduce the child numbers to 72. As a result, this calculation has been undertaken based on 72 children.</p> <p>It has been calculated that the unencumbered outdoor area equates to 581.793 sqm equating to 7.6sqm per child. It is noted that there is a condition requiring the size of the planter supporting the water gum on the first floor to be increased in size and volume which will result in a reduction in unencumbered space. This loss will not result in the development becoming non-compliant.</p> <p>Note: The outdoor area has screen planting along the side and rear boundaries. Dense planting along the side boundaries has been excluded from the unencumbered outdoor area calculations, however the landscape plan demonstrates that the trees will be maintained to permit this area between trees to be used by the children.</p> <p>There are no internal areas proposed to be simulated outdoor environments.</p>

<p>windows, glass doors and panels to enable views of trees, views of the sky and clouds and movement outside the facility</p> <ul style="list-style-type: none"> <li>• skylights to give a sense of the external climate</li> <li>• a combination of different floor types and textures, including wooden decking, pebbles, mounds, ridges, grass, bark and artificial grass, to mimic the uneven surfaces of an outdoor environment</li> <li>• sand pits and water play areas</li> <li>• furniture made of logs and stepping logs</li> <li>• dense indoor planting and green vegetated walls</li> <li>• climbing frames, walking and/or bike tracks</li> <li>• vegetable gardens and gardening tubs.</li> </ul>	
<b>4.10 Natural environment</b>	
<b>Regulation 113 Education and Care Services National Regulations</b>	
The approved provider of a centre-based service must ensure that the outdoor spaces allow children to explore and experience the natural environment.	The landscape plan shows a range of outdoor amenities and landscaping. Artificial grass is provided in lieu of natural grass.
<b>4.11 Shade</b>	
<b>Regulation 114 Education and Care Services National Regulations</b>	
The approved provider of a centre-based service must ensure that outdoor spaces include adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.	Appropriate shade structures are incorporated into the design of the child care facility to protect children from overexposure to ultraviolet radiation from the sun.
<b>4.12 Fencing</b>	
<b>Regulation 104 Education and Care Services National Regulations</b>	
Any outdoor space used by children must be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it.	Appropriate fencing has been proposed to be provided.
<b>4.13 Soil assessment</b>	
<b>Regulation 25 Education and Care Services National Regulations</b>	
Clause 25 (d) of Education and Care Services National Regulations requires an assessment of soil at a proposed site, and in some cases, sites	The development site has been historically used for residential purposes with no known potential contaminating activities occurring on the site.



already in use for such purposes as part of an application for service approval.	
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### Education and Care Services National Regulations (2011 SI 653)

68. The National Regulations govern the operation and minimum requirements for child care facilities. These legislative and regulatory controls establish minimum provisions in relation to insurance, service agreements and approvals as well as establishing minimum operational requirements.
69. The table above considered the proposal against the provisions of the Child Care Facility Guidelines. Part 4 of the Guidelines relates to compliance with the National Regulations for development proposals and assists applicants and child care providers in applying the national regulations. This part covers minimum requirements for the internal physical environment, external physical environment, provides a best practice example and includes a checklist to assist with the planning, design and layout of a purpose built child care facility or where significant changes are proposed.
70. The regulations provide minimum standards for the following elements of the centre;
- Fencing and barriers that enclose outdoor spaces.
  - Laundry and hygiene facilities,
  - Minimum requirements for unencumbered indoor space,
  - Minimum requirements for unencumbered outdoor space,
  - Toilet and hygiene facilities,
  - Minimum standards for ventilation and natural light,
  - Provision of administration space,
  - Nappy change facilities,
  - Outdoor space and the natural environment,
  - Outdoor space and the provision of shade, and
  - Premises designed to facilitate supervision.
71. Of importance to this application is Clause 123 of the National Regulations which specifies minimum “*educator to child ratios*”. Subclause 1 establishes numerical requirements which require the following minimum provisions;
- “(1) *The minimum number of educators required to educate and care for children at a centre-based service is to be calculated in accordance with the following ratios—*
- (a) *for children from birth to 24 months of age—1 educator to 4 children;*
  - (b) *for children over 24 months and less than 36 months of age—1 educator to 5 children;*
  - (c) *for children aged 36 months of age or over (not including children over preschool age)—1 educator to 11 children;*
  - (d) *for children over preschool age, 1 educator to 15 children.*
- (2) *If children being educated and cared for at a centre-based service are of mixed ages the minimum number of educators for the children must meet the requirements of sub regulation (1) at all times.”*

### Part 7.3 New South Wales – specific provisions

72. Part 7.3 of the Regulations relates to specific provisions for development in New South Wales.

73. Division 2 (Minimum number of educators and qualifications and training required) establishes Clause 271 which states that:

*“Educator to child ratios – children aged 36 months or more but less than 6 years;*

*(1) Regulation 123 (1)(c) applies as modified by this section.*

*(2) The educator to child ratio for children aged 36 months or more but less than 6 years of age is 1 educator to 10 children”*

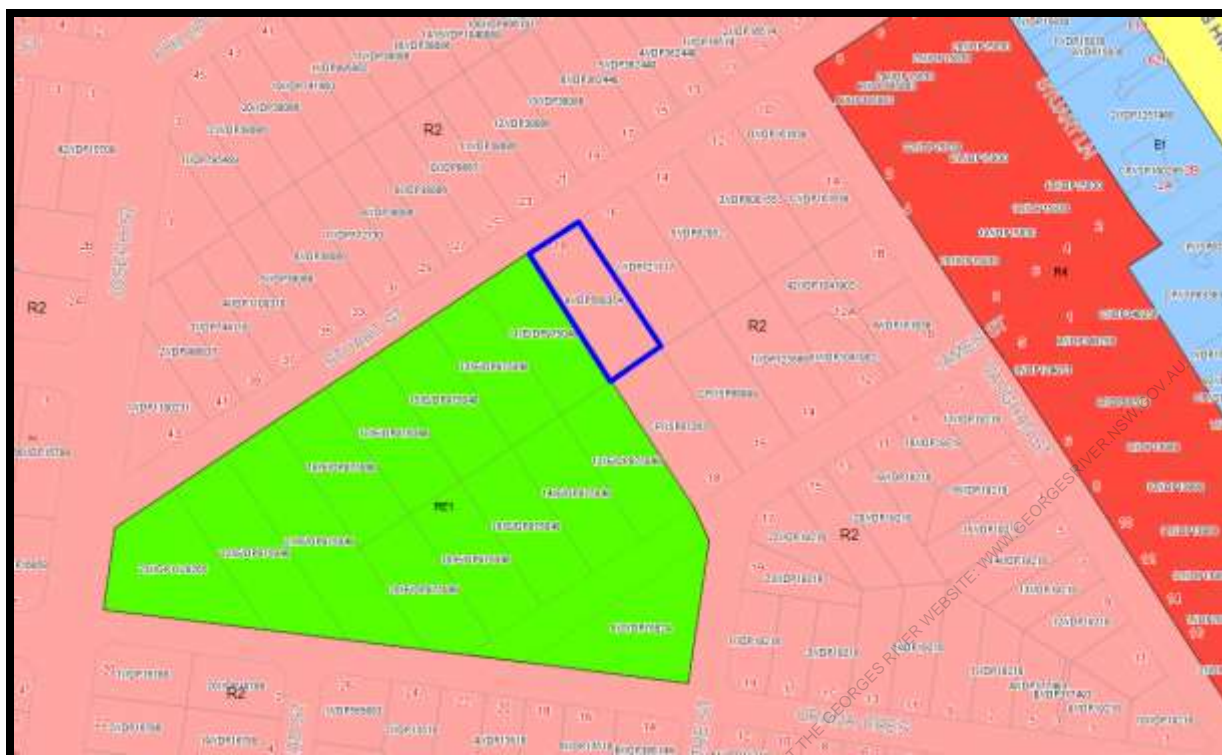
74. In this case, the following table summarises the number of children and the required staffing numbers.

Age of children	Number of children per age category	Staff levels required/proposed
0 - 24 months	8	1 educator per 4 children 2 required
24 - 36 months	20	1 educator per 5 children 4 required
36 months +	50	1 educator per 10 children 5 required
<b>Total</b>	<b>78</b>	<b>11 required (11 provided)</b>

75. Notwithstanding the above assessment, a service approval from the regulatory authority is required prior to operation of any child care. This modification does not change any staffing or children levels and may not be required to seek a service approval.
76. Following a detailed assessment against Part 3 of the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) and the applicable Child Care Planning Guidelines, the proposal is considered to generally satisfy the relevant requirements with the exception of the adverse impacts upon the traffic and parking within the street and surrounding streets during peak times being the drop off and pick up times.

### **Georges River Local Environmental Plan 2021**

77. The subject site is zoned R2 Low Density Residential under the provisions of the Georges River Local Environmental Plan 2021. Refer to zoning map below. The proposed development is for a centre based child care facility which is a permissible land use in the zone.



**Figure 8:** Zoning Map under GRLEP 2021 – subject site is shown outlined in blue

78. The objectives of the zone are as follows:
- *To provide for the housing needs of the community within a low density residential environment.*
  - *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
  - *To promote a high standard of urban design and built form that enhances the local character of the suburb and achieves a high level of residential amenity.*
  - *To provide for housing within a landscaped setting that enhances the existing environmental character of the Georges River local government area.*
79. The proposed development is a permissible land use within the zone and satisfied the second objective of the zone by providing a facility or service to meet the day to day needs of the residents. The proposal also satisfies objective three in that the urban design and built form of the proposed child care centre enhances the local character and does not unduly impact upon the residential amenity of the locality.
80. The extent to which the proposed development complies with the Georges River Local Environmental Plan 2021 (GRLEP 2021) is outlined in the table below.

#### Georges River Local Environmental Plan Compliance Table

Clause	Standard	Proposed	Complies
<b>Part 1 Preliminary</b>			
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	The proposed development is a Centre based child care facility.	The proposed development is consistent with the definition (see below).	Yes
<b>Centre based child care facility means:</b>			

(a) a building or place used for the education and care of children that provides any one or more of the following—

- (i) long day care,
- (ii) occasional child care,
- (iii) out-of-school-hours care (including vacation care),
- (iv) preschool care, or

(b) an approved family day care venue (within the meaning of the [Children \(Education and Care Services\) National Law \(NSW\)](#)),

**Note—**

An approved family day care venue is a place, other than a residence, where an approved family day care service (within the meaning of the [Children \(Education and Care Services\) National Law \(NSW\)](#)) is provided.

but does not include—

- (c) a building or place used for home-based child care or school-based child care, or
- (d) an office of a family day care service (within the meanings of the [Children \(Education and Care Services\) National Law \(NSW\)](#)), or
- (e) a babysitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or
- (f) a child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium) to care for children while the children's parents are using the facility, or
- (g) a service that is concerned primarily with providing lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or providing private tutoring, or
- (h) a child-minding service that is provided by or in a health services facility, but only if the service is established, registered or licensed as part of the institution operating in the facility.

**Part 2 Permitted or prohibited development**

2.3 - Zone objectives and Land Use Table	Meets objectives of R2- Low Density Residential Zone:  Development must be permissible with consent	The proposed development is not inconsistent with the zone objectives.	Yes
2.7 Demolition	Demolition requires development consent.	The proposal seeks demolition of existing structures as part of the application.	Yes

**Part 4 Principal development standards**

4.3 – Height of Buildings	9m as identified on Height of Buildings Map	8.3m	Yes
4.4 – Floor space ratio	(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio	The proposed development has a total GFA of 447sqm (0.446:1)	Yes

	Map 0.55:1  Site area: 1003sqm Maximum FSR = 551.65sqm		
4.5 – Calculation of floor space ratio and site area	FSR and site area calculated in accordance with Clause 4.5	The floor space of the child care facility has been calculated in accordance with Clause 4.5 and the “gross floor area” definition within the Georges River Local Environmental Plan 2021.	Yes
4.6 – Exceptions to development standards	(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.	No Clause 4.6 required.	N/A
<b>Part 5 Miscellaneous provisions</b>			
5.10 – Heritage conservation	In accordance with Clause 5.10 (1)	The site is not a heritage item, the site is not in a heritage conservation area.	Yes
5.11 – Bush Fire Hazard Reduction	Bush fire hazard reduction work authorised by the Rural Fires Act 1997 may be carried out on any land without development consent.	The subject land is not within a bush fire prone area.	N/A
5.21 Flood Planning	(1) The objectives of this clause are as follows— (a) to minimise the flood risk to life and property associated with the use of land, (b) to allow development on land that is compatible with the flood function	The subject site has not been identified/mapped as being flood affected.	Yes

	<p>and behaviour on the land, taking into account projected changes as a result of climate change,</p> <p>(c) to avoid adverse or cumulative impacts on flood behaviour and the environment,</p> <p>(d) to enable the safe occupation and efficient evacuation of people in the event of a flood.</p>		
<b>Part 6 Additional local provisions</b>			
6.1 – Acid sulfate soils	(1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.	The site is affected by ASS – Class 5. The works are not within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum.	Yes
6.1 (2)	(2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.	Subject site is affected by Acid Sulfate Soils – Class 5.	Yes
6.2 Earthworks	<p>(2) Development consent is required for earthworks unless—</p> <p>(a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or</p> <p>(b) the earthworks are ancillary to</p>	<p>The proposal includes the provision of single level of basement car parking.</p> <p>The excavation is acceptable to accommodate a basement development. The proposed earthworks are not considered to be unreasonable or excessive.</p>	Yes

	development that is permitted without consent under this Plan or to development for which development consent has been given.		
6.3 Stormwater Management	<p>(2) In deciding whether to grant development consent for development, the consent authority must be satisfied that the development—</p> <p>(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and</p> <p>(b) includes, if practicable, on-site stormwater detention or retention to minimise stormwater runoff volumes and reduce the development's reliance on mains water, groundwater or river water, and</p> <p>(c) avoids significant adverse impacts of stormwater runoff on adjoining properties, native bushland, receiving waters and the downstream stormwater system or, if the impact cannot be reasonably avoided, minimises and mitigates the impact, and</p> <p>(d) is designed to minimise the impact on public drainage systems.</p>	Stormwater drainage has been reviewed by Councils Drainage Engineer and is found to be satisfactory subject to conditions.	Yes



6.5 – Riparian land and watercourses	(2) This clause applies to land identified as “Sensitive Land” on the Riparian Lands and Watercourses Map.	N/A - Not identified as sensitive land on the riparian lands and watercourses map.	N/A
6.9 Essential Services	<p>Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—</p> <p>(a) the supply of water,  (b) the supply of electricity,  (c) the supply of telecommunications facilities,  (d) the disposal and management of sewage,  (e) stormwater drainage or on-site conservation,  (f) suitable vehicular access.</p>	<p>Water and electricity supply are available to the site.</p> <p>Telecommunications and sewage are available to the site.</p> <p>Stormwater connection is available to Council’s street network.</p> <p>The site has vehicular access from Stuart Street.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

### Development Control Plans

#### Georges River Development Control Plan 2021

81. The proposal has been assessed under the relevant sections of the Georges River Development Control Plan 2021 as follows:
82. The following comments are made with respect to the proposal satisfying the objectives and controls contained within Georges River DCP

Applicable DCP Controls	Standards	Proposal	Compliance
<b>Part 3 General Planning Considerations</b>			
<b>3.2 Biodiversity</b>			
<b>3.2.1 Trees and Vegetation</b>			
3.2.1 (1)	Development is to comply with the provisions of the State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.	The proposal satisfies the provisions of State Environmental Planning Policy (Biodiversity and Conservation) 2021 which replaced the SEPP (Vegetation in Non Rural Areas) 2017.	Yes
<b>3.3 Landscaping</b>			
3.3 (1)	Landscaping on site should be incorporated into the site planning of a development to (where appropriate): i. Reinforce the desired future character of the locality; ii. Maintain significant landscape features; iii. Be consistent with any dominant species in the adjoining area of ecological significance; iv. Incorporate fire resistant species in areas susceptible to bushfire hazard; v. Provide planting within setback zones (setbacks identified within the relevant applicable parts of the DCP); vi. Soften the visual impact of buildings, carparks and roads; vii. Cater for outdoor recreation areas; viii. Separate conflicting uses; ix. Screen undesirable elements; x. Provide opportunities for on-site stormwater infiltration, in particular around existing trees and	A landscape plan has been prepared by a suitably qualified landscape architect and reviewed by Council Officers as being adequate subject to conditions of consent.  It is noted that the size of the planter to accommodate the water gum on the first floor will need to be increased in volume and height to provide sufficient soil depths for growth. This will result in an impact on the unencumbered outdoors space. Calculations have been undertaken to ensure that the available unencumbered space remains	Yes

	vegetation; xi. Consider the future maintenance requirements of landscaped areas; xii. Protect the effective functioning of overhead, surface level or underground utilities; and xiii. Improve the aesthetic quality of the development.	compliant.	
3.3 (2)	Landscape planting should achieve a mature height in scale with the structures on the site.	The proposed trees upon maturity, will have heights between 6-12m with widths of 4-6m.	Yes
3.3 (3)	Where canopy trees, shrubs and groundcovers are required, preference should be given to incorporating locally indigenous plants listed in GRDCP 2021 Backyard Biodiversity Guide on Council's website and Council's Tree Management Policy (and its Appendix 1 – Tree Planting)	Council's Landscape Officer found the species proposed in the landscape planting schedule acceptable for the use, noting however the planter for the water gum need to be increased in volume and height.	Yes
<b>Planting on Structures</b>			
3.3 (7)	Where landscaping is provided in a structured environment such as a raised planter box or 'on slab' they should include waterproofing, drainage and automatic irrigation. The minimum plant material pot container sizes for trees should be 75 litres and minimum soil depth for shrubs 200mm and groundcovers 150mm.	A corten planter is proposed surrounding the water gum on the first floor. The planter is to be increased in soil volume and depth to accommodate the tree species. This will result in the loss of unencumbered space; however, it will not result in a non-compliance.	Yes
<b>3.4 Bushfire Prone Land</b>			
3.4 (1)	Development should be located and designed to minimise the need for bushfire hazard reduction	N/A not bushfire prone land.	N/A

	within native vegetation areas.		
<b>3.5 Earthworks</b>			
3.5 (1)	Natural ground level should be maintained within 900mm of a side and rear boundary	A variation is sought for the basement construction adjacent to the southern side boundary adjoining Stuart Park. The ramped driveway is setback 500mm and the basement level has a variable setback of nil, 500mm and 900mm. The nil setback is for 9.3m. The remainder of the basement is setback 900mm from the boundary. Following construction of the basement natural ground levels will be reinstated. Per the submitted Arborist Report, the trees on the public park will have minor encroachments into their TPZs but well within their tolerance under the relevant legislation. The proposed earthworks within 900mm of a boundary will not result in negative impacts.	No but acceptable.
3.5 (2)	Cut and fill should not alter natural or existing ground levels by more than 1m (see Figure 1).	Excavation for the basement exceeds 1m. Following	No but acceptable

		construction of the basement natural ground levels will be reinstated.	
<p><u>Discussion on cut and fill.</u></p> <p>With the exception of the excavation for the basement carpark the cut and fill on the site does not exceed 1m. Council's DCP encourages the use of basement carparks for child care centres and as such this excavation is consistent with that required for basement parking.</p>			
3.5 (3)	Habitable rooms (not including bathrooms, laundries and storerooms) are to be located above existing ground level	All habitable rooms are located above ground level.	Yes
3.5 (5)	Development is to be located so that clearing of vegetation is avoided.	The existing vegetation on site is of low retention value and Council's Landscape Officer is supportive of it being removed.	No but acceptable.
3.5 (6)	Cut and fill within a tree protection zone (TPZ) of a tree on the development site or adjoining land, must be undertaken in accordance with Australian Standard AS 4970 (Protection of trees on development sites).	The excavation for the basement car park encroaches upon the TPZ of trees located within Stuart Reserve. An Arborists report was submitted, the extent of disturbance is considered to be acceptable by Council's Landscape Officer.	Yes
3.5 (7)	Soil depth around buildings should be capable of sustaining trees as well as shrubs and smaller scale gardens	Suitable soil depths are proposed for the landscape plantings with the exception of the planter depth for the water gum on the first floor which has been conditioned to be increased.	Yes
3.5 (8)	Earthworks are not to increase or concentrate	No adverse impact on stormwater	Yes

	overland stormwater flow or aggravating existing flood conditions, on adjacent land.	flow is generated by the development.	
<b>3.5.2 Construction Management / Erosion and Sediment Control</b>			
3.5.2 (1)	Development must minimise any soil loss from the site to reduce impacts of sedimentation on waterways through the use of the following: <ul style="list-style-type: none"> <li>• Sediment fencing</li> <li>• Water diversion</li> <li>• Single entry / exit points</li> <li>• Filtration materials such as straw bales and turf strips</li> </ul> Refer to NSW Guidelines for Erosion and Sediment Control on Building Sites for further guidance	An erosion and sedimentation control plan submitted with the application.	Yes
3.5.2 (2)	Development that involves site disturbance is to provide an erosion and sediment control plan which details the proposed method of soil management and its implementation. Such details are to be in accordance with The Blue Book – Managing Urban Stormwater: Soils & Construction by Landcom.	An erosion and sedimentation control plan submitted with the application.	Yes
3.5.2 (3)	Development is to minimise site disturbance, including impacts on vegetation and significant trees and the need for cut and fill.	The development achieves this notwithstanding the excavation required for the basement car park.	Yes
3.5.2 (4)	Construction works within a tree protection zone (TPZ) of a tree on the development site or adjoining land, must be undertaken in accordance with AS 4970 (Protection of trees on development sites).	Conditions of consent imposed.	Yes
<b>3.6 Contaminated Land</b>			
3.6 (1)	Each development application is to include information sufficient to	A preliminary site investigation report prepared by	Yes

	allow Council to meet its obligation to determine whether development should be restricted due to the presence of contamination.	El Australia was submitted detailing the site is suitable for the proposed use. This was reviewed by Councils Environmental Health Officer and found to be satisfactory.	
3.6.2 (2)	Proposals for the development of contaminated land or potentially contaminated land will need to determine: <ul style="list-style-type: none"> <li>i. The extent to which land is contaminated (including both soil and groundwater contamination);</li> <li>ii. Whether the land is suitable in its contaminated state (or will be suitable after remediation) for the purpose for which the development is proposed to be carried out;</li> <li>iii. Whether the land requires remediation to make the land suitable for the intended use prior to that development being carried out; and</li> <li>iv. If the land has been previously investigated or remediated, development cannot be carried out until Council has considered the nature, distribution and levels of residues remaining on the land and Council has determined that the land is suitable for the intended use.</li> </ul>	Noted.	N/A
<b>3.7 Heritage</b>			
<b>3.7.5 Heritage Conservation Area.</b>			
3.7.5 (1)	Any development in the Heritage Conservation Areas is to address and respond to the requirements of the relevant Heritage Conservation Area	N/A - Not located in a heritage conservation area.	N/A



	Guidelines contained in Appendix 3.		
<b>3.7.6 Development in the vicinity of a Heritage Item or Heritage Conservation Area.</b>			
3.7.6 (1)	Respect and respond to the curtilage, setbacks, form, scale and style of the heritage item or heritage conservation area in the design and siting of new work	N/A – not in the vicinity of a heritage item or within a conservation area.	N/A
<b>3.8 Views Impacts</b>			
3.8 (1)	Development shall provide for the reasonable sharing of views. Note: Where a proposal is likely to adversely affect views from either private or public land, assessment of applications will refer to the Planning Principle established by the Land and Environment Court in Tenacity Consulting vs Warringah Council (2004) NSWLEC140. The Planning Principle is available to view on the Land and Environment Court's website at <a href="http://www.lawlink.nsw.gov.au/lec">www.lawlink.nsw.gov.au/lec</a>	The proposal is a two storey development and will not have an unacceptable impact upon views enjoyed by neighbours.	Yes
<b>3.10 Water Management</b>			
<b>Stormwater Management</b>			
3.10 (1)	Development must comply with Council's Stormwater Management Policy 2020 which provides detail of drainage requirements for different development types. Consultation with Council is recommended.	The application has been reviewed by Council's Drainage Engineer and found to be satisfactory subject to conditions.	Yes
3.10 (2)	Water Sensitive Urban Design (WSUD) principles are to be incorporated into the design of stormwater drainage, on-site retention and detention, landscaping and within the overall design of the development	The application has been reviewed by Council's Drainage Engineer and found to be satisfactory subject to conditions.	Yes

<b>Flood Risk Management</b>			
3.10 (3)	Development must comply with the Flooding and Overland Flow Section of Council's Stormwater Management Policy which provides guidelines of controlling developments in different flood risk areas. It should be read in conjunction with the NSW Government's 'Floodplain Development Manual 2005'.	N/A, the site has not been identified as being flood affected.	N/A
3.10 (5)	Development consisting of sensitive land uses should not be undertaken in PMF affected areas. In the case that such a development is permitted, the floor levels must be set at 1% AEP floor level plus 500 mm freeboard or the PMF, whichever is the greater. Sensitive land uses, in terms of flood consideration, means development for the following purposes: 1. boarding houses, 2. caravan parks, 3. correctional centres, 4. early education and care facilities, 5. eco-tourist facilities, 6. educational establishments, 7. emergency services facilities, 8. group homes, 9. hazardous industries, 10. hazardous storage establishments, 11. hospitals, 12. hostels, 13. information and education facilities, 14. respite day care centres, 15. seniors housing, 16. sewerage systems, 17. tourist and visitor accommodation, 18. water supply systems. Notes: Refer to Council's Stormwater Management Policy 2020, specifically Section 6 Flooding and	The use as a child care centre is a considered to be a sensitive land use. The site however has not been identified as a PMF affected area.	Yes

	Overland Flow for further guidance.		
<b>Water Quality</b>			
3.10 (6)	Measures to control pollutants in stormwater discharge from development sites are to be included in any development. Refer to Section 3.5.2 – Construction Management / Erosion and Sediment Control of this DCP.	A sediment and erosion plan has been submitted with the DA.	Yes
<b>3.11 Ecologically Sustainable Development</b>			
<b>3.11.1 Energy and Water Efficiency</b>			
<b>Residential Buildings</b>			
3.11.1 (1)	All BASIX affected development must comply with SEPP (Building Sustainability Index: BASIX) 2004.	N/A as not a residential development.	N/A
<b>Non-Residential Buildings</b>			
3.11.1 (7)	Development must comply with Clause 6.10 Design Excellence of Georges River LEP 2021.	N/A this clause does not apply to the development.	N/A
3.11.1 (8)	All development must comply with Section J Energy Efficiency of the BCA/NCC	A Section J Report was not submitted with the application, but a condition has been applied requiring the report to be prepared prior to the release of the Construction Certificate to determine the appropriate insulation, fixtures and the Like to be included in the development construction.	Yes
3.11.1 (9)	The energy efficiency provisions of the Building Code of Australia should be incorporated into the design of non-residential buildings. This may require the	The proposal is suitably designed for energy efficiency.	Yes

	<p>inclusion of the following: i. Windows that are appropriately sized and shaded to reduce summer heat load and permit entry of winter sun. ii. Building materials selected to assist thermal performance and ceiling insulation used where appropriate. iii. Natural ventilation. iv. Buildings should have an area, orientation and roof pitch that is suitable for the installation of solar collectors. v. Low energy, high efficiency plant, fittings and appliances should be specified. vi. The use of photovoltaic panels/solar collectors for hot water heating and power is encouraged to reduce energy consumption</p>		
3.11.1 (10)	<p>Water conservation principles should be incorporated into non-residential developments, including the following: i. Water efficient fittings and appliances including: 4 star dual-flush toilets and taps, 3 star showerheads and urinals, water efficient washing machines and dishwashers. ii. Rainwater tanks should be provided to meet 80% of non-potable demand including outdoor use, toilets and laundry. iii. Cooling Towers are designed in accordance with best practice guidelines to reduce potable water consumption. iv. Water use within open spaces (for irrigation, water features etc.) should be supplied from sources other than potable mains water (e.g. stormwater, greywater or wastewater) to meet 80% water use demand.</p>	<p>Water conservation will be maximised through water efficient fittings. A 9100 litre rainwater tank has been annotated on the plans within the front setback of the site.</p>	Yes

**3.12 Waste Management**

3.12 (1)	Development must comply with Council's Waste Management requirements regarding construction waste and ongoing management of waste materials (see Appendix 4).	Two (2) WMP's submitted and found to be satisfactory subject to conditions.	Yes
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**3.13 Parking Access and Transport****Parking Rates**

3.13 (1)	The car parking rate for development types are outlined in Table 1 Parking requirements. In the event of a discrepancy between the parking rates specified in this Part of the DCP and any another, the specific requirements identified within the detailed controls for a locality/area shall prevail.	19 spaces provided	Yes
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**Parking rates for a Centre based Child Care Facility:**

- 1 space per 2 staff plus:
  - Centres with 20 to 39 Children – 1 space per 4 children
  - Centres with 40 to 69 Children – 1 space per 5 children
  - Centres with 70-100 children – 1 space per 6 children.

Based on 11 staff and 78 children the following is required:

- 11 staff requires 6 spaces for staff
- 78 children requires 13 spaces for parent drop off

Total of 19 spaces are required

**Transport and Parking Assessment Study required**

A traffic and parking assessment report prepared by Varga Traffic Planning Pty Ltd has been submitted with the development application.

3.13 (5)	In calculating the total number of car parking spaces required for a development type, the total should be rounded up to the nearest whole number (i.e. 0.5 or greater).	Noted 18.5 rounded up to 19.	Noted
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**Design and Layout of Car Parking Areas**

3.13 (12)	Internal car park layouts, space dimensions, ramp grades, access driveways, internal circulation aisles and service vehicle areas shall be designed in accordance with the requirements set out in AS	Carparking design, layout and access arrangements comply with the relevant requirements.	Yes
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	2890.1 (2004) and AS 2890.2 (2002) for off street parking and commercial vehicles		
3.13 (13)	Design vehicular access in accordance with the current Australian Standard for 'offstreet parking (Part 1) 'and 'off-street carparking for commercial vehicles (Part 2)'	Carparking design, layout and access arrangements comply with the relevant requirements.	Yes
<b>Basement Parking</b>			
3.13 (15)	Basement car parking is preferable in commercial and residential flat buildings.	A basement car park has been provided.	Yes
3.13 (16)	Basement car parking is to be located within the building footprint.	Basement carparking has exceeded the building footprint but has largely been provided under the building and the outdoor play area.	Yes – based on a merit assessment.
3.13 (17)	All basement parking areas are to have security doors.	A garage security door has been proposed.	Yes
3.13 (18)	Include natural ventilation to basement and semi basement car parking.	An acceptable amount of natural ventilation is afford for a single level basement parking.	
3.13 (19)	Integrate ventilation design into the façade of the building, or parking structure, treating it with appropriate features such as louvres, well designed grilles, planting or other landscaping elements.	The basement is not proposed to be mechanically ventilated.	N/A
<b>Parking for People with a Disability</b>			
3.13 (23)	Parking complies with AS 1428 Design for access and mobility and AS/NZS 2890.6	Accessible parking complies.	Yes
3.13 (24)	All off-street parking facilities shall allocate accessible parking spaces for people with disabilities at the rate in accordance with Section 3.17 – Universal/	A single accessible car parking space provided for the parents.	Yes

	Accessible Design of this DCP.		
3.13 (25)	Accessible parking spaces shall be located close to an accessible lift, ramp or building entrance and be provided with an accessible path of travel.	Accessible path of travel provided from the public domain to the entry and within the basement carpark to the lift.	Yes
3.13 (26)	Accessible parking spaces shall be indicated by a permanent sign as specified in AS 1428.1.	The accessible car parking space to have permanent signage, a condition applied.	Yes
<b>Pedestrian</b>			
3.13 (30)	Design parking to ensure pedestrian safety.	A line marked pedestrian pathway provided between the car parking spaces and the lift/stairs.	Yes
3.13 (31)	Pedestrian entrances and exits shall be separated from vehicular access paths.	Pedestrian and vehicular access paths are separate.	Yes
<b>Access</b>			
3.13 (32)	Design driveways to minimise visual impact on the street and maximise pedestrian safety	The driveway descends from the footpath to the basement car park and is considered to be acceptable.	Yes
3.13 (33)	Ensure that all vehicles, including vehicles using loading bays, can enter and leave the site in a forward direction.	The basement design permits turning and maneuvering to leave the site in a forward direction.	Yes
<b>Materials</b>			
3.13 (35)	All driveways are to be finished in plain concrete	The driveway is to be plain concrete with a wood float finish and a steel trowel edge.	Yes
<b>Tandem, stacked and mechanical parking.</b>			
3.13 (40)	Tandem or stacked parking will only be permitted where: i. Each tandem or stacked parking arrangement is limited to a maximum of two spaces; ii. The maximum parking limit	Three (3) tandem spaces are proposed for use by staff only and will be sign posted accordingly.	Yes



	for spaces is not exceeded; iii. They are not used for service vehicle parking; iv. The spaces are attached to the same strata title in residential buildings and small commercial or retail developments; v. In residential buildings and serviced apartments, they are used for tenant parking only; vi. In commercial or retail development, they are used for staff parking only; and vii. The manoeuvring of and queuing for stacked vehicles are able to occur wholly within the premises, without obstructing the entry or egress of other vehicles.		
<b>3.13 (43)</b>	The minimum length of a tandem space is to be 10.8m.	Length is acceptable.	Yes
<b>3.14 Utilities</b>			
<b>3.14 (1)</b>	Applicants should consult service providers for energy, electricity, gas, water, telephone, national broadband network (NBN) fibre cables and fire requirements.	Noted, the services are available to the site and can be extended to meet the needs of this development.	Yes
<b>3.14 (2)</b>	Any services and structures required by the providers should be located within the basement, or concealed within the facade, with appropriate access. Where this is not possible, an alternative method of minimising street impact should be demonstrated, such as screening with landscape or built elements.	Noted and acknowledged.	Yes
<b>3.14 (3)</b>	With the exception of dwelling houses, all buildings should accommodate proposed or future air conditioning units	Airconditioning units can be accommodated on the roof and a condition has	Yes

	within the basement or on rooftops, with provision of associated vertical/horizontal stacks to all sections of the building	been applied.	
<b>3.14 (4)</b>	Air conditioning units and mechanical plant located on the roof should be well screened and integrated into the building form.	A condition has been applied requiring screening of air conditioning plant located on the roof.	Yes
<b>3.14 (5)</b>	Air conditioning units and mechanical plant should be sited away from adjacent sensitive land uses and/or screened by walls or other acoustic treatments.	A condition has been applied requiring screening of air conditioning plant located on the roof.	Yes
<b>3.14 (6)</b>	Car parking areas are to be designed and constructed so that electric vehicle and bicycle charging points can be installed now or at a later date. This will include the provision of 3 phase power to car parking areas for residential flat buildings, shop top housing and non-residential buildings.	A condition has been applied requiring the provision of charging points.	Yes
<b>3.14 (7)</b>	For all future roaded subdivisions, electricity supply is to be installed underground.	N/A	N/A
<b>3.14 (8)</b>	The existing above ground electricity and telecommunication cables within the road reserve and within the site will be replaced, at the applicant's expense, by Georges River DCP 2021 – Part 3 General Planning Considerations – October 2022 38 underground cable and appropriate street light standards, in accordance with the Energy and Communication Provider's guidelines.	A condition has been applied requiring existing above ground electricity and telecommunication cables within the site to be replaced with underground cables.	Yes
<b>3.17 Universal / Accessible Design</b>			

<b>General</b>			
<b>3.17 (1)</b>	All new building work should comply with the accessibility provisions of the Building Code of Australia (BCA) and the Disability (Access to Premises - Buildings) Standards 2010 where required.	An Access Report prepared by Design Right Consulting provides that the building is capable of achieving compliance.	Yes
<b>3.17 (2)</b>	Continuous unobstructed paths of travel should be provided from public footpaths, accessible car parking, and set down areas to public building entrances. Paths of travel should be designed in accordance with the Disability (Access to Premises - Buildings) Standards 2010.	An Access Report prepared by Design Right Consulting provides that the path of travel is capable of achieving compliance.	Yes
<b>3.17 (3)</b>	Accessways for pedestrians and for vehicles are to be separated.	Separate access ways provided from the footpath and within the basement for pedestrians and vehicles.	Yes
<b>3.19 Crime Prevention / Safety and Security</b>			
<b>Surveillance</b>			
<b>3.19(1)</b>	Active spaces and windows of habitable rooms within buildings are to be located to maximise casual surveillance of streets, laneways, parking areas, public spaces and communal courtyard space.	An office/meeting room and reception area at ground level provides outlook to the street. The staff room and corridor also have outlook from the first floor.	Yes
<b>3.19(2)</b>	In commercial, retail or public buildings, facilities such as toilets and parents rooms are to be conveniently located and designed to maximise casual surveillance to facility entries.	An accessible toilet is provided on the ground and first floor of the development centrally located to ensure passive surveillance of the facility entries.	Yes

<b>3.19(3)</b>	Minimise blind-corners, recesses and other external areas that have the potential for concealment or entrapment.	The design does not create any areas that have the potential for concealment or entrapment.	Yes
<b>3.19(4)</b>	Building entries are to be clearly visible, unobstructed and easily identifiable from the street, other public areas and other development. Where practicable lift lobbies, stairwells, hallways and corridors should be visible from the public domain.	The building entry for both pedestrians and vehicles are clearly visible, and easily identifiable from the street.	Yes
<b>3.19(5)</b>	Ground floors of non-residential buildings, the non-residential component of mixed use developments, and the foyers of residential buildings, are to be designed to enable surveillance from the public domain to the inside of the building at night.	Surveillance from the public domain is possible into the entry lobby and office/meeting room.	Yes
<b>3.19(6)</b>	Pedestrian routes from car parking spaces to lift lobbies are to be as direct as possible with clear lines of sight along the route.	Pedestrian routes in the basement carpark will be conditioned to be well illuminated and be comprised of straight lines. There are a number of blind corners, this is acceptable as it is an internal controlled space.	Yes
<b>Access Control</b>			
<b>3.19(8)(iii)</b>	Development should comprise elements that contribute to effective access control by creating restricted access to high crime risk areas such as car parks and other rarely visited areas.	Perimeter fencing and gates are proposed along with a garage door to control access to the site generally but especially to the basement car park.	Yes

<b>3.20 Noise and Vibration</b>			
<b>3.20.3 Noise Generating Development</b>			
<b>3.20.3 (1)</b>	Development should be sited and designed so that noise is kept to a minimum and does not create offensive noise as defined by the Protection of the Environment Operations Act 1997.	The childcare centre is orientated towards Stuart Park and has incorporated a range of noise attenuation measures.	Yes
<b>3.20.3 (2)</b>	Noise generating developments should be accompanied by an acoustic report that demonstrates the development is sited and designed to: i. Minimise the effect of noise and vibration on surrounding sensitive landuses; and ii. Comply with relevant State Government and Council guidelines.	An Acoustic Report prepared by Koikas Acoustics Pty Ltd was submitted with the application. The Report concluded that the predicted noise intrusion to neighbouring properties will comply with the relevant acoustic planning guidelines provided once the recommendations of the Report are implemented.	Yes
<b>3.20.3 (3)</b>	The location and design of noise generating activities, such as loading and unloading areas, garbage collection areas, driveways, parking areas, active recreation areas, air conditioning or mechanical plants, should be sited away from adjacent sensitive landuses and/or screened by walls or other acoustic treatments.	The design and location are acceptable.	Yes
<b>3.20.3 (4)</b>	In addition to physical noise mitigation measures, noise impact management measures should be used to further limit potential noise impacts on sensitive landuses such as: i. Scheduled times to undertake noise generating	Management measures are proposed to regulate the time and number of children able to use the outdoor play area. 18 on the first floor	Yes

	activities and/or use of noise generating machinery; and ii. Reasonable hours of operation including delivery hours. Notes: Noise generating development may include, but is not limited to the following: child care centres, schools, places of public worship, industrial uses, commercial developments, hotels, backpackers' accommodation, and some active recreational facilities.	and 32 on the ground floor at any one time.	
<b>Part 4 General Land Use</b>			
<b>4.2 Early Education and Child Care Facilities</b>			
<b>4.2.1 Building Setbacks</b>			
<b>4.2.1 (1)</b>	The child care centre should comply with the relevant setback controls as stipulated in this DCP as follows: i. Within a residential zone, setbacks for dwelling houses; and ii. Within a commercial / industrial zone – setbacks will be considered on a merit basis.	See Section 6.1.2 (3) of GRDCP 2021 below.	Yes
<b>4.2.2 Provision of Parking</b>			
<b>4.2.2 (1)</b>	On-site car parking is to be provided in accordance with the requirements in Section 3.13 – Parking Access and Transport of this DCP and must be provided either at grade or as basement parking	Basement parking has been provided in accordance with Section 3.13.	Yes
<b>4.2.3 Signage</b>			
<b>4.2.3 (1)</b>	For child care centres in residential zones, advertising should be limited to not more than one sign per child care centre which: i. Has a maximum area of 0.5m <sup>2</sup> ; and ii. Serves only to identify the name and phone	No signage proposed.	N/A

	number of the child care centre and the hours of operation.		
<b>4.2.3 (2)</b>	For child care centres in all other zones, compliance should be achieved with Council's signage requirements.	N/A, the subject site is in an R2 Low Density Residential zone.	N/A
<b>4.2.4 Management of Operations</b>			
<b>4.2.4 (1)</b>	An application for child care centres must be accompanied by a Plan of Management which provides all details relevant to the operation of the premises. Further details are outlined in Council's Development Application Guide.	A Plan of Management was submitted with the development application. It will need to be amended to address operational requirements of the centre relating to play spaces and child numbers.	Yes

## Part 5 Residential Locality Statements

### 5.17 Blakehurst Locality Statement

#### Location

This locality is bounded by West Street and Blakesley Road to the north, the suburbs of Carlton and Carss Park to the east, the Georges River to the south and Kyle Bay to the west.

The subject site is located in the Blakehurst locality.

#### Streetscape Character

The streetscape exhibits an eclectic character attributed to the variety of housing and fence materials, roof forms, driveway widths and garage styles. The tree lined streets are consistently wide with a high standard of landscaping. There are consistent front building setbacks. Due to the different architectural styles throughout the locality, there is lack of consistency in fencing as there are different heights and materials used. However, the treatments of the front setback spaces are also inconsistent in many streets as the contemporary two storey dwellings have little to no landscaping and are often dominated by hardscaping and driveways.

#### Future Desired Character

- Retain and enhance the existing low density suburban residential character through articulated contemporary developments.
- Encourage well-designed high density residential development towards the Blakehurst commercial centre and Tom Ugly's Point where applicable.
- Encourage the prominence of the bushland landscaped character in new development through tree planting and landscaping.
- Encourage consistent setbacks of buildings from the street and the provision of landscaping within the front setback.
- Encourage the retention of trees and sharing of water views wherever possible,



including screening via vegetation rather than solid walls.			
<ul style="list-style-type: none"> <li>Public views to waterways should be retained from streets and public places.</li> </ul>			
<b>Part 6 Residential Controls</b>			
The child care centre should comply with the relevant setback controls as stipulated in the DCP within a residential zone, setbacks for dwelling houses. An assessment against those controls is carried out in the table below:			
<b>Part 6.1 Dwellings, Dual occupancies (attached and detached), Secondary dwellings and Narrow lot housing (Low Density)</b>			
<b>6.1.2 Single Dwellings</b>			
<b>6.1.2.3 Setbacks</b>			
<b>Front Setbacks</b>			
<b>6.1.2.3 (1)</b>	The minimum setback from the primary street boundary is: i. 4.5m to the main building wall / facade; ii. 5.5m to the front facade of a garage or carport; or iii. Where the prevailing street setback is greater than the minimum, the average setback of dwellings on adjoining lots is to be applied. Note: The “Prevailing Street Setback” is the setback calculated by averaging the setback of two (2) adjoining residential properties on both sides of the development.	Minimum front setback 4.5m.  Proposed setback 7.8m.	Yes
<b>Side and Rear Setbacks</b>			
<b>6.1.2.3 (1)</b>	Buildings are to have a minimum rear setback of 15% of the average site length, or 6m, whichever is the greater (excluding detached secondary dwellings – see Point 12 in Section 6.1.2.12- Secondary Dwellings of this DCP).	Minimum rear setback is 15% of site length or 7.49m.  Proposed rear setback is 16.350m.	Yes
<b>6.1.2.3 (2)</b>	The minimum side setbacks for ground and first floor are:		
	i. 900mm for lots up to 12.5m in width measured at the front building line for the length of the development.	N/A, lot width greater than 12.5m	N/A
	ii. 1.2m for lots greater than 12.5m in width	East 1.2m West 1.2m	Yes Yes

	measured at the front building line for the length of the development.		
	iii. 1.5m for all lots within the Foreshore Scenic Protection Area measured at the front building line for the length of the development.	N/A, not located within a Foreshore Scenic Protection Area	N/A
<b>6.4 Ancillary Development</b>			
<b>6.4.1 Fences &amp; Walls</b>			
<b>Front Fences</b>			
<b>6.4.1 (1)</b>	Fence heights are to be limited to a maximum of: i. 900mm for solid masonry, and ii. 1.2m for open or partially transparent styles such as picket or palisade.	Front fence is a 1.2m metal palisade fence.	Yes
<b>6.4.1 (3)</b>	For sloping streets, fences and walls must be stepped to comply with the required maximum fence height.	Noted.	Yes
<b>Side and rear fences</b>			
<b>6.4.1 (6)</b>	Side and rear boundary fences must not be higher than 1.8m on level sites, or 1.8m as measured from the low side where there is a difference in level either side of the boundary. An additional 300mm of lattice is permitted for privacy screening	A 1.8m timber lapped and capped fence is proposed on the southern side boundary adjoining Stuart Park.  A 2.1m fence is proposed to the northern side and rear boundaries. The fence is in the form of 1.8m timber lapped and capped fence with the top 300mm being a clear polycarbonate panel. While a minor variation, the additional height will not obscure light and ensures satisfaction of visual and acoustic privacy.	Yes  No but acceptable based on acoustic amenity for the adjoining allotments.
<b>6.4.1 (7)</b>	In the case of corner sites with two street frontages, a 1.8m fence height is only permitted behind the building line. Fencing forward of the building line	Not a corner site.	N/A.

	is limited to a maximum height of between 900mm - 1.2m		
<b>Retaining Walls</b>			
<b>6.4.1 (10)</b>	Construction of retaining walls or associated drainage work along common boundaries must not compromise the structural integrity of any existing retaining walls or structures. All components, including footings and aggregate lines, must be wholly contained within the property.	Noted and can be conditioned for the ramping arrangement to the site within the front setback. The development does not necessitate any retaining walls with the exception of the access to and walling within the basement.	Yes
<b>6.4.1 (11)</b>	A retaining wall that is visible from the street or public area must:  (i) be constructed to a height no greater than 1.0m, and (ii) be designed so that there is a minimum setback of 1.0m between retaining walls and landscaping is provided in the setback areas, and (iii) be constructed of materials that do not detract from the streetscape	Complies.	Yes.
<b>6.4.2. Air conditioning</b>			
<b>6.4.2 (1)</b>	Air conditioning units should be sited so that they are not visible from the street.	Noted.	Yes.
<b>6.4.2 (2)</b>	The noise level from air conditioning condensers/ systems is not to exceed the LAeq 15 minute by 5dBA measured at the property boundary.	Noted and can be conditioned.	Yes.

### Developer Contributions

83. The proposed development if approved would require the payment of developer contributions under Section 7.12 of the Environmental Planning and Assessment Act 1979 as the proposal is increasing the density of the locality. Conditions of development consent have been recommended should the application be supported.

**Impacts*****Natural Environment***

84. The proposed development is unlikely to result in any significant adverse impacts on the natural environment. The site contains some smaller trees and shrubs that are of low retention value that are proposed to be removed. Adjoining the site in Stuart Park are a number of more significant trees worthy of retention and some of these trees have roots that encroach upon the subject site. An Arborist has assessed the impact of the excavation for the basement car park on the root system of these trees and found that it will be acceptable and within the tolerances permitted under the Australian Standard.
85. A landscape plan prepared by a qualified landscape designer includes a variety of suitable species of trees and shrubs that will be planted if the proposal is approved. A condition has been imposed that the planter on the first floor level is to be increased in size and volume.

***Built Environment***

86. The proposal will contribute positively to the area, offering a harmonious built form. The siting, scale, bulk, and massing of the development is generally consistent with that anticipated for the site and the planning controls for the site given it is located in a R2 Low Density Residential Zone. The proposal represents an appropriately designed development which will contribute positively to the character of the area.

***Social Impact***

87. The assessment demonstrates that the proposal in its current form will not have an unreasonable impact upon the character of the locality and the amenity of neighbouring residential properties. No adverse social impacts are envisaged as part of the assessment.
88. A Plan of Management has been provided with the application to ensure that suitable measures are put in place to maintain the amenity within the neighbourhood. The Plan of Management will form part of the conditions to be complied with as part of the development consent should approval be granted. It is acknowledged that the Plan of Management will need to be amended and suitable conditions have been imposed in this regard.

***Economic Impact***

89. The proposed development will have no adverse economic impact, it will benefit in the longer term providing employment and will in the immediate term contribute to maintaining jobs in the construction industry. The proposal is not considered to result in an unreasonable material economic impact.

***Suitability of the Site***

90. The site is zoned R2 Low Density Residential, a childcare facility is a permissible use in the zone. It is considered that the proposed development is of a scale and design that is suitable for the site. Having regard to its size, shape, topography, vegetation and relationship to adjoining developments. The subject site does not contain any impediments that would preclude it or compromise its suitability for the intended land use as proposed. The development in its current form is considered to be suitable for the site.

## Submissions, Referrals and the Public Interest

### Submissions

91. The application was advertised for a period of fourteen days between 17 February and 3 March 2022 in accordance with the Georges River Development Control Plan and the Georges River Council Community Engagement Strategy notification criteria.
92. The plans were renotified for a period of fourteen days between 3 March and 17 March 2022 in accordance with the Georges River Development Control Plan and the Georges River Council Community Engagement Strategy notification criteria.
93. A total of 42 submissions were received throughout the two (2) notification periods many of the submissions received were repeats of other submissions.

Several households submitted multiple submissions from the same premises. Many of the submissions received were pro forma in style including the same form and content.

94. The concerns raised are summarised below:
  - Traffic issues, increased congestion, inadequate parking, inadequate drop off facilities, narrow street, unsafe and will lead to conflict.
95. Comment: Increased traffic congestion and reduced parking around the development site and other connecting roads are raised as concerns by most residents who made submissions. It is inevitable that the proposal will increase traffic volume especially within the drop off and pick up times for children. The proposal complies with the carparking required for the development under the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017. It should also be noted that under the SEPP Council cannot refuse an application based on this criterion where the proposal meets the requirements of the SEPP. It is noted that a Traffic and Parking Impact Report was submitted with the application and Councils Traffic Engineer assessed the proposal in detail and found it to be acceptable raising no issues on traffic and parking grounds. The width of Stuart Street was also found to be acceptable noting that one side of the street does not permit parking and is signposted accordingly. Operation of the childcare facility is not expected to create an unsafe situation for users of the facility or road users in the street during pickup and drop off times.
  - Concern has been raised at the potential noise that would be generated by the children from the child care centre impacting the amenity of the neighbourhood.
96. Comment: Concerns were raised about noise impacting upon the amenity of residents in the locality. The proposed operating hours of the centre are 7am to 6pm weekdays. A Plan of Management was submitted with the application that seeks to limit noise before 9am and to manage the children's use of the outdoor play areas. An Acoustic Report was submitted with the application, and this was assessed by Council's Environmental Health Officer who found the conclusions and recommendations of the report to be satisfactory. The acoustic report details fencing criterion to reduce the noise emissions and the outdoor play areas have been restricted to 32 children at any one time on the ground floor and 18 on the first floor.
  - Concerns that the acoustic report prepared by the consultant is inaccurate.
97. The Acoustic Report submitted was prepare by Koikas Acoustics Pty Ltd, the principal of the firm Nicolas Koikas is a qualified acoustic consultant and a member of the Australian

Acoustic Society. Council's Environmental health officer reviewed the acoustic report and found it to be acceptable.

- Concern has been raised that there are too many child care centres located within close proximity to the proposed child care centre.
98. Comment: The non-discretionary development standards contained within the SEPP (Educational Establishments and Child Care Facilities) 2017 permit a child care centre to be located at any distance from an existing or proposed early education and care facility.
- Concern has been raised that the proposed hours of operation are excessive in a residential area will lead to loss of amenity for residents.
99. Comment: The proposed operating hours of the centre are 7am to 6pm weekdays. A Plan of Management was submitted with the application that seeks to limit noise before 9am and to manage the children's use of the outdoor play areas. An Acoustic Report was submitted with the application that provided for physical treatments to ameliorate noise in conjunction with active management. The Traffic Management and Parking Plan was also found to be acceptable, and operation of the centre would not unduly impact neighbours.
- Concern has been raised that the proposed use will generate odour from food scraps and nappies.
100. Comment: The waste bins are located within the ground floor and will be collected and presented to the street for collection in accordance with Council requirements. The waste generated is the same type of waste generated by residential properties. Given the waste bins are located within a closed room it is not expected that an unreasonable odour will have an adverse impact upon properties within the street. Furthermore, the waste is to be collected twice per week by a private contractor reducing the amount and duration of waste being stored.
- Concern that the facility is too large with too many staff and children
101. Comment: The proposal is largely consistent with relevant State and Council planning policy regarding the indoor and outdoor play spaces criterion and is not reliant upon multiple variations. As the proposal is a permissible land use in the R2 zone that satisfies the relevant planning controls it is not considered to be an over development that is too intensive for the subject site. The implementation of the Plan of Management and the recommendations of the Acoustic and Traffic Reports ameliorate any negative impacts to acceptable levels.
- Concerns surrounding the impacts of construction in the locality including noise, parking and traffic.
102. Comment: The construction phase of the proposal will lead to some impact upon the amenity of neighbours in the locality. A Construction Traffic Management Plan and Construction Environmental Management Plan were submitted with the application. Conditions have been added to the draft development consent to ameliorate the construction impacts including limiting the construction hours. Separate approval will be required from Council for construction vehicles to stand within the road reserve.

- Concerns playground areas do not receive enough sunlight
103. Comment: There isn't a specific planning policy requirement that playground need to receive a minimum amount of solar access. Good design requires that solar access to play grounds where possible. Given the orientation of the allotment and the design of the facility to reduce noise to neighbours the playground will be partially in shadow during the winter solstice.
- Concerns that the child care centre will cause a decline in property values in the locality
104. Comment: This is not a matter for consideration under the legislation.
- Neighbour Notification was inadequate in terms of number of people notified and the duration to make comment.
105. Comment: The development application was notified twice for a period of 14 days. Properties within 50m of the subject site were notified in accordance with Council's Notification Policy.
- Inappropriate land use for residential zone
106. Comment: Childcare centres are a permissible land use in the R2 Low Density Residential zone.
- Out of character with the streetscape
107. Comment: As discussed above the streetscape exhibits an eclectic character attributed to the variety of housing and fence materials, roof forms, driveway widths, garage styles and front setbacks. The tree lined streets with landscaping in the front setback. The proposal is acceptable due to the different architectural styles throughout the locality and provision of landscaping treatments of the front setback. Whilst the proposal seeks a double width driveway to service the basement car parking area, this is not inconsistent with many contemporary two storey dwellings having little to no landscaping and are often dominated by hardscaping and driveways and the development of dual occupancies with widened driveways or separate driveways for each dwelling.
- The proposed Management Plan is unrealistic.
108. Comment: The Management Plan submitted has been reviewed and found to be acceptable. If the centre fails to operate in accordance with the Management Plan they will be in breach of the Development Consent.
- The proposal fails to comply with Council Policy.
109. Comment: The proposal is largely compliant with Council Development Control Plan requirements as set out above. The areas of non-compliance were all found to be acceptable on merit in the circumstances as discussed.



- The site is unsuitable as the existing trees will be cleared.

110. Comment: An Arborist has assessed the trees on the subject site and found that there removal is acceptable as they are of low retention value. Council's Landscape officer also reviewed the Arborists Report and agreed with the findings that the trees may be removed.

## Referrals

### Council Referrals

#### Development Engineer

111. Council's Development Engineer has reviewed the proposal and found it to be acceptable. Conditions of development consent have been imposed.

#### Environmental Health Officer

112. The application was referred to Council's Environmental Health Officer (EHO) Councils EHO has reviewed the Preliminary Site Investigation (PSI) report prepared by EI Australia Pty Ltd dated 16 August 2021, the Acoustic Report – Prepared by Koikas Acoustics Pty Ltd dated May 31, 2021 and the Plan of Management prepared by GAT & Associates.

113. Based on the findings of the PSI prepared by EI Australia, the potential for contamination to exist the site was considered to be low. The site was deemed suitable for the proposed childcare centre.

114. Council's EHO raised no objection to the proposal subject to suitable conditions of development consent.

#### Senior Landscape & Arboriculture Assessment Officer

115. The proposal was referred to Councils Senior Landscape & Arboriculture Assessment Officer for comment. The following comments were made:

*"The Arboricultural Impact Assessment (AIA) recommends the removal of all trees within the site and the retention and protection of 12 x trees within the adjoining reserve and is supported.*

*8 x replacement trees have been proposed within the site. Although the 2:1 replacement or offset value policy applies, all the trees proposed for removal are low retention value or exempt species that would have very little offset value and the replacement trees are proposed in sizes larger than required by the policy at 100 litres each rather than 45 litres. This is considered adequate.*

*The landscape plan generally complies with the intent of the GRDCP 2021, however the proposed tree planting within Formboss Corten Planters will need to be amended to an alternative planter size that will provide a minimum 800mm soil depth and 9m<sup>3</sup> soil volume to support a 6-8 metre tall tree."*

Amended architectural and landscape plans were provided and referred back to Councils plans were provided and referred back to Councils Senior Landscape & Arboriculture Assessment Officer. She has advised the following:

*“The landscaping has been amended to reflect the updated architectural drawings. There is increased landscaping to the frontage which is supported and minor changes to the arrangement within the rear yard. The conditions I have previously supplied will be sufficient.”*

A condition relating to the increased size and volume of the planter to support the water gum on the first floor will not result in a non-compliance with the unencumbered outdoor space.

#### Traffic Engineer

116. The proposal was referred to Councils Traffic Engineer who has raised no objection to the proposal subject to the recommended conditions provided.

#### Waste Development Officer

117. The application was referred to Councils Waste Officer for assessment and review with the initial proposal for management of waste found to be unsatisfactory. The applicant amended the application by submitting a new construction and demolition waste management plan and a new operational management plan on 30 May 2023. The new waste management plans were referred to Councils Waste Development Officer for comment. They responded by stating that due to a staff vacancy in the team they do not have the capacity undertaking referrals for commercial land uses. In the absence of a response from Waste Team the proposal was assessed against the development control plan requirements and bin numbers were calculated in accordance with the NSW State Government requirements as published in the NSW EPA Better Practice Guide for Resource Recovery in Residential Developments and the NSW EPA Better Practice Guidelines for Waste Management and Recycling in Commercial and Industrial Facilities. The new waste management plans were found to be acceptable on the basis that the operational waste would be serviced by a twice weekly collection by a private waste contractor and all green waste will be removed by a landscaping maintenance contractor. Conditions of development consent have applied to reflect these arrangements.

#### **External Referrals**

##### Ausgrid

118. The application was referred to Ausgrid. A response was received on 9 March 2022 advising a decision was not required as no assets were present.

#### **Conclusion**

119. The proposal seeks consent for demolition of existing structures and the construction of a two storey 78 place childcare centre with basement parking for 19 vehicles, 4 bicycle spaces, one motor bike space, landscaping and site works at Lot 9 DP 560354 and known as 18 Stuart Street, Blakehurst. Based on the available unencumbered indoor space for each room only 72 children can be accommodated, as a result a condition will be included to reduce child numbers.
120. The proposal has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979. This included a detailed assessment against the provisions of the relevant State Environmental Planning Policies including *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*, the Georges River Local Environmental Plan 2021 and Georges River Development Control 2021 and found to be satisfactory. A required the proposal has been assessed against the Child Care Planning Guidelines and again found to be acceptable, subject to a reduction in children number to 72 based on the unencumbered indoor space provided and the sizing of each room.

121. Whilst significant community concerns were raised in submissions about the negative impact in the locality arising from traffic and noise and the bulk and scale of the development. The proponent has submitted expert reports to quantify the expected level of impact and offer recommendations to mitigate any undue impacts. Those expert reports have been reviewed by Council's staff who found them to be acceptable. It is not expected that the proposed development will lead to an unacceptable adverse impact within the immediate locality.
122. The proposal is considered to be an acceptable planning and design outcome for this site given the site characteristics and design response proposed. The application is recommended for approval subject to conditions.

### **Determination Statement of Reasons**

#### **Statement of Reasons**

123. The reasons for this recommendation are:

- The proposed development is permissible land use that satisfies the objectives of the R2 Low Density zone of Georges Rivers Local Environmental Plan 2021.
- The proposal satisfies the requirements of *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* and the Child Care Planning Guideline.
- The proposed development complies with the requirements of the other relevant environmental planning instruments.
- The proposal is an appropriate response to the site and is consistent with the desired future character of the R2 Low Density zone and existing developments in the locality relating to bulk, scale, height and setbacks.
- The proposed development will not unreasonably affect the amenity of any immediately adjoining properties in terms of traffic, car parking, noise, overshadowing or view loss.
- The proposal has been designed to be consistent with the streetscape of the locality.

#### **Determination**

124. Pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 (as amended) the Georges River Local Planning Panel approve DA2022/0015 for demolition of existing structures and the construction of a two storey 72 place childcare centre with basement parking for 19 vehicles, 4 bicycle spaces, one motor bike space landscaping and site works at Lot 9 DP 560354 and known as 18 Stuart Street, Blakehurst, subject to the following conditions:

#### **Development Details**

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

<b>Architectural Plans, prepared by Archizen Architects – Project 1941A</b>			
<b>Description</b>	<b>Reference</b>	<b>Date</b>	<b>Revision</b>
Drawing List	DA00	16/05/2023	C5
Site, analysis & demolition plan	DA01	18/05/2023	C5
Basement floor plan-north	DA02a	16/05/2023	C5
Basement floor plan-south	DA02b	16/05/2023	C5
Ground floor plan	DA03	18/05/2023	C5
Upper floor plan	DA04	16/05/2023	C5
North-west elevation	DA05	16/05/2023	C5
South-west elevation	DA06	16/05/2023	C5
South-east elevation	DA07	16/05/2023	C5
North-east elevation	DA08	16/05/2023	C5
Section a-a	DA09	16/05/2023	C5
Sections b-b & c-c	DA10	16/05/2023	C5
Concept roof plan	DA11	16/05/2023	C5
Streetscape elevations	DA12	16/05/2023	C5
Shadows @ June 21	DA13	16/05/2023	C5
Preliminary excavation plan	DA17	19/10/2021	B1

**Documents relied upon**

<b>Description</b>	<b>Reference</b>	<b>Date</b>	<b>Revision</b>	<b>Prepared by</b>
Survey Plan	190038-DET	4/10/2019	4	Onesight Surveys
External Finishes Schedule	Project 1941A	24/06/2022	B	Archizen Architects
Streetscape character analysis	Project 1941A	18/09/2021	A	Archizen Architects
Landscape Plans	Final Revision 2	29/07/2022	2	Tessa Rose Playspace and landscape Design
Stormwater Plans & Sediment and Erosion Control Plan	1893.21 - D1 1893.21 - D2 1893.21 - D3 1893.21 - D4 1893.1 - D4A 1893.21 - D5 1893.21 - D6	20/07/2021 20/07/2021 20/07/2021 20/07/2021 21/05/2021 20/07/2021 21/05/2021	B B B B A B A	LMW DESIGN GROUP P/L
Driveway Profile Plan Set Site and Ground Floor Information Typical Section Details External Driveway Plan	1893.21 – CW01 1893.21 – CW02 1893.21 – CW03	12/10/2021 12/10/2021 12/10/2021	A A A	LMW DESIGN GROUP P/L
Plan of Management (POM)	-	25/07/2022	V2	GAT & Associates Pty Ltd

Evacuation Diagram	-	01/07/2022	-	SPS Fire and Safety
Statement of Environmental Effects	-	December 2021		GAT & Associates Pty Ltd
Operational Waste Management Plan (WMP) – 32 pages	Report No 4946	26/5/2023	C	Elephants Foot Consulting –
Construction and Demolition Waste Management Plan - 23 pages	-	22/03/2023	A	Elephants Foot Consulting
Arboricultural Impact Assessment	-	28/07/2021	-	TALC Tree and Landscape Consultants
Report Root Mapping		15/07/2022		TALC Tree and Landscape Consultants
Access Report	-	26/07/2021	-	DESIGN RIGHT CONSULTING PTY LTD
Geotechnical Investigation Report	11972-GR-1-1	2/12/ 020		Alliance Geotechnical Pty Ltd
Phase 1 Preliminary Site Investigation	E24923.E01_R ev1	16/08/2021	B	EI Australia
Traffic & Parking Assessment Report	Ref - 21197	20/08/2021	-	Varga Traffic Planning Pty Ltd
Acoustical Report (Acoustic Report)	Project number 4435	31/05/2021	V2	Koikas Acoustics
Construction Traffic Management Plan	Ref - 21197 -	24/11/2021	-	Varga Traffic Planning Pty Ltd
Environmental Site Management Plan	1893.21 – Plans E1, E2 & E3	25/05/2021	A	LMW DESIGN GROUP P/L

2. **Signage** - A separate application shall be submitted to Council prior to the erection of any signs unless the proposed signage is 'exempt development' under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* or any other applicable environmental planning instrument.

### SEPARATE APPROVALS REQUIRED UNDER OTHER LEGISLATION

3. **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 and ancillary works in the road reserve;
- k) Stormwater and ancillary to public infrastructure on private land; and
- 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](http://www.georgesriver.nsw.gov.au). For further information, please contact Council’s Customer Service Centre on (02) 9330 6400.

4. **Driveway Crossing** - Constructing a driveway crossing and/or footpath requires a separate approval under Section 138 of the *Roads Act 1993* prior to the commencement of those works.

To apply for approval, complete the “Application for Driveway Crossing and Associated Works on Council Road Reserve” issued under Section 138 Roads Act which can be downloaded from Georges River Council’s Website at [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au). Lodge the application form, together with the associated fees at Council’s Customer Service Centre, during business hours. Refer to Section P1 and P2, in Council’s adopted *Fees and Charges* for the administrative and inspection charges associated with Driveway Crossing applications. An approval for a new driveway 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 in accordance with Council’s specifications applicable at the time, prior to the issue of an Occupation Certificate.

The design boundary level is to be received from Council prior to construction of the internal driveway.

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

**6. 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.

- (a) That cable anchors will be stressed released when the building extends above ground level to the satisfaction of Council.
- (b) 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.
- (c) Documentary evidence of such insurance cover to the value of \$20 million.
- (d) The applicant must register a non-terminating bank guarantee in favour of Council for the amount of **\$50,000**.

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.

That 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.

**7. 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.



## REQUIREMENTS OF OTHER GOVERNMENT AUTHORITIES

8. **Trade Waste Agreements** - A Trade Waste Agreement with Sydney Water may be required. Details of any work required to comply with the agreement must be detailed on the plans lodged with the Construction Certificate. If no trade waste agreement or grease trap is required, a letter from Sydney Water to this effect must be submitted with the application for the Construction 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](http://www.ausgrid.com.au) (Business and Commercial Services).
10. **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](http://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.
11. **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](http://www.sydneywater.com.au) <http://legislation.nsw.gov.au/> 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](http://www.sydneywater.com.au) <http://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.

## FEES AND CONTRIBUTIONS

12. **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](http://www.georgesriver.nsw.gov.au)).

Fee Type	Fee
<b>GENERAL FEES</b>	
Builders Damage Deposit	\$3,750.00
Inspection Fee for Refund of Damage Deposit	\$371.00
<b>DEVELOPMENT CONTRIBUTIONS</b>	
Georges River Council Local Infrastructure Contributions Plan 2021	\$25,779.03

- 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).
- 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).
- 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.

13. **Section 7.12 Levy** - Pursuant to the *Georges River Council Local Infrastructure Contributions Plan 2021*, a Section 7.12 levy of **\$25,779.03** is required to be paid for this development to be applied towards the provision, extension or augmentation of public amenities or public services.

### Indexation

The proposed cost of carrying out the development to which this consent relates is to be adjusted quarterly to reflect inflation in the CPI for All Groups (Sydney), in accordance with Section 208 of the *Environmental Planning and Assessment Regulation 2021* and Section 5.2.6 of the *Georges River Council Local Infrastructure Contributions Plan 2021*.

The levy payable at the time of payment is found by multiplying the levy rate by the adjusted proposed cost of carrying out the development.

### Timing of Payment

The contribution must be paid and receipted by Council prior to the release of a construction certificate as specified in the development consent.

### Further Information

A copy of the current Development Contributions Plan 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](http://www.georgesriver.nsw.gov.au)

**14. Damage Deposit** - 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: **\$3,750.00**
- b) Pay Council, before the issue of the Construction Certificate, a non- refundable inspection fee to enable assessment of any damage and repairs where required: **\$371.00.**
- 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.
- d) 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.

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

**15. Site Management Plan** – 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.

**16. Fencing** - The fencing to be incorporated into the development shall be lapped and capped and design and installed in accordance with the requirements of the acoustic report.

**17. Air conditioning Mechanical Plant** – All air conditioning mechanical plant shall be designed to be installed on the roof. Suitable noise attenuation measures to comply with the Acoustic Report and screen the plant from the street and adjoining properties shall be provided. Full detailed to be provided prior to the release of the Construction Certificate.

18. **Charging Points in Car Park** – Full details to be provided for design and installation of charging points for electric vehicles and electric bicycles in the basement car park. The design shall allow for the provision of charging points either now or easy installation at a later date. Full detailed to be provided prior to the release of the Construction Certificate.
19. **Relocation of Services** – All existing above ground services (electricity and telecommunications) and any new services shall be installed underground at the applicant's expense. Requirements of utility operators should be confirmed to ensure the proposed design is satisfactory. Full details to be provided prior to the release of the Construction Certificate.
20. **Retaining walls or associated drainage work** - Construction of retaining walls or associated drainage work along common boundaries must not compromise the structural integrity of any existing retaining walls or structures. All components, including footings and aggregate lines, must be wholly contained within the property. Full detailed to be provided prior to the release of the Construction Certificate.
21. **Amended Landscape Plan** - The landscape plans by Tessa Rose, dated 6.7.21 are to be amended to provide an alternative planter style and size that will provide a minimum 800mm soil depth and 9m<sup>3</sup> soil volume to support *Tristanopsis laurina* at 6-8 metres in height at maturity on the first floor outdoor play terrace.
22. **Driveway Longitudinal Sections - not approved** – The following drawings prepared by LMW Design Group Pty Ltd dated 22 July 2022 are not approved for construction due to the footpath crossing/driveway not complying with Council's levels at the property boundary and gradients across the footpath:
- CW01 Issue "B"
  - CW03 Issue "B"
  - CW04 Issue "B"

**NOTE:** The difference in level from the top of the kerb to the property boundary shall be the same on both sides of the driveway and the fall/gradient at the property boundary from the uphill/right side of the driveway to the downhill/left side of the driveway shall be the same as the fall/gradient on the gutter in Stuart Street.

Contact shall be made with officers in the Council's Assets and Infrastructure Department to obtain the required footpath and boundary levels and amended driveway and ramp drawings complying with Council's requirements **shall be submitted to Council for approval prior to the issue of the Construction Certificate.**

23. **Construction vehicle and pedestrian plan of management** - Prior to the issuing of a Construction Certificate, a Construction Vehicle and Pedestrian Plan of Management (CVPPM) shall be submitted to Council for the approval of Council's Senior Traffic and Parking Assessment Officer. The CVPPM shall detail, but not be limited to, details of the following:
- (a) The routes to be taken by trucks in the Georges River Council area when travelling to and from the site.

- (b) The maximum truck size proposed during the various stages of construction.
- (c) Where it is proposed to stand/park the trucks during the various stages of construction.
- (d) The approved hours of construction.
- (e) The swept wheel paths of trucks entering and exiting the site including when vehicles are parked on the opposite, north-western side of Stuart Street.  
Note : The swept wheel path drawings shall be prepared by a suitably qualified and experienced traffic engineering professional.
- (f) The location and length of any proposed Works Zones.  
**NOTE:** The installation of Works Zones and any associated changes to existing parking control signs and Council infrastructure to implement the zones requires the prior approval of the Georges River Council Traffic Committee.
- (g) Any changes to on street parking at and near the site during the various stages of development including during and outside the approved hours of construction.
- (h) Any changes proposed to the movements of pedestrians and/or cyclists past the site both during and outside the approved hours of construction.

A copy of the approved CVPPM must be kept at the site and made available to the Principal Certifying Authority or Council on request.

- 24. 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 Council or a PCA. Such list must also specify the minimum standard of performance for each essential fire safety measure included in the list. The Council or PCA will then issue a Fire Safety Schedule for the building.

- 25. Waste Storage Containers** - All waste and recycling containers shall be stored in an approved waste storage area, located in an area of the site that is satisfactory for these purposes. Facilities are to be provided in accordance with any requirements of the NSW Family and Community Services and the Education and Care Services National Regulations.

Details of the Waste Storage Area must be illustrated on the plans submitted with the application for the Construction Certificate for approval.

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

- a) waste room floor to be sealed;
- b) waste room walls and floor surface is flat and even;
- c) all walls painted with light colour and washable paint;
- d) equipment electric outlets to be installed 1700mm above floor levels;
- e) bin storage rooms will be mechanically exhausted as required by AS 1668.2;
- f) light switch installed at height of 1.6m;
- g) waste rooms must be well lit (sensor lighting recommended);
- h) 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;
- j) building handover - building management make the decision to install;
- k) all personnel doors are hinged and self-closing;

- l) waste collection area must hold all bins - bin movements should be with ease of access;
- m) conform to the Building Code of Australia, Australian Standards and local laws; and childproofing and public/operator safety shall be assessed and ensured.

## 27. Waste requirements

- a) As proposed by the applicant, waste is to be **collected by a private contractor twice weekly**.
- b) The management of wastes on private property and the movement of bins around the private property is the responsibility of the Centre Manager on behalf of the Property Owner. Transport of bins and/or bulky waste is not to occur on public roadways or footpaths and must occur within the confines of private property. All waste must be managed and disposed of in a source-separated manner and in accordance with all relevant regulations.
- c) The Centre Manager, on behalf of the Property Owner shall 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 the Council.
- d) The Centre Manager, on behalf of the Property Owner shall be responsible for maintaining all bin and waste storage areas in a clean, safe, and hygienic manner.
- e) All waste handling equipment and systems used in conjunction with the provision of waste and recycling services shall be manufactured, installed, and maintained in accordance with any applicable regulatory requirements, relevant Australian Standards, and relevant manufacturer's specifications.
- f) Receptacles for the management of any litter must be contained in bins with lids. Bins enabling the source separation are to be provided in all common areas and will be the responsibility of the Centre Manager, on behalf of the Property Owner to rotate and empty as required. The bins must be secured to prevent the dispersal of litter by wind or animals.
- g) All waste and recycling containers shall be stored in an approved waste storage area that is large enough to store the required number of bins for the number of units and intended uses of the site. The applicant must allocate 3m<sup>2</sup> of storage space adjacent to the bin storage area drained to the sewer with a water tap access that meets the BCA for use as a bin wash area. Otherwise, the applicant must engage a private bin wash contractor for commercial bins as required to prevent odour and/or vermin.
- h) For the proposed commercial premises (childcare facility catering for 74 children and operating 5 days per week) the onsite storage must allow for the following bins, at a minimum:
  - ☐ 5 x 240L general waste bins serviced twice weekly.
  - ☐ 5 x 240L commingled recycling bins serviced twice weekly.
- i) The applicant must provide sufficient storage for special waste (if any) in line with the expected generation rate for the property. The applicant is recommended to provide storage space for food organics and other specialised waste types in line with the likely requirements of the proposed premises.
- j) Any bulky waste generated from the premises will be the responsibility of the Centre Manager, on behalf of the Property Owner to remove immediately through private waste contractors, given there is no commercial bulky waste storage on site.

- k) Private waste collection services provided for commercial waste are restricted to a maximum of once weekly between Monday – Friday and within the hours of 6 am – 10 pm.
- l) Private waste collection services must occur in a source-separated manner with all wastes collected separately according to the following streams: general waste, commingled recycling, and organics at a minimum.
- m) If collections are to occur on the kerbside, a site manager or private waste collection contractor shall be responsible for presenting all approved bin receptacles no earlier than 3 hours prior to collection at the designated collection location and returning them to the confines of private property no later than 3 hours post collection.
- n) A rolling kerbside must be implemented to enable bins to be wheeled from the site to a waste collection vehicle for servicing. Further, the applicant must provide adequate storage space on an impervious surface at the kerbside to accommodate the bins immediately before and after collection. These need to be indicated on the Architectural Plans.
- o) All green waste is to be removed by a landscape contractors.

**28. Amendments to Plan of Management (POM) -** Prior to the issue of any construction certificate, the following amendments are required to be submitted for the approval of Council's Delegated Officer:

- a) The Plan of Management is to be updated to reflect the a change in children numbers to a maximum of 72. The following is the breakdown of child numbers by play rooms:

Number of children	Age	Playroom
7	0-2	1
17	2-3	2
29	3-5	3
19	3-5	4

- b) The Plan of Management is to be amended to detail how the children are to access the outdoor play areas, noting that the upper level play area is only permitted to accommodate 18 children at any one time as modeled in the acoustic report and the ground floor area can only accommodate 32 children at any one time. The emergency plan and the evacuation plan will need to be amended to reflect these requirements.
- c) The waste removal is to be twice weekly and serviced by a private contractor.
- d) Explain and detail the provision of adequate storage space within the kitchen on the first floor for the storage of pre-prepared meals & snacks or goods for the preparation of meals and snacks for 72 children.
- e) To ensure compliance with 4.8 in the Guideline:
  - Address in detail the evacuation procedures with reference to mobility, safe haven/assembly area, supervision.
  - Include the approved Emergency Evacuation Diagram as an appendix to the POM.

**29. Low reflectivity roof -** Roofing materials must be low glare and reflectivity. Details of finished external materials including colours and texture must be provided to the Certifying Authority.



**30. 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 all adjoining premises that shall be affected by the excavation as determined by the consulting engineer.

- a) 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.
- b) 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.
- c) 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.

**31. Erosion & 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 runoff 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.

**32. Stormwater System** - The submitted stormwater drainage plans have been assessed as concept plans 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 directly in front of the development site in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).
- (b) Provide a clear path along the western boundary for the overland flow to the street from the upstream catchment. The path shall not be blocked by landscaping.

- (c) The PCA shall consider that the side boundary wall can be higher than the adjacent Reserve ground level, in order to stop the overland flow from entering the site. This matter shall be addressed on plan.
- (d) Prior to commencement of works, a registered surveyor shall survey the approved stormwater levels to ensure that the OSD system drains by gravity to the street as shown on the approved drainage plan.
- (e) Prior to the commencement of works, the registered surveyor shall ensure to the (PCA) that the stormwater discharge pipe connected to the street kerb 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.
- (f) 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.

**33. Stormwater Systems with Basement** - The underground basement car park must pump to the proposed OSD tank. 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.

**34. Detailed Stormwater Drainage Design** The submitted stormwater plan has been assessed as a concept plan only. A detailed drainage design supported by a catchment area plan and drainage calculations must be submitted with the Construction Certificate application.

**35. 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 is to be constructed in accordance with Council's stormwater management policy.

- (a) The OSD volume and the permissible site discharge (PSD) shall comply with the requirement of Table (3) of Council's stormwater management policy.
- (b) The PCA shall ensure that the retaining walls surrounding the above ground storage OSD basin is impermeable and shall not leak onto the downstream property. Ponding shall comply with the policy requirement.

Refer to Flow Controls in Council's Stormwater Management Policy. The OSD facility shall be designed to meet all legislated safety requirements and childproof safety fencing around the facility must be provided where the OSD facility is open or above ground when the design peak storage depth is greater than 300mm. A durable metal plate or similar sign is to be placed at the OSD facility and must bear the words:

"BEWARE: This is an on-site detention basin/tank for rainwater which could overflow during heavy storms."

Full details shall accompany the application for the Construction Certificate.

- 36. 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.

- 37. Driveway Construction Plan Detail** - 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) 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.

- 38. 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.

- 39. Stormwater Drainage Application** - This Development Consent does not give approval to undertake works on public infrastructure. A separate approval of a Stormwater Drainage Application is required under Section 138 of the Roads Act 1993 and/or Section 68 of the Local Government Act 1993 to undertake:

- a) Stormwater & ancillary works in the road reserve. This includes connections to council.

b) Stormwater & ancillary to public infrastructure on private land

The Stormwater Drainage Application approval must be obtained and evidence of the approval provided to the Certifying Authority prior to the issue of the Construction Certificate.

The Application Form for this activity can be downloaded from Council's website [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au). For further information, please contact Council's Customer Service Centre on (02) 9330 6400.

- 40. Access for Persons with a Disability** - Access to and throughout the premises, site, basement carpark and to sanitary facilities for persons with disabilities must be provided 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 for approval. In regard to the above, pedestrian access throughout basement levels shall be highlighted/line marked and sign posted to safeguard egress.
- 41. Geotechnical report** - Geotechnical Reports: 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 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 Certifying Authority and the adjoining residents as part of the application for the Construction Certificate. Adjoining residents are to be provided with the report five (5) working days prior to any works on the site.
  - c) On-site guidance by a vibration specialist during the early part of excavation.
  - d) 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) Rock breaking techniques. Rock excavation is to be carried out with tools such as rock saws which reduce vibration to adjoining buildings and associated structures.
  - f) Sides of the excavation are to be pierced prior to any excavation occurring to reinforce the walls of the excavation to prevent any subsidence to the required setbacks and neighbouring sites.

- 42. Slip resistance** - All pedestrian surfaces 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 must comply with AS4586:2013 - Slip resistance classifications of new pedestrian surface materials (incorporating amendment 1) and must be detailed on the plans lodged with the application for the Construction Certificate.
- 43. 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.**
- 44. Acoustic Requirements - Compliance with submitted Acoustic Report –**
- a) The Construction Certificate plans shall demonstrate compliance with the Acoustic Report submitted and approved by Council, titled Acoustical Report – Prepared by Koikas Acoustics Pty Ltd dated May 31, 2021 prior to the issue of the Construction Certificate.
  - b) Prior to Construction Certificate, all proposed items of mechanical plant must be assessed by a suitably qualified acoustic consultant, being an employee of a member firm of the Association of Australasian Acoustical Consultants (AAAC). The cumulative LAeq(15minute) noise emission from the proposed items of mechanical plant must not exceed background by more 5 dB when measured anywhere along the boundary of neighbouring residential receiver properties.
- 45. Food Premises** - The following information shall be provided and shown on the **Construction Certificate Plans**:
- a) **Plans and Specifications**  
Details of the construction and fit out of food premises must be submitted to Council's Environmental Health Officer. The plans and specifications must demonstrate compliance with the:
    - i. Food Act 2003 (as amended)
    - ii. Food Regulation 2015 (as amended)
    - iii. Food Standards Code as published by Food Standards Australia
    - iv. New Zealand and Australian Standard AS4674:2004 Design, Construction and fit out of food premises (as amended)
    - v. Sydney Water – trade Waste Section.

Environmental Health Officers' must advise in writing that the plans and specification are considered satisfactory prior to the issue of any Construction Certificate.

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

- 46. Management of demolition & construction waste** - The applicant must provide details of the proposed contractors used for managing demolition/construction wastes to the Council prior to the issue of a Construction Certificate. The applicant must maintain records of licensed waste management disposal for up to seven years as evidence of correct management of wastes from the development. 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.
- 47. No Burning** - All materials as a result of demolition, site clearing, site preparation and, or excavation shall be removed from the site and disposed of at a suitable Waste Management Facility. No vegetation, article, building material, waste or the like shall be ignited or burnt on site.
- 48. 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.
- 49. Demolition & 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 PCA 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](http://www.SafeWork.nsw.gov.au).

- 50. Demolition Notification Requirements** – The following notification requirements apply to this consent:
- a) The developer /builder must notify adjoining residents five working days prior to demolition. Such notification is to be a clearly written note giving the date demolition will commence, contact details of the developer/builder, licensed asbestos demolisher and the appropriate regulatory authority. Notification is to be placed in the letterbox of every premises (including every residential flat or unit, if any) either side and immediately at the rear of the demolition site.

- b) Five 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.
- c) On demolition sites where buildings to be demolished contain asbestos, a standard commercially manufactured sign containing the words “DANGER ASBESTOS REMOVAL IN PROGRESS” measuring not less than 400mm x 300mm is to be erected in a prominent visible position (from street frontage) on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos material has been removed from the site to an approved waste facility.

**51. Dial before your dig** - The applicant shall contact “Dial Before You Dig on 1100” to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from “Dial Before You Dig” shall be forwarded to the Principal Certifier and Council for their records.

## **52. 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, and
- e) The full name and signature of the structural engineer.

The Dilapidation Report must be prepared by a professional engineer. The report must be provided to the Principal 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 damaged deposit after the completion of works.

**53. Registered Surveyors Report - During Development Work** - A report must be submitted to the Principal Certifier at each of the following applicable stages of construction:

- a) Set out before commencing excavation.
- b) Floor slabs or foundation wall, before formwork or commencing brickwork.
- c) Completion of Foundation Walls - Before any construction of flooring, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans.
- d) Completion of Floor Slab Formwork - Before pouring of concrete/walls construction, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans. In multi-storey buildings a further survey must be provided at each subsequent storey.



- e) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries.
- f) 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.

54. **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.

## DURING CONSTRUCTION

55. **Protection of Stuart Park** – Access to the development site at 18 Stuart Street Blakehurst is at no time permitted to be through Stuart Park. No construction vehicles, delivery vehicles or trades vehicles etc are to access or park within the Stuart Park. No building materials are to be stored within the park, even temporarily. The site fencing is to be maintained along the interface with the park to ensure that the public accessing and using the park cannot gain access to the development site and that the fencing is in good repair so as not to cause a hazard to the public. An appropriate hoarding is to be erected in this location to prevent any building materials falling onto or within Stuart Park.
56. **Structural Engineers Details** - The proposal must be constructed in accordance with details designed and certified by the practicing qualified structural engineer. All structural works associated with the proposed building must be inspected and structurally certified for compliance by an independent practicing 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 Certifying Authority at each stage of Construction or prior issue of the Occupation Certificate.
57. **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 Council's drainage system.
58. **Utility Services** - The applicant shall undertake and bear all costs associated with the liaison, approval and relocation of any utility services. All correspondence and approvals between the Applicant and utility authorities shall be provided to the Council in conjunction with engineering documentation for the stormwater drainage works.
59. **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.

**60. Site sign - Soil & 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.

**61. 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.

**62. 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.

**63. 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.

**64. 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. Pedestrian flows along the footpath shall be maintained at all times during demolition and construction. There is to be no obstruction of the public footpath at any time. Vehicular flows along Stuart Street shall be maintained at all times.

**65. Tree Removal & Replacement** - Permission is granted for the removal of all trees located within the development site.

- a) All tree removal shall be carried out by a minimum AQF Level 3 Arborist with appropriate insurance. Tree removal are to be undertaken safely and in compliance with AS 4373-2007 - *Pruning of Amenity Trees* and *Tree Works Industry Code of Practice (Work Cover NSW 1.8.98)*.

- 66. Tree Retention & Compliance with Arborists Report** - The following trees are to be retained and protected as part of the proposed works in accordance with sections 4.3.1, 4.3.2, 4.3.3 and Appendix D of the Arboricultural Impact Report by TALC, dated 28.07.21:

No.	Tree Species	Location
1	<i>Banksia integrifolia</i>	Adjoining Reserve
2	<i>Melaleuca stypheliodes</i>	Adjoining Reserve
3	<i>Melaleuca stypheliodes</i>	Adjoining Reserve
4	<i>Melaleuca linarifolia</i>	Adjoining Reserve
5	<i>Melaleuca stypheliodes</i>	Adjoining Reserve
6	<i>Melaleuca stypheliodes</i>	Adjoining Reserve
7	<i>Melaleuca linarifolia</i>	Adjoining Reserve
8	<i>Banksia integrifolia</i>	Adjoining Reserve
9	<i>Melia azedarach</i>	Adjoining Reserve
10	<i>Banksia integrifolia</i>	Adjoining Reserve
11	<i>Banksia integrifolia</i>	Adjoining Reserve
12	<i>Banksia integrifolia</i>	Adjoining Reserve

- 67. Landscape Works** – All landscape works shall be carried out in accordance with the approved landscape plans and specifications. The landscaping shall be maintained in accordance with the approved plans in perpetuity, subject to the following -
- The applicant must engage a licensed and reputable nursery grower early within the build phase and purchase all trees and plant material early to ensure that all tree and plant material, pot/bag sizes and quantities are guaranteed at the time of the landscape and planting phase.
  - All trees proposed upon the approved landscape plan shall comply with AS 2303 – 2018, *Tree Stock for Landscape use* and *NATSPEC Specifying Trees: a guide to assessment of tree quality (2003)*. All tree and plant material purchased for the proposed works must be inspected and certified for compliance by an AQF 5 Horticulturist and confirmed with a letter to the PCA.
- 68. 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 Certifier.

- 69. 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:

- a) Work Health and Safety Act 2011 (NSW) (as amended);
- b) Work Health and Safety Regulation 2011 (as amended);
- c) Protection Of the Environment Operations Act 1997 (NSW) (as amended); and
- d) Protection of the Environment Operations (Waste) Regulation 2014 (as amended)

## 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

70. **Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the Sydney Water Act 1994 <<http://legislation.nsw.gov.au/>> must be submitted to the PCA prior to the issue of the Occupation/Subdivision Certificate.
71. **Driveway pavement** - 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.
72. **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 Certifier at each stage of Construction or prior issue of the Occupation Certificate.
73. **Car Spaces** - Wheel stops catering for the rear in or front in parking shall be installed in accordance with the relevant Australian Standard. Details of the required signage and/or markings to control the front in/rear in parking shall be submitted to the Principal Certifying Authority for approval and the signs/markings installed prior to the issue of the Occupation Certificate. The accessible car parking space shall have a permanent signage installed.
74. **Metal Balustrade – southern end of basement car park** – The balustrade at the southern end of the basement car park shall be constructed of materials capable of withstanding the impact of vehicles manoeuvring in the vicinity without yielding/deforming. Details of the type, materials of construction and dimensions of the metal balustrade shall be submitted to the Principal Certifying Authority for approval and the balustrade installed prior to the issue of the Occupation Certificate.
75. **Bicycle facilities and certification-** Facilities for the parking of bicycles shall comply with the requirements of *AS2890.3: 2015 Parking Facilities, Part 3: Bicycle parking*. Prior to the issue of an Occupation Certificate, documentation from a suitably qualified and experienced Traffic Engineering consultant shall be submitted to the Principal Certifying Authority certifying the bicycle parking facilities have been constructed in accordance with the approved plans and the above Australian Standard.

**76. Requirements prior to the issue of the Occupation Certificate - Stormwater Works** - All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans 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 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) 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.

**77. 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;

**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."

**Positive Covenants**

1. *The registered proprietor of the lot(s) hereby burdened will in respect of the system:*
  - a) *keep the system clean and free from silt, rubbish and debris*
  - b) *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*
  - c) *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*
  - d) *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.*

2. Pursuant to Section 88F (3) of the Conveyancing Act 1919 the Council shall have the following additional powers:
  - a) 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 1(d) above
  - b) 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 (i) hereof. Such expense shall include reasonable wages for the Council's employees engaged in effecting the work referred to in (i) 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.

**78. Maintenance Schedule – 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.

**79. Stormwater drainage works – Works As Executed** - Prior to the issue of the Occupation Certificate, storm water 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.

**80. 88B Instrument** - An 88B Instrument shall be registered on title, prepared by a Registered Surveyor and submitted to Council. This Plan shall create the following:

- a) A Positive Covenant shall be created over the on-site detention facility using Section 88B of the Conveyancing Act 1919, with the covenant including the following wording:

*It is the responsibility of the Lot Burdened to keep the on-site detention facilities, together with any ancillary pumps, pipes, pits etc., clean at all times and maintained in an efficient working condition. The on-site detention facilities shall not be modified in any way without the prior approval of Georges River Council.*

Council is to be nominated as the Authority to release, vary or modify this Covenant.

- b) The 88B instrument shall be submitted to Council for endorsement by Council's Authorised Officer (with a copy of the consolidation plan for Council records).
- c) This shall be registered at the NSW Land and Property Information prior to the issue of a final occupation certificate.

**81. Requirements prior to the issue of the Occupation Certificate** - The following shall be completed and or submitted to the Principal Certifier 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.
- 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.
- 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.
- f) Work as Executed Plans prepared by a Chartered Professional Engineer or a Registered Surveyor when all the site engineering works are complete.
- g) The construction of the proposed Kerb Inlet Pit and 450 mm diameter RCP pipe shall be completed in accordance with the conditions and specifications of the Section 68 Activity Approval.

**82. Vehicular crossing & Frontage work** – The following road frontage works shall be constructed by a private contractor at the expense of the applicant, in accordance with the specifications issued under the 'Application for Driveway Crossing and Associated Works on Council Road Reserve' approval issued by Council's Assets and Infrastructure Division and in accordance with Council's Specification for Vehicular Crossings and Associated Works:

- a) Construction of a 1.5m width footpath for the full length of the frontage of the site in Stuart Street accordance with Council's Specifications for footpaths.
- 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.

The driveway and road frontage works are to be completed before the issue of the Occupation Certificate.



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

- a) 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
- f) Relocation/provision of street signs
- g) New or replacement street trees;
- h) 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.
- i) New or reinstated kerb and guttering within the road related area; and
- j) New or reinstated road surface pavement within the road.

Council's Assets and Infrastructure 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.

**84. 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.

a. **Dilapidation Report on Public Land** – Upon completion of works, a follow up dilapidation report must be prepared for the items of Council infrastructure adjoining the development site including:

- a) Footpaths, Kerb and gutter
- b) Drainage Infra-structure

The dilapidation report must be prepared by a professional engineer specialising in structural engineering, and include:

- a) Photographs showing the condition of the road pavement fronting the site
- b) Photographs showing the condition of the kerb and gutter fronting the site
- c) Photographs showing the condition of the footway including footpath pavement fronting the site
- d) Photographs showing the condition of 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 professional engineer.

The report must be provided to the Principal 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 or not to refund the damage deposit.

Council's Assets and Infrastructure Division must advise in writing that the works have been completed to their satisfaction prior to the issue of an Occupation Certificate.

- 85. 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 the measure has been assessed by a person (chosen by the owner of the building) who is properly qualified to do so.
  - That 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 attached 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.
- 86. Acoustic Compliance** - Prior to the issue of any Occupation Certificate, a suitably qualified acoustic consultant shall certify that the operation of the premises and plant equipment shall not give rise to a sound pressure level at any affected premises that exceeds the acoustic criteria established by the Acoustic Report required by a condition of this consent. The development shall at all times comply with these noise levels post occupation.
- 87. 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 activity on the site including indoor and outdoor play areas and any mechanical plant and 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 PCA prior to the issue of any Occupation Certificate.

- 88. Food Premises - Inspection & Registration** - Prior to the issue of any Occupation Certificate or occupation or use of any food premises:
- An inspection of the fit out of the Food Premises must be arranged with Council's Environmental Health Officer;
  - A satisfactory final inspection must have been undertaken by Council's Environmental Health Officer; and
  - The Food Premises must notify and register its business details with Georges River Council as required under section 100 of the Food Act 2003.
- 89. 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 all adjoining premises.
- The report is to be prepared at the expense of the applicant and submitted to the Principal Certifier prior to the issue of the Occupation Certificate. In ascertaining whether adverse structural damage has occurred to the adjoining premises, the Principal Certifier 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 Principal Certifier prior to the issue of any Occupation Certificate.
- 90. Allocation of car parking spaces** - Car parking associated with the development is to be allocated as shown on the approved plans and as follows:
- Six (6) spaces for staff;
  - Thirteen (13) spaces for parents including one (1) accessible.
- 91. Carpark layout, design and certification** - The layout and design of off street car parking areas shall comply with the requirements of *AS/NZS 2890.1:2004 Parking Facilities, Part 1- Off street Car parking* and other Australian Standards as applicable. Prior to the issue of an Occupation Certificate, documentation from a suitably qualified and experienced Traffic Engineering consultant shall be submitted to the Principal Certifying Authority certifying the carparking facilities have been constructed in accordance with the approved plans and the above Australian Standard.
- 92. Driveways, ramp design and certification** - The design and construction of the footpath crossing/driveway and internal driveways and ramps shall comply with the requirements of *AS/NZS 2890.1:2004 Parking Facilities, Part 1- Off street car parking*. Prior to the issue of an Occupation Certificate, documentation from a suitably qualified and experienced engineering consultant shall be submitted to the Principal Certifying Authority certifying the footpath crossing/driveway and internal driveways and ramps have been constructed in accordance with the approved plans and the above Australian Standard.

- 93. Marking of parking spaces and certification-** Prior to the issue of an Occupation Certificate, all parking spaces shall be clearly designated and linemarked to comply with *AS1742, Manual of uniform Traffic Control Devices*. Documentation from a suitably qualified and experienced Traffic Engineering consultant shall be submitted to the Principal Certifying Authority certifying the carparking spaces have been marked in accordance with the approved plans and the above Australian Standard.
- 94. Completion of Landscape Works**
- a) All landscape works, the planting of all tree and plant material in accordance with approved landscape plans and specifications, must be completed prior to the issue of a final occupation certificate for the site. A certificate of compliance for the planting of all trees and shrubs proposed for the site must be prepared by an AQF 5 Horticulturist and forwarded to the PCA.
- 95. Completion of Tree Works**
- a) All tree protection and Project Arborist works set out sections 4.3.1, 4.3.2, 4.3.3 and Appendix D of the Arboricultural Impact Report by TALC, dated 28.07.21 must be completed prior to the issue of a final occupation certificate for the site.
- 96. Vehicular crossing** - The vehicular crossing and/or footpath works shall be constructed by a private contractor at the expense of the applicant, in accordance with the 'Application for Driveway Crossing and Associated Works on Council Road Reserve' approval issued by Council's Assets and Infrastructure Division.

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 and in accordance with Council's Specification for Vehicular Crossings and Associated Works.

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

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

## OPERATIONAL CONDITIONS (ON-GOING)

- 97. 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.
- 98. Food premises – Garbage Odour** - A waste contractor shall be engaged to remove all waste from the garbage storage area on a regular basis so that no overflow of rubbish will occur. Practical measures are also to be taken to ensure that odour emission from the garbage storage area does not cause offensive odour as defined under the provision of the Protection of the Environment Operations Act, 1997 (as amended).

**99. Food premises – maintenance of food premises** - The food premises must be maintained in accordance with the Food Act 2003 (as amended), Food Regulation 2015 (as amended); the Food Standards Code as published by Food Standards Australia & New Zealand and Australian Standard AS 4674-2004: Construction and fit out of food premises (as amended).

**100. Food premises – Storage waste – used cooking oil** - Used oil shall be contained in a leak proof container and stored in a covered and bunded area prior to off-site disposal. Copies of receipts for the disposal of used cooking oil shall be kept on-site and made available to Council Officers upon request.

**101. Noise Control**

- a) 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).
- b) A log of any noise complaints is to be maintained by the management of the child care centre, with the following details recorded:
  - The date of the complaint
  - The name of the complainant
  - Address of the complainant
  - Phone contact details for the complainant
  - The nature of the complaint (a description of the complaint)
  - The action taken to respond to the complaint
  - The date the action was taken
- c) The  $L_{Aeq(15\text{minute})}$  noise level emitted from use and operation of the outdoor play area shall not exceed the Rating Background Level (RBL) by more than 10 dB(A) at the assessment location.
- d) The RBL is to be determined from measurements conducted in accordance with the requirements of the NSW EPA's Noise Policy for Industry (NPfI) and in the absence of any noise emitted from the subject premises. The assessment location is defined as the most affected point on or within any receiver property boundary. Examples of this location may be:
  - 1.5m above ground level;
  - On a balcony at 1.5m above floor level;
  - Outside a window on the ground or higher floors.
- e) The child care centre is to be operated at all times in accordance with the recommendations and requirements of the following:
  - Plan of Management dated 25 July 2022 version 2 prepared by GAT & Associates Pty Ltd except as amended by these conditions; and
  - Acoustic Report dated 31 May 2021 version 2 project prepared by Koikas Acoustics except as amended by these conditions.
- f) Outdoor play is restricted to the following hours only:
  - 9:00am to 6:00pm

- g) Acoustic barriers shall be constructed to the extents, heights and locations as detailed within the Acoustic Report prepared by Koikas Acoustics dated 31 May 2021, and if not stated, be of solid construction with, contain no gaps and have a minimum surface density of at least 15kg/m<sup>2</sup>. The fencing of the ground level outdoor area shall be timber lapped and capped to a height of 1.8metres.

- h) The days and hours of operation are restricted to:

Monday:	7am – 6pm
Tuesday:	7am – 6pm
Wednesday:	7am – 6pm
Thursday:	7am – 6pm
Friday:	7am – 6pm
Saturday	Closed
Sunday	Closed
Public Holidays	Closed

Cleaning and maintenance is permitted between 6pm and 8pm weekdays.

- i) The outdoor play areas must be used and operated in accordance with the plan of management. No more than 18 children are permitted to use the first floor terrace outdoor play area at any one time. Only 32 children are permitted to use the ground floor outdoor play area at any one time.
- j) No elevated play equipment or play equipment that could cause a child to be elevated (whether mobile or fixed) is to be installed, placed or used in any of the outdoor play areas at any time, other than the play equipment shown on the landscape plans approved by this consent.
- k) A sign shall be displayed in a visible location within the reception area which sets out the noise management requirements which apply to the centre that must to be complied with in order to appropriately mitigate noise impacts.

**102. Maintenance of Sound Attenuation measures** – All sound attenuation must be maintained in accordance with the Acoustic Report referenced as an approved document in this consent.

**103. Ongoing Tree Maintenance Works**

- a) All newly planted trees must be maintained until they reach a height where they are protected by Councils Tree Management Controls. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilising, pest and disease control, replacement of dead or dying trees and other operations required to maintain healthy trees.
- b) If any trees are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species and pot/bag size. If the trees are found dead before they reach a height where they are protected by Councils Tree Management Controls, they must be replaced with the same species and pot/bag size.

- 104. Tree Protection Measures** - A final certificate of compliance letter to the Principal Certifier, once all building and landscape works have been completed, from the engaged AQF 5 Consulting Arborist, that tree protection measures have been installed and maintained for the entirety of the project and report on the condition of the trees that as part of this Consent, were to be protected and retained.
- 105. Final Acoustic Report - Verification of Noise report** – A validation report must be obtained from a suitably qualified acoustic consultant, being an employee of a member firm of the Association of Australasian Acoustical Consultants (AAAC), three (3) months after the business commences trading and submitted to Council within 28 days of noise measurements. The report must demonstrate and certify that noise emission from the development, when adjusted for the maximum approved number of children (using energy-based summation), satisfies the conditions of this development consent. Noise measurements must be conducted in accordance with the guidelines contained in the Environment Protection Authority Noise Guide for Local Government & Noise Policy for Industry.

The validation report must address (but not be limited to) the accumulation effect of mechanical plant and equipment and noise generated from all children on the premises (both indoors and outdoors) and noise intrusion into all activity and sleeping spaces on the premises (both indoors and outdoors).

Any recommendations contained in the validation report must to be implemented in accordance with the report to the satisfaction of Council within 1 month of Council giving their approval for the recommendations.

Within 1 month of completion of the recommended works, a further validation report must be obtained, from a suitably qualified acoustic consultant, being an employee of a member firm of the Association of Australasian Acoustical Consultants (AAAC), demonstrating compliance with the noise conditions in this consent and must be submitted to Council for approval.

The conditions (process) in this clause will be repeated until compliance with the noise conditions is demonstrated to the satisfaction of Council.

- 106. Waste - 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.
- 107. Hours of operation** - The approved hours of operation for the child care centre shall be restricted to the following:  
Monday – Friday: 7.00am – 6.00pm  
Saturday, Sunday and Public Holidays – Closed.



- 108. Number of children in the centre** – The use is limited to a maximum of **72** children attending or being registered to attend the centre. This comprises:

Number of children	Ages	Playroom
7	0-2	1
17	2-3	2
29	3-5	3
19	3-5	4

No more than **eleven (11)** staff members are permitted to be at the centre at any one time.

- 109. Operation in accordance with POM-** The centre shall be operated in accordance with the approved Plan of Management except as amended by the conditions of this consent.
- 110. Lighting - General Nuisance** - Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill or glare.
- 111. Signage** - Flashing, moving or intermittent lights or signs are prohibited.
- a. **Activities and storage of goods on footpath** – There shall be no activities including storing or depositing of any goods on the footpath except for waste receptacles for collection.
- 112. Food Premises – Adequate Waste receptacles** – within the centre, appropriate waste and recycling containers must be provided for waste generation rates of 0.3 to 0.6 square metres per 100 meals, plus up to 0.15 cubic metres of beverage containers per 100 meals. All waste and recycling containers shall be stored in the approved waste storage area that is large enough to store the required number of bins and must be adequately serviced by waste collection vehicles.
- 113. Food premises - maintenance of food premises** - The food premises must be maintained in accordance with the Food Act 2003 (as amended), Food Regulation 2015 (as amended); the Food Standards Code as published by Food Standards Australia & New Zealand and Australian Standard AS 4674-2004: Construction and fit out of food premises (as amended).
- 114. Operational Waste requirements** – As proposed by the applicant, waste is to be **collected by a private contractor twice weekly**.
- a) The management of wastes on private property and the movement of bins around the private property is the responsibility of the Centre Manager on behalf of the Property Owner. Transport of bins and/or bulky waste is not to occur on public roadways or footpaths and must occur within the confines of private property. All waste must be managed and disposed of in a source-separated manner and in accordance with all relevant regulations.
- b) The Centre Manager, on behalf of the Property Owner shall 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 the Council.
- c) The Centre Manager, on behalf of the Property Owner shall be responsible for maintaining all bin and waste storage areas in a clean, safe, and hygienic manner.
  - d) All waste handling equipment and systems used in conjunction with the provision of waste and recycling services shall be manufactured, installed, and maintained in accordance with any applicable regulatory requirements, relevant Australian Standards, and relevant manufacturer's specifications.
  - e) Receptacles for the management of any litter must be contained in bins with lids. Bins enabling the source separation are to be provided in all common areas and will be the responsibility of the Centre Manager, on behalf of the Property Owner to rotate and empty as required. The bins must be secured to prevent the dispersal of litter by wind or animals.
  - f) All waste and recycling containers shall be stored in an approved waste storage area that is large enough to store the required number of bins for the number of units and intended uses of the site. The applicant must allocate 3m<sup>2</sup> of storage space adjacent to the bin storage area drained to the sewer with a water tap access that meets the BCA for use as a bin wash area. Otherwise, the applicant must engage a private bin wash contractor for commercial bins as required to prevent odour and/or vermin.
  - g) For the proposed commercial premises (childcare facility catering for 74 children and operating 5 days per week) the onsite storage must allow for the following bins, at a minimum:
    - 5 x 240L general waste bins serviced twice weekly.
    - 5 x 240L commingled recycling bins serviced twice weekly.
  - h) The applicant must provide sufficient storage for special waste (if any) in line with the expected generation rate for the property. The applicant is recommended to provide storage space for food organics and other specialised waste types in line with the likely requirements of the proposed premises.
  - i) Any bulky waste generated from the premises will be the responsibility of the Centre Manager, on behalf of the Property Owner to remove immediately through private waste contractors, given there is no commercial bulky waste storage on site.
  - j) Private waste collection services provided for commercial waste are restricted to a maximum of once weekly between Monday – Friday and within the hours of 6 am – 10 pm.
  - k) Private waste collection services must occur in a source-separated manner with all wastes collected separately according to the following streams: general waste, commingled recycling, and organics at a minimum.
  - l) If collections are to occur on the kerbside, a site manager or private waste collection contractor shall be responsible for presenting all approved bin receptacles no earlier than 3 hours prior to collection at the designated collection location and returning them to the confines of private property no later than 3 hours post collection.
  - m) A rolling kerbside must be implemented to enable bins to be wheeled from the site to a waste collection vehicle for servicing. Further, the applicant must provide adequate storage space on an impervious surface at the kerbside to accommodate the bins immediately before and after collection. These need to be indicated on the Architectural Plans.
  - n) All green waste is to be removed by a landscape contractors.

- 115. Food premises – Garbage Odour** - A waste contractor shall be engaged to remove all waste from the garbage storage area on a regular basis so that no overflow of rubbish will occur. Practical measures are also to be taken to ensure that odour emission from the garbage storage area does not cause offensive odour as defined under the provision of the Protection of the Environment Operations Act, 1997.
- 116. Noise Control – Use of Premises - The use of the premises as a Child Care Centre** shall operate in compliance with the approved Acoustic report as referenced in this consent.
- 117. 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:
- Within 12 months after the date on which the fire safety certificate was received.
  - Subsequent annual fire safety statements are to be given within 12 months after the last such statement was given.
  - 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.
  - 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.
- 118. Maintenance of Landscaping** - All trees and plants forming part of the landscaping must be maintained. 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.
- 119. 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.
- 120. Vehicular entry/exit**- Vehicular entry/exit movements shall be carried out in a forward direction at all times.
- 121. Delivery of goods**- Loading and unloading of vehicles and delivery of goods shall be carried out within the basement car park area. Loading/unloading shall not take place from the driveway area or from Stuart Street at any time.

## REQUIREMENTS REGARDING CONSTRUCTION

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

**123. Appointment of a Principal Certifier** - The erection of a building must not commence until the beneficiary of the development consent has:

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

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

- 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.

**124. 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

- a) notify the PC of the details of any such appointment; and
- b) 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.

**125. Notification of Critical Stage Inspections** - No later than two days before the building work commences, the PC must notify:

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

**126. Notice of Commencement** - The beneficiary of the development consent must give at least two days notice to the Council and the PC of their intention to commence the erection of a building.

**127. Critical Stage Inspections** - The last critical stage inspection must be undertaken by the PC. 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.

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

**129. 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 PC appointed for the building work can issue the Occupation Certificate.

**130. Worksite traffic and pedestrian control** - Traffic and pedestrian control shall be in accordance with TfNSW *'Traffic Control at Works Sites- Technical Manual'* version 6.1 at all times.

**131. Preliminary Site Investigation report** -The following recommendations from the Preliminary Site Investigation report prepared by EI Australia are to be implemented during construction:

- a) A Hazardous Materials Survey should be undertaken prior to commencement of any demolition works.
  - i. All identified hazardous materials must be appropriately managed, to maintain worker health and safety during demolition works and prevent the spread of hazardous substances onto the site and soil surface.
  - ii. If necessary, an asbestos clearance inspection and certificate should be completed by a suitably qualified professional (SafeWork NSW Licensed Asbestos Assessor), following the removal of any ACM from the site.
  - iii. Where clearance inspection indicates the presence of hazardous materials remaining on site, further removal and validation (clearance inspection) must be undertaken.
- b) Following demolition and removal of all related debris, a details site walkover inspection is to be performed by a suitably qualified environmental consultant.
- c) Soil materials to be removed from the site as part of the basement excavation and/or foundation work, including virgin excavated natural material (VENM), are to be classified prior to off-site disposal in accordance with the EPA (2014) Waste Classification Guidelines.
- d) Any soil material imported to the site (i.e. for backfilling and/or landscaping purposes) must be confirmed by documentary evidence as suitable for the proposed land use.

**132. Contaminated Land – Contaminants found during demolition or construction** – Any new information that identified during demolition, excavation or construction which has the potential to alter previous conclusions about site contamination and remediation, must be notified to the Principal Certifying Authority (and Council if Council is not the principal certifying authority) immediately.

All works must case and a qualified Land Contamination Consultant, certified under the consultant certification schemes recognised by the NSW EPA, is engaged to assess and provide documentation on the management of the contamination in accordance with any relevant NSW EPA adopted guidelines.

Works on site must not recommence until such time as Council has reviewed the documentation and has accepted the contamination management in writing to the applicant.

**133. 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.

- 134. Standing of trucks or plant on public road –** No approval is given to stand trucks or plant on Stuart Street. Separate approval is required under s138 of the Roads Act.

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

## **PRESCRIBED CONDITIONS**

- 135. Clause 19 – Building Code of Australia** - Requires all building work to be carried out in accordance with the Building Code of Australia.

- 136. Clause 75 – Erection of Signs** - Requires the erection of signs on site and outlines the details which are to be included on the sign. The sign must be displayed in a prominent position on site and include the name and contact details of the Principal Certifying Authority and the Principal Contractor.

- 137. Clause 20 – 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.

## **END CONDITIONS**

## **NOTES/ADVICES**

- 1. 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.
- 2. Building - 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 Certifier.
- 3. 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, provided to bathroom, laundry and basement areas not afforded natural ventilation.
  - Fire-fighting services and equipment including control centre facility, hydrant

systems, sprinkler systems, hose reels, mechanical air handling and stair pressurization systems, portable fire extinguishers, smoke hazard management systems and sound & warning systems.

- Emergency lighting and exit signs throughout the premises including terrace, courtyard, common room/areas, lobby and basement areas.
- Fire resistance levels of building elements including walls, floors, roof tops, columns, and separation of electrical supply systems etc.
- Construction of all fire doors (doors to swing in the direction of egress) including operational and warning signage.
- Fire compartmentation and fire wall separation details including all stairway, lift and service shafts.
- Exit travel distances and access grades including the number of required exits, separation of exits and installations within exits, must demonstrate compliance and protection in accordance with the BCA.
- Sound transmission and insulation details.
- Disabled access that complies with the BCA and with AS 1428.1.2009
- Location, design/fit-out and dimension of basement parking areas and adaptable units for people with disabilities.
- 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 Certifier 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 Certifier prior to issue of the Construction Certificate.

4. **Fire and Rescue NSW** - Prior to the issue of a Construction Certificate the applicant may be required, under Clause 144 of the Environmental Planning & Assessment Regulation, 2000 to seek written comment from FR NSW about the location of water storage tanks, construction of hydrant/booster pump and valve rooms, and any Fire Engineered Solution developed to meet the performance requirements under the Category 2 Fire Safety Provisions.

The applicant is also advised to seek written advice from FR NSW on the location and construction of the proposed Fire Control Centre Facility and location and installation of the sites Fire Indicator Panel.

5. **Food Premises** - Information on Australian Standards can be obtained from [www.standards.com.au](http://www.standards.com.au) Guidelines and Food Safety Standards may be obtained by contacting the Food Standards Australia New Zealand Authority at [foodstandards.gov.au](http://foodstandards.gov.au) or the NSW Food Authority on 1300 552 406, email: [contact@foodauthority.nsw.gov.au](mailto:contact@foodauthority.nsw.gov.au) or by visiting the website [www.foodauthority.nsw.gov.au](http://www.foodauthority.nsw.gov.au) Notification of Food Business under Section 100 of the Food Act 2003 requires the proprietor of a food business to give written notice, in the approved form, before conducting a food business. Penalties apply for failure to comply.

6. Acoustic Engineer Contacts & Reference Material - Further information including lists of Acoustic Engineers can be obtained from:

- (a) Australian Acoustical Society—professional society of noise-related professionals ([www.acoustics.asn.au](http://www.acoustics.asn.au))
- (b) Association of Australian Acoustical Consultants—professional society of noise related professionals ([www.aaac.org.au](http://www.aaac.org.au))
- (c) NSW Industrial Noise Policy – Office of Environment & Heritage ([www.environment.nsw.gov.au](http://www.environment.nsw.gov.au))

7. **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 and/or Section 68 Local Government Act 1993:

Complete the 'Stormwater Drainage Application Form' which can be downloaded from Georges River Council's website at [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au).

In the Application Form, quote the Development Consent No. (e.g.. DA2021/\*\*\*\*) and reference this condition number (e.g. Condition \*\*)

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 stormwater applications. 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.

8. **Noise** - Council will generally enforce noise related conditions in accordance with the *Noise Guide for Local Government* (<http://www.environment.nsw.gov.au/noise/nglg.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](http://www.cjc.nsw.gov.au)).
- (b) Department of Environment and Conservation NSW, Noise Policy Section web page ([www.environment.nsw.gov.au/noise](http://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](http://www.legislation.nsw.gov.au)).
- (d) Australian Acoustical Society—professional society of noise-related professionals ([www.acoustics.asn.au /index.php](http://www.acoustics.asn.au/index.php)).



- (e) Association of Australian Acoustical Consultants—professional society of noise related professionals ([www.aaac.org.au](http://www.aaac.org.au)).
- (f) Department of Gaming and Racing - ([www.dgr.nsw.gov.au](http://www.dgr.nsw.gov.au)).

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**REPORT TO GEORGES RIVER COUNCIL  
LPP MEETING OF THURSDAY, 17 AUGUST 2023**

LPP024-23

<b>LPP Report No</b>	<b>LPP024-23</b>	<b>Development Application No</b>	<b>DA2021/0244</b>
<b>Site Address &amp; Ward Locality</b>	5A The Strand, Penshurst Mortdale Ward		
<b>Proposed Development</b>	Demolition and construction of a six storey shop top housing development with basement carparking, landscaping and site works.		
<b>Owners</b>	Winphil Pty Ltd - Russell Green		
<b>Applicant</b>	Winphil Pty Ltd - Russell Green		
<b>Planner/Architect</b>	DFP Planning Consultants / ATJ Architects		
<b>Date Of Lodgement</b>	6/07/2021		
<b>Submissions</b>	24 submissions		
<b>Cost of Works</b>	\$6,289,689.00		
<b>Local Planning Panel Criteria</b>	The application relates to development to which the State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development applies.		
<b>List of all relevant s.4.15 matters (formerly s79C(1)(a))</b>	State Environmental Planning Policy (BASIX) 2004, State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy No. 65 (Design Quality of Residential Apartment Development), State Environmental Planning Policy (Industry and Employment) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021, Kogarah LEP 2012, Kogarah DCP 2013, Georges River Local Environmental Plan 2021.		
<b>List all documents submitted with this report for the Panel's consideration</b>	Architectural Plans, Stormwater Plans, Landscape Plan, 4.6 Variation Request – Height, Heritage Impact Statement, Preliminary Site Investigation Report, Traffic and Parking Report		
<b>Report prepared by</b>	Principal Planner		

<b>Recommendation</b>	That the application be approved subject to the conditions in this report
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<b>Summary of matters for consideration under Section 4.15</b> Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	<b>Yes</b>
<b>Legislative clauses requiring consent authority satisfaction</b> 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?	<b>Yes</b>

<b>Clause 4.6 Exceptions to development standards</b> If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	<b>Yes - Clause 4.3 Height of building</b>
<b>Special Infrastructure Contributions</b> Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	<b>Not Applicable</b>
<b>Conditions</b> Have draft conditions been provided to the applicant for comment?	<b>No</b>

### Site Plan



## Executive Summary

### Proposal

1. This development application (DA) seeks consent for demolition works and construction of a six storey shoptop housing development with basement car parking, landscaping and site works.
2. The proposal comprises 23 parking spaces in the basement level plus storage, waste rooms and bicycle parking, one ground floor commercial tenancy with a rear elevated courtyard plus residential entry lobby, and 18 residential units on levels 1 to 5, plus communal open space on Level 5.

3. The proposed development complies with the maximum floor space ratio (FSR) however the development exceeds the height control with the non-compliance relating to lift overrun. The extent of the breach is a maximum 0.568m over the maximum 21m height limit. A Clause 4.6 Statement has been submitted which has been assessed in detail later in this report, and it is considered to be well founded and in this case.

### Background

4. This application was lodged on 12 July 2021 and originally proposed a portion of the units as affordable rental housing.
5. The applicant commenced Class 1 proceedings in the Land and Environment Court of NSW, appealing the deemed refusal of the application, on 20 June 2022.
6. A s34 conference was held on 16 September 2022 but was terminated as an agreement could not be reached between the parties. It was established by council that because the development is characterised as shoptop housing, the bonus floor space provisions under the SEPP (Affordable Rental Housing) 2009 did not apply. As such the proposal no longer includes affordable rental housing and the floor space has been reduced to comply with the 2.5:1 LEP standard.
7. Joint conferencing between experts was held between December 2022 and January 2023, however the appeal was discontinued by the applicant on 25 January 2023 prior to the joint reports being filed with the court.
8. On 30 January 2023 the applicant's town planner emailed Council to request that the assessment determination of the application continue.
9. Council retained the experts used on the appeal and a formal and final request for additional information and amended plans was sent to the applicant on 13 February 2023.
10. A meeting was held with the applicant in March 2023 to discuss the request and provide the opportunity to clarify any issues raised in the letter.
11. Amended plans and additional information was submitted to Council on 13 June 2023 and they form the basis of this assessment report.
12. Given the lodgement date of the application, it is saved under Clause 1.8 of the Georges River Local Environmental Plan 2021 and Clause 1.7 of the Georges River Development Control Plan both of which commenced on 8 October 2021.

### Site and Locality

13. The development site is located at 5A-7 The Strand, Penshurst. The site is legally identified as Lots 19 and 20 in DP 8761.
14. The site is irregular in shape. It has a frontage to The Strand of 12.8m, a frontage to Strand Lane of 21.335m, and a total site area of 700.3sqm. The land slopes from The Strand to Strand Lane with a fall of approximately 2m.
15. The site, and the area around Penshurst Station is situated on a ridge in the local area.

16. The Site contains a part two/part three storey mixed use building. Garaging is located on the lower floor level, accessed from Strand Lane, with two commercial tenancies on the ground floor fronting The Strand and a two-bedroom unit on the first floor. The rear yard contains a driveway and grassed area.
17. The Site is located a commercial area, characterised by two storey shop top housing between Bridge Street and the railway line to the north and Railway Parade to the south.
18. The adjoining property to the north is known as 3 The Strand and contains a two storey shop top housing building.
19. The adjoining property to the south is known as 9 The Strand and contains a two storey shop top housing building.
20. Opposite the Site are two storey shop top housing buildings.
21. The land on the western side of Strand Lane, to the rear of the Site, is a low density residential zone R2, is characterised by dwelling houses fronting Centre Street with detached garages fronting Strand Lane, and comprises a heritage conservation area (Penshurst Heritage Conservation Area C1).

### **Zoning and Permissibility**

22. The subject site is zoned B2 Local Centre under the provisions of Kogarah Local Environmental Plan 2012 (KLEP 2012). The proposal involves demolition of the existing structures on site and construction of a shop top housing development which is a permissible use in the zone with development consent.

### **Submissions**

23. The DA was publicly notified to neighbours for a period of fourteen (14) days. 24 submissions were received.

### **Reason for Referral to the Local Planning Panel**

24. The application relates to development to which the State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development applies.

### **Planning and Design Issues**

25. The bulk and scale is consistent with the desired future character of the area as established by the Kogarah Local Environment Plan 2012 (KLEP).
26. The proposal fails to comply with the building height development standard of 21m that applies to the site under Kogarah Local Environmental Plan 2012. This variation includes, part of the lift overrun. The height to the top of the lift overrun is 21.586m equating to a 2.8% variation of the height control.
27. A variation request to the building height development standard has been submitted pursuant to Clause 4.6 of Kogarah Local Environmental Plan 2012. This is supported for the reasons provided in this report.
28. A number of design changes have been included in the conditions of consent provided at the end of this report to improve the detailed resolution of layouts and elevations, including architectural elements of the front and rear elevations and general arrangements of apartments.

## Conclusion

29. The application has been assessed having regard to the Matters for Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, the provisions of the relevant State Environmental Planning Policies, Local Environmental Plans and Development Control Plans. The proposal is an appropriate response to the site and the locality. As a result, the application is recommended for approval subject to conditions of consent.

## Report in Full

### Description Of the Proposal

30. The proposal seeks consent for demolition works and construction of a shop top housing development. A detailed description of the proposal is as follows:

#### Basement level:

- vehicular and pedestrian access from Strand Lane,
- parking for 23 cars (12 x stacked spaces and 11 regular spaces (two x accessible)),
- residential storage,
- bicycle parking,
- lift and stair access to levels above,
- residential and commercial bin store rooms.

#### Ground level:

- Commercial tenancy and courtyard,
- Residential lobby
- Pedestrian access provided from The Strand.

#### Level 1:

- Five residential apartments – 1 x Studio, 2 x 1 bedroom and 2 x 2 bedroom units

#### Level 2:

- Four residential apartments – 1 x 1bedroom, 1 x 1bedroom plus study and 2 x 2bedroom units

#### Levels 3 and 4:

- Four residential apartments – 1 x 1bedroom, 1 x 1bedroom plus study and 2 x 2bedroom units

#### Level 5:

- One x 3bedroom apartment, and
- Communal open space

31. The stormwater system drains via OSD on the ground floor and drains via a gully pit in The Strand at the front of the site.

### Description of the Site and Locality

32. The development site is located at 5A-7 The Strand, Penshurst. The site is legally identified as Lots 19 and 20 in DP 8761.
33. The site is irregular in shape. It has a frontage to The Strand of 12.8m, a frontage to Strand Lane of 21.335m, and a total site area of 700.3sqm. The land slopes from The Strand to Strand Lane with a fall of approximately 2m.



34. The Site contains a part two/part three storey mixed use building. Garaging is located on the lower floor level, accessed from Strand Lane, with two commercial tenancies on the ground floor fronting The Strand and a two-bedroom unit on the first floor. The rear yard contains a driveway and grassed area.
35. The Site is located a commercial area, characterised by two storey shop top housing between Bridge Street and the railway line to the north and Railway Parade to the south.
36. The adjoining property to the north is known as 3 The Strand and contains a two storey shop top housing building.
37. The site, and the area around Penshurst Station is situated on a ridge in the local area.
38. The adjoining property to the south is known as 9 The Strand and contains a two storey shop top housing building.
39. Opposite the Site are two storey shop top housing buildings.
40. The land on the western side of Strand Lane, to the rear of the Site, is a low density residential zone R2, is characterised by dwelling houses fronting Centre Street with detached garages fronting Strand Lane, and comprises a heritage conservation area (Penshurst Heritage Conservation Area C1).



**Figure 1** The subject site as viewed from The Strand



**Figure 2** Rear of the subject site as viewed from Strand Lane



**Figure 3** Adjoining development on The Strand looking northwest





**Figure 4 Adjoining development looking southwest on The Strand**



**Figure 5 Development opposite the site on the corner of The Strand**



**Figure 6 Strand Lane looking south**



**Figure 7 Rear of 1 and 3 The Strand (northern neighbour)**





Figure 8 Rear of adjoining development to the south

### State Environmental Planning Policies (SEPPs)

41. Compliance with the relevant State Environmental Planning Policies is summarised in the following table and discussed in further detail below it.

State Environmental Planning Policy Title	Complies
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Yes
State Environmental Planning Policy (Resilience and Hazards) 2021	Yes
State Environmental Planning Policy (Transport and Infrastructure) 2021	Yes
State Environmental Planning Policy (BASIX) 2004	Yes
State Environmental Planning Policy – Design Quality of Residential Apartment Development	Yes

### State Environmental Planning Policy (Biodiversity and Conservation) 2021

42. The relevant part of the above Policy that apply to this application is Chapter 11 – Georges River Catchment.

#### Chapter 11 – Georges River Catchment

43. The primary relevant aims and objectives of this plan are:
- 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,
  - to protect and enhance the environmental quality of the Catchment for the benefit of all users through the management and use of the resources in the Catchment in an ecologically sustainable manner,
  - to ensure consistency with local environmental plans and also in the delivery of the principles of ecologically sustainable development in the assessment of development within the Catchment where there is potential to impact adversely on groundwater and on the water quality and river flows within the Georges River or its tributaries,

- *to establish a consistent and coordinated approach to environmental planning and assessment for land along the Georges River and its tributaries and to promote integrated catchment management policies and programs in the planning and management of the Catchment,*

44. The stormwater design was reviewed by Council's Engineering Section at lodgement. No objection was raised with respect to the management and disposal of stormwater.
45. The proposal is consistent with the objectives and purpose of Chapter 11 of the SEPP.

#### **State Environmental Planning Policy (Resilience and Hazards) 2021**

46. Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 is relevant to the proposal.
47. Chapter 4 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.
48. Clause 4.6 requires contamination and remediation to be considered in determining a DA. 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.
49. A review of historic aerial photography indicates that the site has historically been used for commercial/residential purposes not typically associated with activities that would result in the contamination of land.
50. The applicant submitted a Preliminary Site Investigation Report which concludes the site is suitable for the proposed development.
51. On this basis, the site is considered suitable for residential development in its current state for the development proposed with respect to contamination.

#### **State Environmental Planning Policy (Transport and Infrastructure) 2021**

52. Compliance with SEPP (Transport and Infrastructure) 2021 has been considered. Ausgrid was consulted as required by Chapter 2. No objection was raised and no conditions required.

#### **State Environmental Planning Policy (BASIX) 2004**

53. The trigger for BASIX Certification is when the estimated cost of works for residential development (new dwelling(s)/alterations and additions) is equal to or above \$50,000. BASIX Certification is also triggered when proposing a swimming pool with a volume of 40,000 litres.
54. A valid BASIX Certificate has been submitted with the Development Application satisfying the minimum requirements of SEPP (Building Sustainability Index: BASIX) 2004.

## State Environmental Planning Policy No 65 — Design Quality of Residential Apartment Development

55. State Environmental Planning Policy No.65 – Design Quality of Residential Flat Buildings (SEPP 65) was gazetted on 26 July 2002 and applies to the assessment of DAs for RFBs of three or more storeys in height (excluding car parking levels) and containing at least four dwellings. Amendment 3 to State Environmental Planning Policy 65 commenced on 17 July 2015 and implemented various changes including the introduction of the Apartment Design Guide (ADG) to replace the Residential Flat Design Code. Given the nature of the development proposed, State Environmental Planning Policy 65 applies.
56. The proposal involves the erection of a seven storey shoptop housing development containing 18 apartments and is therefore affected by the State Environmental Planning Policy.
57. In determining DAs to which State Environmental Planning Policy 65 relates, Clause 28(2) of the State Environmental Planning Policy requires that the consent authority take into consideration:
- the advice (if any) obtained from the design review panel, and*
  - the design quality of the development when evaluated in accordance with the design quality principles, and*
  - the Apartment Design Guide.*

### Application of State Environmental Planning Policy 65

Clause	Standard	Proposal	Complies
3 - Definitions	Complies with definition of “Residential Apartment Development” (RAD)	Complies with definition	Yes
4 - Application of Policy	Development involves the erection of a new RFB, substantial redevelopment or refurbishment of a RFB or conversion of an existing building into a RFB. The definition of an RFB in the State Environmental Planning Policy includes mixed use developments.	The erection of an RFB satisfies the State Environmental Planning Policy’s definition of this residential land use.	Yes
Design Verification	Design verification statement provided by qualified designer Registered Architect Name and Registration No.	Design Verification Statement provided by Registered Architect: Brian Longbottom (Registration No. 10009)	Yes

58. The proposal was reviewed by a consultant Urban Designer for each of the nine (9) Design Quality Principles and the provisions of the Apartment Design Guide (ADG). In summary, the comments provided are as follows:

*The detailed resolution of layouts and elevations is unsatisfactory, however could be resolved without altering key elements of the current DA which comprise:*

- a) *The proposed building form and floorplates – and associated building height and GFA;*
- b) *Primary architectural elements of the front and rear elevations;*
- c) *General arrangements of apartments, and the associated dwelling yield.*

*The recommended further-amendments would avoid the likelihood of ad-hoc modifications that might not receive a proper assessment of design quality. The recommended further-amendments could be achieved by design conditions (provided in this report).*

*Building form + facades:*

- a) *Form responds to numeric controls that are provided by LEP 2012 (21m + 2.5:1) together with setbacks and street wall heights that were required under the previous DCP;*
- b) *Notwithstanding the pronounced mismatch between heights under the LEP and former DCP (21m vs 3 storeys), a clear appreciation of desirable outcomes may be derived from qualitative considerations that demand an appropriate scale transition between zone B2 and zone R2 (together with the associated HCA):*
  - i. *Design quality principles 1 and 2 of SEPP No 65; and*
  - ii. *The LEC planning principle in relation to Seaside v Wyong;*
- c) *In conjunction with broad architectural compositions of the amended front and rear elevations, the proposed building form does achieve a suitable scale transition;*
- d) *Notwithstanding non-compliance with the LEP's permissible building height, the extent of non-compliance is numerically-minor and has been justified by a clause 4.6 variation request which raises the following points:*
  - iii. *Non-compliant height does not allow for GFA which is excessive, contextually-inappropriate, or which results in non-compliant FSR.*
  - iv. *Non-compliant height does not result in excessive or adverse impacts with regard to matters that are specified by the former LEP's objectives for zone B2 or HoB;*
  - v. *Because impacts of non-compliant height would be minor or of a negligible extent, the Development would not be contrary to objects of the Act which represent relevant environmental planning grounds;*
  - vi. *Having regard for the preceding conclusions, the proposed height would not be contrary to the public interest.*

*Nevertheless, elevations would benefit from several further amendments in order to achieve satisfactory design quality per SEPP 65's principles 4 (sustainability) and 9 (aesthetics):*

- d) *Proportions of side- and rear-facing windows should complement windows in 'projecting bays' of the front and rear elevations: west-facing bathrooms and bedroom 3 on level 5, together with bedrooms which face the northern light-well, should match vertical proportions of bay window-panels;*
- e) *Exterior screening should be provided for west-facing windows that are not shielded by balcony overhangs or pergolas in order to moderate summertime glare and to avoid the summer pm build-up of heat within apartments;*
- f) *Steel framed pergolas should provide shade for the full extent of the outdoor dining area on level 5, above west-facing balconies of units 16 and 17, and for the west-facing commercial terrace – with pipe columns that align with corners of the projecting west-facing window bays;*

- g) *Exposed slab edges should be deleted from northern and southern side elevations: brickwork should present as uninterrupted panels – which could be achieved by brick-tiled pre-cast wall panels;*
- h) *The laneway 'street wall' should be articulated by recessing the garage shutter and access doors.*

*Residential amenity:*

*Appropriate dimensional resolution and arrangements are not demonstrated by numerous wet areas or by fixtures such as kitchens, laundries and storage – consequently, overall amenity has not been achieved according to SEPP 65's principle 6 (amenity):*

- i) *Bathrooms and fixtures demonstrate idiosyncratic or irrational layouts in apartments 1 to 5, 7, 8, 11, 12, 15 and 16;*
- j) *Shortcomings in bathrooms and various fixtures have undesirable or inappropriate consequences:*
  - vii. *They contribute to unacceptably-cramped furniture layouts for habitable rooms;*
  - viii. *They compromise the potential to provide most-effective storage within each apartment;*
  - ix. *They result in 'left-over' or 'underutilised' spaces that have no clear purpose, and further-compromise furniture layouts which have a fundamental bearing upon the amenity of habitable rooms.*

*Better-considered layouts are necessary to demonstrate viability of the proposed dwelling yield, and would be achieved by:*

- k) *'Gallery-style' arrangement of kitchens, laundry cabinets and cupboards as a single row of units along a side wall;*
- l) *Gallery-style arrangements of cabinets that incorporate built-in shelves for TV's as well as storage cupboards;*
- m) *Standardised 'galley style' layouts for all bathrooms (other than accessible/adaptable bathrooms): which comprise a single run of fittings in rectangular rooms which are 1.5m wide by at least 2.7m long (similar to those which are proposed for units 6 and 9);*
- n) *'Galley style' layouts for accessible/adaptable bathrooms in units 1 and 5: a single run of fittings in rooms which are wider than 1.5m in order to allow superior access;*
- o) *Standardised laundry cabinets: 1.2m wide to accommodate a sink plus stacked appliances;*
- p) *As much storage space as possible within each apartment: ideally banks of cupboards which are 600mm deep located adjacent to apartment entries and/or in conjunction with TV or study cupboards;*
- q) *Quantities of storage and sizes of kitchens which are in proportion to the number of bedrooms (and occupants) within each apartment;*
- r) *Habitable rooms that can accommodate typical furniture together with circulation paths between hallways, doorways and balconies.*

*Technical shortcomings:*

*Drawings reveal several technical shortcomings:*

- s) *Ground floor commercial space does not provide columns and, consequently, would require excessively-large transfer beams;*
- t) *Poorly-coordinated layouts for wet-areas which result in inefficient plumbing layouts, or which fail to provide continuous vertical hydraulic stacks.*



*Proper resolution of these details is necessary to avoid ad-hoc solutions at CC stage that have the potential to further-compromise design quality.*

59. Clause 28 of State Environmental Planning Policy 65 requires the consent authority to take into consideration the provisions of the Apartment Design Code. The table below assesses the proposal against these provisions.

### Part 3 and Part 4 – Compliance with the ADG

Clause	Standard	Proposal	Complies
3D - Communal open space	1. Communal open space has a minimum area equal to 25% of the site. Minimum 175sqm	The calculations indicate the total area of communal open space amounts to 200.6sqm (28.5% of the site).	No – refer to discussion below.
	2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)	Over 50% of the area of communal open space will achieve in excess of 2 hours of solar access during midwinter.	Yes
3E – Deep Soil zones	1. Deep soil zones are to meet the following minimum requirements: Min deep soil area of 7% (49sqm)	Deep Soil Zone (DSZ) calculation = 37.6sqm (5.4%)	No – refer to discussion below
	Minimum dimension of 3m	Complies.	Yes

### Discussion on deep soil provision:

The ADG acknowledges that achieving the deep soil requirement may not be possible on sites where the building typology has limited or no space for deep soil at ground level within a business zone, such as this proposal.

The ADG requires acceptable stormwater management solutions and alternative forms of planting, such as on structure podium planting.

The proposal achieves an area of 5% of the site as deep soil, an acceptable stormwater design, and additional planting at the ground floor (elevated) and roof top communal open space area. In addition, the Landscape Consultant supports the proposal.

With the need to provide functional car parking, active street frontage and reasonable amenity on a narrow site, this is as much as can be practically achieved.

Clause	Standard	Proposal	Complies
This notwithstanding, planting on structure is proposed particularly at the rear of the commercial courtyard, at the base of the two lightwells, and on the roof terrace all of which will support residential amenity.			
3F- Visual Privacy	<p>Separation between windows and balconies is provided to ensure visual privacy is achieved.</p> <p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <p><u>Up to 12m (4 storeys)</u> Habitable - 6m Non-habitable – 3m</p> <p><u>Up to 25m (5-8 storeys)</u> Habitable – 9m Non-habitable – 4.5m</p>	<p>The proposal includes nil setbacks to the side boundaries in accordance with the built form controls for development in the business zone under KDCP 2013), and the light wells provided between the building forms do not result in any privacy concerns.</p> <p>It is noted that the southern lightwell apartments include windows situated 6m apart, however these are off-set, with the western side having a sill height of 1.5m, provided as the window is for lighting, not outlook.</p>	Yes – excluding southern lightwell, but acceptable
3G – Pedestrian Access and entries	<p>Building entries and pedestrian access connects to and addresses the public domain.</p> <p>Multiple entries (including communal building entries and individual ground floor entries) should be provided to activate the street edge</p>	<p>Pedestrian entry is directly from The Strand.</p> <p>The street frontage is also activated by the commercial tenancy which occupies the majority of the ground floor elevation.</p>	<p>Yes</p> <p>Yes</p>
3H-Vehicle Access	Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes	Complies.	Yes
3J-Bicycle and car parking	<p>For development in the following locations:</p> <p>- On sites that are</p>		

Clause	Standard	Proposal	Complies
	<p>within 800m of a railway station or light rail stop in the Sydney Metropolitan Area; or</p> <ul style="list-style-type: none"> <li>- On land zoned and sites within 400m of land zoned B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre</li> </ul> <p>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, <u>whichever is less.</u></p> <p><b>1 per unit Plus Additional 1 per 5 x 2B units Plus Additional 1 per 2 x 3B units Plus 1 per 5 visitor spaces</b></p>	<p>Required = 22 spaces Proposed = 25 plus loading bay</p>	Yes
4A- Solar and daylight access	<p>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter in the Sydney Metropolitan Area.</p> <p>A maximum of 15% of apartments in a building receive no direct sunlight between 9am</p>	<p>72% (13 apartments) achieve a minimum of 2 hours sunlight in midwinter.</p> <p>11% (2 apartments) receives no sunlight.</p>	<p>Yes</p> <p>Yes</p>

Clause	Standard	Proposal	Complies
	and 3pm in midwinter		
4B- Natural Ventilation	<p>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.</p> <p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line</p>	<p>94% (17 apartments) are cross ventilated.</p> <p>The development has been designed to comply with the ADG in that the depth of cross over apartments does not exceed 18m.</p>	<p>Yes</p> <p>Yes</p>
4C-Ceiling Heights	<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <p>Habitable rooms = 2.7m</p> <p>Non-habitable rooms = 2.4m</p>	2.7m	Yes
4D-1 Apartment size and layout	<p>Apartments are required to have the following minimum internal areas:</p> <p>1 bedroom = 50sqm 2 bedroom = 70sqm 3 bedroom = 90sqm</p> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each</p> <p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms</p>	<p>The internal floor areas of each apartment satisfy the requirements of the ADG.</p> <p>1 bedroom = Min. 52sqm 2 bedroom = Min. 75sqm 3 bedroom = 120sqm</p> <p>Calculated accordingly.</p> <p>Every Habitable room contains a window in an external wall with glass area greater than 10% of the floor area of the room.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

Clause	Standard	Proposal	Complies
4D-2 Apartment size and layout	Habitable room depths are limited to a maximum of 2.5 x the ceiling height	Within prescribed range.	Yes
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	Within prescribed range.	Yes
	Master bedrooms have a minimum area of 10sqm and other bedrooms 9sqm (excluding wardrobe space)	All master bedrooms have internal areas with a minimum of 10sqm.	Yes
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	A minimum dimension of 3m is achieved.	Yes
	Living rooms or combined living/dining rooms have a minimum width of: - 3.6m for studio and 1 bedroom - 4m for 2 and 3 bedroom apartments	Living spaces have a minimum width of 4m.	Yes
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	The minimum width of 4m has been achieved.	Yes
4E- Private Open space and balconies	All apartments are required to have primary balconies as follows: - 1 bedroom = 8sqm/2m depth	1 bedroom apartments have minimum areas for their balconies of 8sqm depth criterion met.	Yes
	- 2 bedroom = 10sqm/2m depth	2 bedroom apartments have minimum balcony areas of 10sqm depth criterion met.	Yes

Clause	Standard	Proposal	Complies
	<p>- 3+ bedroom = 12sqm/2.4m</p> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p> <p>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15sqm and a minimum depth of 3m</p>	<p>3 bedroom apartment has a balcony area of 29sqm depth criterion met.</p> <p>All balconies exceed 1m in the area calculated.</p> <p>NA</p>	<p>Yes</p> <p>Yes</p> <p>NA</p>
4F- Common circulation areas	The maximum number of apartments off a circulation core on a single level is eight	Maximum 5 units per lift per level.	Yes
4G- Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <p>1 bedroom = 6m<sup>3</sup> 2 bedroom – 8m<sup>3</sup> 3 bedroom – 10m<sup>3</sup></p> <p>At least 50% of storage is to be located within the apartment.</p>	<p>The basement has been designed to provide for individual storage spaces for some apartments. Every apartment includes additional storage areas above the provision of wardrobes in bedrooms.</p> <p>1 bedroom = Minimum 6m<sup>3</sup> 2 bedroom = Minimum 8m<sup>3</sup> 3 bedroom = Minimum 10m<sup>3</sup></p>	Yes - Storage areas are indicated on the floor plans for each apartment which are at least 50% of the total storage provided.
4H- Acoustic Privacy	<p>Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses. Window and door openings are generally orientated away from noise sources</p> <p>Noisy areas within buildings including building entries and</p>	<p>Achieved</p> <p>Achieved</p>	<p>Yes</p> <p>Yes</p>

Clause	Standard	Proposal	Complies
	<p>corridors should be located next to or above each other and quieter areas next to or above quieter areas</p> <p>Storage, circulation areas and non-habitable rooms should be located to buffer noise from external sources</p>	Generally acceptable	Yes
4J – Noise and Pollution	<p>To minimise impacts the following design solutions may be used:</p> <ul style="list-style-type: none"> <li>• physical separation between buildings and the noise or pollution source</li> <li>• residential uses are located perpendicular to the noise source and where possible buffered by other uses</li> <li>• buildings should respond to both solar access and noise. Where solar access is away from the noise source, non-habitable rooms can provide a buffer</li> <li>• landscape design reduces the perception of noise and acts as a filter for air pollution generated by traffic and industry</li> </ul>	The design solutions within the ADG which seeks to minimise noise and acoustic impacts have been considered through the design and layout of apartments.	Yes
4K – Apartment Mix	<p>A range of apartment types and sizes is provided to cater for different household types now and into the future.</p> <p>The apartment mix is distributed to suitable locations within the building</p>	<p>The development offers a mix of Studio, 1, 2, and 3 bedroom apartments in the following manner:</p> <p>1 x Studio 8 x 1 bedroom apartments 8 x 2 bedroom apartments 1 x 3 bedroom apartment</p>	Yes
4L – Ground Floor Apartments	Street frontage activity is maximised where ground floor apartments	NA	NA



Clause	Standard	Proposal	Complies
	are located.  Design of ground floor apartments delivers amenity and safety for residents.		
4M - Facades	Facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale.	The design is an appropriate built form response to the streetscape and locality. Design change conditions are recommended to improve the façade detailing.	Acceptable with design change conditions.
4N – Roof design	Roof treatments are integrated into the building design and positively respond to the street.  Opportunities to use roof space for residential accommodation and open space are maximised. Incorporates sustainability features.	The roof design is a flat roof form which is consistent with the general character and form of the building.  The roof includes an area of communal open space which complies with the intention of the ADG.	Yes  Yes
4O – Landscape Design	Landscape design is viable and sustainable, contributes to the streetscape and amenity	A suitable landscape design is proposed.	Yes
4P- Planting on Structures	Planting on structures – appropriate soil profiles are provided, plant growth is optimised with appropriate selection and maintenance, contributes to the quality and amenity of communal and public open spaces	The design includes a series of planter boxes on structures, adjacent to balconies and bedrooms and the ground floor communal open space.	Yes
4Q – Universal Design	Universal design – design of apartments allow for flexible housing, adaptable designs, accommodate a range of lifestyle needs	Satisfactory – the design offers a variety of apartment styles.	Yes
4R – Adaptive reuse	Adaptive reuse as apartment of existing buildings - new	Not applicable.	N/A

Clause	Standard	Proposal	Complies
	additions are contemporary and complementary, provide residential amenity while not precluding future adaptive reuse.		
4U – Energy Efficiency	Development incorporates passive environmental design, passive solar design to optimise heat storage in winter and reduce heat transfer in summer, natural ventilation minimises need for mechanical ventilation	A compliant BASIX Certificate accompanies the application.	Yes
4V – Water management and conservation	Water management and conservation – potable water use is minimised, stormwater is treated on site before being discharged, flood management systems are integrated into the site design	An appropriate stormwater drainage design is achieved.	Yes
4W – Waste Management	Waste management – storage facilities are appropriately designed, domestic waste is minimised by convenient source separation and recycling	The waste management arrangement is satisfactory.	Yes
4X – Building Maintenance	Building design provides protection from weathering Enables ease of maintenance, material selection reduces ongoing maintenance cost	Suitable materials have been selected for the building finishes.	Yes

### **Environmental Planning Instruments**

#### **Georges River Local Environmental Plan 2021**

60. The Georges River Local Environmental Plan 2021 was gazetted on 8 October 2021.
61. In relation to this development site the zoning, height and floor space ratio remain unchanged.
62. Consideration is given to the provisions of Georges River Local Environmental Plan 2021 in the assessment this application.

63. In this regard, the provisions have no determining weight because of the operation of Clause “1.8A *Savings provisions relating to development applications*” of the Draft Plan which provides “*If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.*”

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

#### Zoning

64. The subject site is zoned B2 Local Centre under the provisions of the Kogarah Local Environmental Plan 2012 (KLEP2012). Refer to zoning map below. The proposed development is defined as shop-top housing which is a permissible land use in the zone.

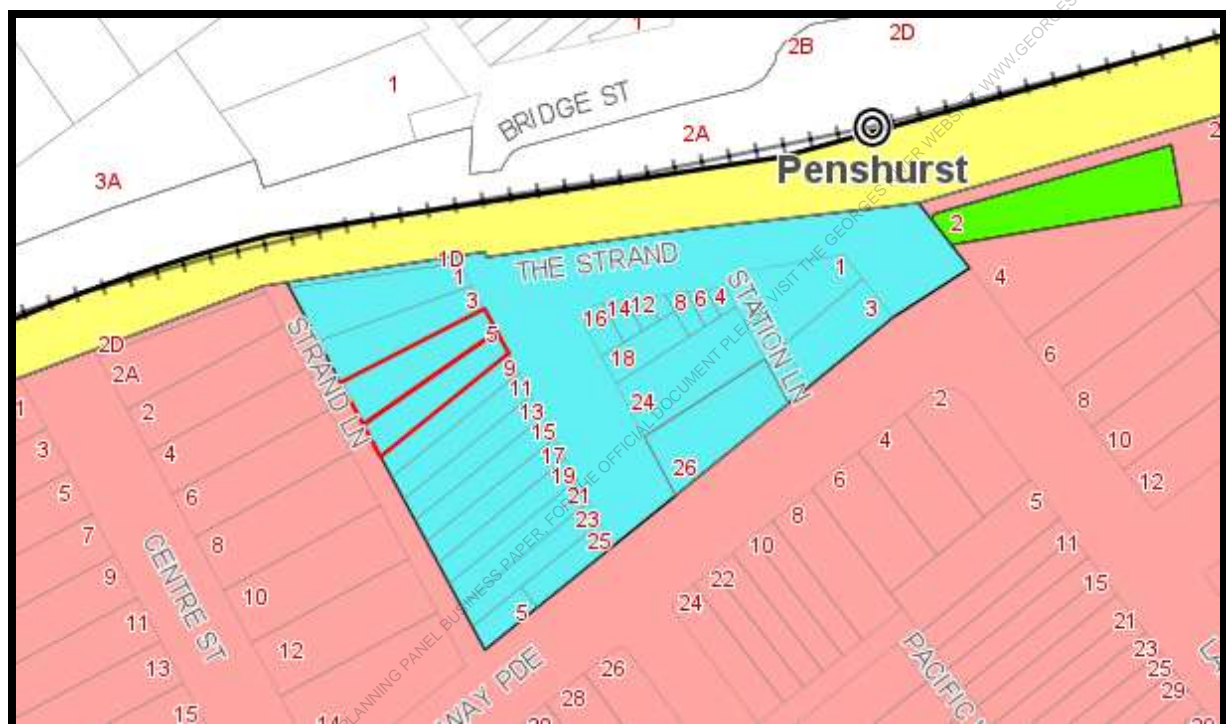


Figure 9 Zoning map (KLEP 2012)

65. The objectives of the B2 zone are as follows:
- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
  - *To encourage employment opportunities in accessible locations.*
  - *To maximise public transport patronage and encourage walking and cycling.*
66. The proposal satisfies the objectives of the B2 Zone as it will provide residential and commercial uses in an accessible area.
67. The extent to which the proposal complies with the relevant standards of Kogarah Local Environmental Plan 2012 (KLEP2012) is outlined the table below.

**KLEP2012 Compliance Table**

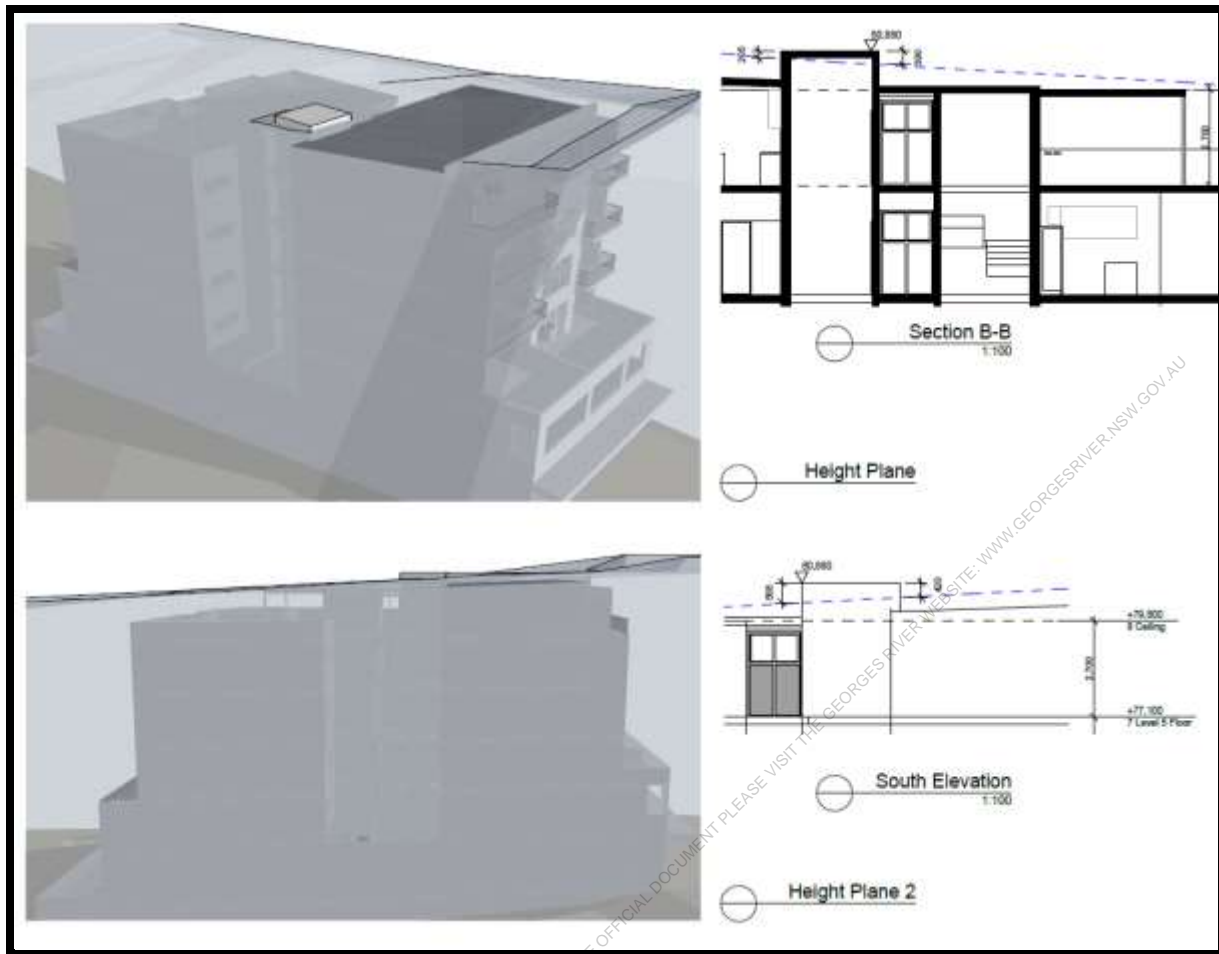
<b>Clause</b>	<b>Standard</b>	<b>Proposed</b>	<b>Complies</b>
2.2 Zone	B2 Local Centre	The proposal is a permissible use within the zone.	Yes
2.3 Objectives	Objectives of the Zone	Consistent with the zone objectives.	Yes
4.3 – Height of Buildings	21m as identified on Height of Buildings Map	The maximum height of the building is 21.568m.	No – refer to variation assessment
4.4 – Floor Space Ratio	2.5:1 as identified on Floor Space Ratio Map	2.49:1	Yes
4.5 – Calculation of floor space ratio and site area	FSR and site area calculated in accordance with Cl.4.5	The GFA has been calculated in accordance with this clause.	Yes
4.6 – Exceptions to Development Standards	The objectives of this clause are as follows: - <i>to provide an appropriate degree of flexibility in applying certain development standards to particular development,</i> (b) - <i>to achieve better outcomes for and from development by allowing flexibility in particular circumstances.</i>	The proposal exceeds the height control pursuant to Clause 4.3 of the KLEP and therefore a Clause 4.6 Statement was submitted to justify the non-compliance with the control.	See the assessment below.
5.10 – Heritage conservation	The objectives of this clause are; (i) to conserve the environmental heritage of Kogarah, (ii) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views.	While the site does not contain a heritage item, it adjoins a heritage conservation area to its rear.  The Heritage Impact Assessment has been reviewed by Council's Heritage Advisor and is the proposal is supported.	Yes

Clause	Standard	Proposed	Complies
6.2 Earthworks	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	The proposed development includes excavation and associated earthworks to accommodate the semi-basement level.	Yes

### Exception to Development Standards

#### Detailed assessment of variation to Clause 4.3 Height of Buildings

68. The objectives of Clause 4.6 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.*
69. The proposed development seeks a variation to the development standard relating to height (Clause 4.3). The Kogarah Local Environmental Plan 2012 (KLEP) identifies a maximum height of 21m for the site and the proposed development will exceed the height by up to 0.568m which comprises the lift overrun only. This amounts to a 2.7% variation to the control. The remainder of the building is below the 21m height limit.
70. Any variation to a statutory control can only be considered under Clause 4.6 – Exceptions to Development Standards of the KLEP. An assessment of the proposed height against the survey plan levels was conducted to indicate the Applicant's calculations are generally accurate.



**Figure 10 Height plane diagrams**

71. Clause 4.6(3) states that:  
*“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:*
- *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - *that there are sufficient environmental planning grounds to justify contravening the development standard”*
72. 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. The Clause 4.6 request for variation is assessed as follows.

***Is the planning control in question a development standard?***

73. Height of Buildings control under Clause 4.3 of the KLEP 2012 is a development standard. The maximum permissible height is 21m.

***What are the underlying objectives of the development standard?***

74. 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.*

***Compliance is unreasonable or unnecessary in the circumstances of the case (clause 4.6(3)(a))***

75. There have been several Court cases that have established provisions to assist in the assessment of Clause 4.6 statements to ensure they are well founded and address the provisions of Clause 4.6. In *Wehbe V Pittwater Council* (2007) NSW LEC 827 Preston CJ set out ways of establishing that compliance with a development standard is unreasonable or unnecessary.
76. Preston CJ in the judgement then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy, as follows (with emphasis placed on number 1 for the purposes of this Clause 4.6 variation:
1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
  2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
  3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
  4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
  5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*
77. The Clause 4.6 Statement was prepared in consideration of the recent court cases and their judgements.
78. Applicant's comment:

In his Judgment of *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7 ('Micaul') Preston CJ confirmed that an established means of demonstrating that compliance with a development standard is unreasonable or unnecessary is to establish that a development would not cause environmental harm and is consistent with the objectives of the development standard. It is considered that the environmental impacts of the proposed development are appropriately avoided, minimised or mitigated as described below:

- Visual privacy – That part of the building that exceeds the height limit is restricted to the lift overrun only which does not contain any windows or other openings. Accordingly, there will be no overlooking generated by the non-compliance with the height development standard;
- Acoustic privacy – As discussed above there are no openings in the lift overrun and accordingly there will be no noise generated by the non-compliance with the height standard;
- Overshadowing – There will be a negligible increase in the shadow cast by the lift overrun between 12 noon and 3pm at the winter solstice. The additional shadow does not fall on the adjoining residential area, but rather on the land to the southeast that is zoned B2. As new development is built in accordance with the desired future character with a height of



21m the extent of the shadow cast to the southeast would be restricted to the roof of a future building at 9 The Strand between 12 noon and 3pm at the winter solstice. There will be no additional shadow cast to the west to the adjoining residential area as the lift over run is located in the centre of the building along the southern boundary and as such the shadow from the lift over run will not extend beyond the shadow cast by the rear of the building at 9.00 am through to 12 noon;

- Streetscape and character – The lift overrun will only be visible from an oblique angle from a distance from the east, south and southwest. The part of the lift overrun that is above the 21m is a maximum of 0.71m. A building with a compliant height would still have a lift over run and accordingly the non-compliance with the height limit is not adding another element to the streetscape.

A 21m height limit would ordinarily accommodate a 6 storey shop top housing development. It is the slope of the land which falls to the rear that results in the non-compliance with the height limit. The building is one storey lower at the rear of the site compared to The Strand frontage to accommodate the slope.

Compliance could be achieved if the lift was relocated closer to the street, however this would remove the void to the entry above the landscaped area reducing the amenity of this space. Given that the lift services both the front and rear building it is appropriately located in the centre of the 2 building components. If the lift and fire stairs were relocated closer to the front of the site up the slope to achieve compliance, there may be travel distance issues generated; and

- Traffic and Parking – The lift overrun does not generate any additional floor area and accordingly does not result in any additional units or commercial floor space. Therefore, no additional traffic or demand for parking spaces is generated by the non-compliance.

Furthermore, the proposed development is considered to be consistent with the objectives of the height of buildings development standard as described below.

Objectives of the Height of Buildings Development Standard	Assessment
(a) to establish the maximum height for buildings,	The maximum height is established in the height map indicating the site enjoys a 21m height limit.
(b) to minimise the impact of overshadowing, visual impact and loss of privacy on adjoining properties and open space areas,	The lift overrun results in a negligible increase in shadows cast on land in the business zone. No additional shadows will be cast on the residential properties to the rear. The lift overrun does not contain any openings and accordingly does not generate any privacy impacts.
(c) to provide appropriate scale and intensity of development through height controls.	The 21m height limit accommodates 6 storey shop top housing consistent with the desired future character. The non-compliance with the height standard is generated by the land sloping down to the rear. The building does respond to the slope of the land with the rear building being one storey lower in height compared to the front building element. Accordingly, the scale of the building is consistent with the desired future
	character of a 6 storey shop top building that tapers down to the rear.

Accordingly, for the reasons identified above it is considered that strict compliance with the development standard is unreasonable or unnecessary as the non-compliance will not cause environmental harm and the proposed development is consistent with the objectives of the development standard, notwithstanding the non-compliance.

**Clause 4.6(3)(b) are there sufficient environmental planning grounds to justify contravening the standard**

79. Clause 4.6(3)(b) requires the applicant to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard.

80. Applicant's Comment:

In the Judgment of *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 ("Four2Five") Pearson C indicated there is an onus on the applicant to demonstrate, through the written request, that there are "sufficient environmental planning grounds" such that compliance with the development standard is unreasonable or unnecessary. Furthermore, that the environmental planning grounds must be particular to the circumstances of the proposed development rather than public benefits that could reasonably arise from a similar development on other land.

In *Initial Action*, Preston CJ indicated that it is reasonable to infer that "environmental planning grounds" as stated in under cl4.6(3)(b), means grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s1.3 of the EP&A Act.

The site-specific environmental planning grounds that support the proposed variation to the height of buildings development standard in this circumstance include the following:

- Minor Nature – the exceedance to the height development standard of the lift overrun is very minor, being only 0.71m representing an exceedance of 3.4%. The surface area of the roof of the lift overrun is 6.44m<sup>2</sup> which equates to 0.92% of the site area.
- The lift overrun is located in the centre of the building on the southwestern boundary and will not be seen from directly behind the site in Strand Lane or directly in front from The Strand. Once a building consistent with the desired future character i.e., a building 6 storeys in height is constructed on the adjoining site at 9 The Strand the proposed lift overrun will not be visible from ground level of the public domain;
- The part of the lift overrun that exceeds the height standard will generate a negligible additional shadow on land zoned business to the south and southeast from 12.00 noon to 3.00pm at the solstice. Once a 6 storey shop top housing development is constructed at 9 The Strand the additional shadow will only affect the roof level of the future adjoining development;
- The exceedance of the height standard does not result in an additional storey as a 21m height limit accommodates a 6 storey shop top housing development. The non-compliance is generated by the slope of the land. The proposal does step down the site by 1 storey and accordingly the lift overrun will not result in an element out of context but rather a necessary and expected building element of a 6 storey shop top housing development; and
- Orderly and Economic Development – the proposal will be consistent with the desired future character of the Penshurst town centre being a 6 storey shop top housing development with a 2 storey street wall. The proposal complies with the floor space ratio standard and accordingly is considered to be of a scale consistent with the development standards and as such, will promote the orderly and economic use of the land in accordance with the objects of the EP&A Act.
- The lift core is required to be in the centre of the development in order to comply with the BCA and NCC in relation to fire safety travel distances.

In *Micaul* and *Initial Action*, Preston CJ also clarified that sufficient environmental planning grounds may also include demonstrating a lack of adverse amenity impacts. As summarised above, the proposal satisfactorily avoids, manages or mitigates adverse amenity impacts.

Accordingly, it is considered that there are sufficient environmental planning grounds to justify the contravention of the height of buildings development standard in this instance.

***Clause 4.6(4)(a)(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***

81. Clause 4.6(4) states that:

*"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*

- (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,”*

82. Applicants Comment:

Pursuant to cl4.6(4)(a)(ii) and as discussed by Preston CJ in Initial Action, if the development is consistent with the objectives of the development standard and the objectives of the zone, the consent authority can be satisfied that the development will be in the public interest.

An assessment of the proposal against the objectives of the height development standard is provided at Section 3.4.1 and an assessment of the proposed development against the objectives of the B2 Local Centre Zone is provided below.

B2 Local Centre Zone Objective	Assessment
provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.	The proposal provides 260.05m <sup>2</sup> of commercial retail floor space at the ground level with residential apartments above. Once constructed the retail/commercial space will provide business or retail opportunities consistent with this zone objective.
encourage employment opportunities in accessible locations.	The subject site is within 50m of the Penshurst Railway Station and bus stop interchange.
maximise public transport patronage and encourage walking and cycling.	The site is located in a very accessible location in terms of public transport. The retail commercial floor space and 20 residential apartments in this location provides increased employment and living opportunities in a location that is not reliant on private car use thereby maximising the likelihood that employees and residents will use public transport. The proposal provides 8 bicycle racks for use of staff and residents.

These assessments demonstrate that the proposed development is consistent with all the relevant objectives of the development standard to be varied and all the relevant objectives of the B2 Local Centre zone within which the development is to be carried out. Accordingly, it follows that the proposed development is in the public interest.

83. The objectives of the standard are:
- to establish the maximum height for buildings,*
  - to minimise the impact of overshadowing, visual impact and loss of privacy on adjoining properties and open space areas,*
  - to provide appropriate scale and intensity of development through height controls.*
84. The proposed development satisfies the objectives of the building height development standard as the breach does not result in unreasonable overshadowing, adverse visual or privacy impacts, and the design is a suitable scale an intensity for the site and local context.
85. The objectives of the B2 Local Centre zone are:
- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
  - To encourage employment opportunities in accessible locations.*
  - To maximise public transport patronage and encourage walking and cycling.*



86. The exceedance of the building height control is not inconsistent with the zone objectives.
87. The public benefit of the variation is that it will appropriately facilitate the provision of shop top housing on a B2 zoned site and provide for a range of housing stock and additional commercial floorspace. It is noted that in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ clarified what items a Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a "better" planning outcome resulting from the non-compliance.
88. The second matter was in cl 4.6(3)(b), where the Commissioner applied the wrong test in considering this matter by requiring that the development, which contravened the height development standard, result in a "better environmental planning outcome for the site" relative to a development that complies with the height development standard (in [141] and [142] of the judgment). Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard.
89. There will be no adverse amenity and visual impacts generated by the variation. The proposal satisfies objectives of the building height standard. In this case the justification to vary the height control is considered to be reasonable and well founded.

***Clause 4.6(b) the concurrence of the Secretary has been obtained.***

90. Concurrence from the Secretary has been obtained and can be assumed in this case.
91. It is considered that the Clause 4.6 Statement lodged with the application addresses all the information required pursuant to Clause 4.6 and the statement is considered to be well founded as there are sufficient environmental planning grounds to justify contravening the standard.

**Development Control Plans**

**Georges River Local Development Control Plan 2021**

92. The Georges River Development Control Plan 2021 was adopted on 8 October 2021.
93. In this regard, the provisions have no determining weight because of the operation of Clause 1.7 of the Georges River DCP which states:

*If an application has been made before the commencement of the DCP in relation to land to which the DCP applies, and the application has not been finally determined before that commencement, the application must be determined as if the DCP had not commenced. All applications received after the commencement date of an amendment to the DCP are subject to the DCP as amended.*

**Kogarah Development Control Plan No 2013 (KDCP)**

94. The following compliance table is an assessment of the proposal against the relevant Development Control Plan controls.

Required	Proposed	Complies
<b>B4 Parking and Traffic</b>		
<u>Car wash bay:</u> 1 bay, which can also function as a visitor space	No car wash bay proposed.	Can be conditioned
<u>Accessible Space</u>  For developments with less than 100 car spaces, a minimum of one accessible space must be provided  Designated accessible car spaces may be treated as resident car spaces in the calculation of parking requirements.	Two accessible spaces proposed.	Yes
<u>Bicycle Parking:</u> 1 space per 3 dwellings = 4 1 space per 10 dwellings for visitors = 2 spaces Total = 6 <b>spaces</b> required	8 provided.	Yes
Car park access and layout to comply with relevant Australian Standards	Complies.	Yes
<b>B5 – Waste Management and Minimisation</b>		
Submit Waste Management Plan (WMP) Provide a dedicated caged area within the bin room for the storage of discarded bulky items.	A WMP was submitted with the DA.	Yes
<b>B6 – Water Management</b>		
All developments require consideration of Council's Water Management Policy	The proposed method of stormwater management is considered satisfactory subject to conditions.	Yes
<b>B7 – Environmental Management</b>		
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, the development is BASIX-compliant.	Yes

**Part D1: Development in the B1 Neighbourhood Centres & B2 Local Centre zones**

Requirement	Proposal	Complies
<b>3.1 Streetscape</b>		
(1) Infill development is to respect and maintain consistency with the established rhythm and scale of existing shopfronts.	The ground floor tenancy is consistent with existing shopfronts on The Strand.	Yes

Requirement	Proposal	Complies
(2) Parapets are to be utilised for the consistency of street frontage and screening of unsightly roof structures.	Not required.	Yes
(3) Facades are to be ordered and articulated to visually break up the building massing, for example through materials, colour and the design of openings. Large areas of glass curtain walling and blank walls are to be avoided.	Acceptable – refer to urban design comments and conditions discussed earlier.	Acceptable with conditions
(4) Enhance pedestrian amenity through the provision of continuous awnings for weather protection.	The pedestrian entry is protected by an awning with width of the building.	Yes
(5) Promote safety and security by providing a high level of activation to the street, employing clear and direct lines of sight between the street and building entries, and using appropriate signage and lighting to enhance the amenity of the public domain.	The street level is activated with large windows to the tenancy and the pedestrian entry.	Yes
(6) Site and design vehicular access (driveways, parking facilities, service access and garages) away from the main street frontage, from rear lanes or secondary streets.	Vehicular access is provided from Strand Lane.	Yes
<b>3.2 Shop-top housing</b>		
(1) The ground floor level of buildings shall maintain active retail/commercial uses facing the street.	The ground floor is proposed for commercial use.	Yes
(2) Levels above ground can sustain mixed uses, including commercial, professional services, and residential, where appropriate.	Residential units are proposed on the levels above.	Yes

Requirement	Proposal	Complies
(3) Site and design non-residential and residential land uses in the same development in a manner that will not adversely affect the future operation of those land uses.	Achieved.	Yes
(4) Residential uses are only be permitted subject to demonstration of satisfactory amenity for building occupants, particularly in relation to impacts from noise, fumes and vibration on heavily trafficked streets.	Residential amenity is achieved.	Yes
<b>3.3 Heritage &amp; Significant Facades – Commercial Precincts</b>		
(5) Respond to requirements for heritage items (Schedule 5 of KLEP 2012) or significant facades as identified in the Commercial Locality Controls.	Not applicable as the site is not Heritage listed or in a Conservation Area.	NA
(6) For the redevelopment of heritage buildings identified in Schedule 5 of KLEP 2012, vertical additions are permitted with an upper level setback, where the parapet becomes the balustrade to the balcony of a new upper level storey.		
<b>3.4 Building Heights</b>		
(7) Building heights are to be in accordance with the Locality Controls.	Maximum 21m (KLEP 2012) Proposed 21.568m	No – refer to earlier discussion
(8) Buildings are massed towards the street frontage and step down towards the rear, to be in keeping with the existing retail/commercial built form pattern and compatible with the scale and character of adjacent residential areas.	The building mass is suitable for the site and consistent with desired future character.	Yes
(9) Where allotment adjoins a low density residential area, buildings should be: (i)	The built form is setback from the adjacent R2 zoned land.	Yes



Requirement	Proposal	Complies
reduced in height in accordance with the locality controls; and (ii) setback from the adjoining property boundary.	NA	NA
(10) The height of new development at the street boundary is to be no more than the prevailing height of the parapets of any adjacent and neighbouring heritage buildings.	3.3m floor to ceiling height proposed.	Yes
(11) Floor to ceiling heights - min 3m (ground floor) for range of uses (retail, commercial, home offices).	2.7m proposed.	Yes
(12) Floor to ceiling should be a minimum of 2.7m at the upper storeys of the building, to allow for a range of uses, and to improve the environmental performance and amenity of the building		
<b>3.5 Setbacks</b>		
(13) Buildings adjacent to public roads are generally to align with and be built to the street frontage to provide continuity in the streetscape and encourage active frontages to ground level.	Complies.	Yes
(14) Street setbacks at ground level are permitted only: (i) Where the existing footpath is narrow and the provision of additional pedestrian space is desirable (ii) Where the established pattern is setback (for example where there are residential buildings within the locality) (iii) Where the setback enables or enhances visual appreciations of adjacent heritage items.	Not proposed.	Yes
(15) Side setbacks are generally not permitted in order to	Complies.	Yes

Requirement	Proposal	Complies
maintain the continuity of active frontages, unless specified in the locality controls.		
(16) Where the locality abuts a residential zone and/or a residential allotment, the side setbacks are generally to be a minimum 3m, except where the locality character is established by the existing footprints and the allotment capacity of the locality would be unreasonably constrained. Refer to the Locality Controls of Part D2 for specific side setback requirements.	NA	NA
(17) Rear setbacks are determined by the context including the amenity of neighbouring residential uses and the amenity of any rear lanes. Refer to Locality Controls within Part D2 for specific rear setback requirements.	Suitable setbacks proposed – refer to discussion for Part D2 of the DCP.	Yes
(18) Setbacks on corner blocks are to enable sufficient sightlines for traffic in accordance with the relevant Australian Standard.	NA	NA
(19) Upper level street setbacks are required to any residential component above retail/ commercial uses together with building design and apartment layout that satisfactorily mitigates the impacts of noise, fumes and vibration on major roads.	Complies with controls in Part D2.	Yes
<b>3.6 Building Design</b>		
<b>3.6.1 Building Facades</b>		
(20) Where appropriate, integrate buildings into the streetscape by adopting a modular form, which reflects the underlying narrow shop width of older	Acceptable – refer to urban design comments and conditions discussed earlier.	Acceptable with conditions

Requirement	Proposal	Complies
<p>buildings. Use vertical elements, such as vertically proportioned windows, exposed party walls, vertical balustrades, attached fins to express this modulation and rhythm. Use horizontal elements such as roofs, parapets, balconies and balustrades to align the building with its neighbours.</p> <p>(21) Ensure that the facade clearly expresses a bottom, middle and top related to the overall proportion of the building.</p> <p>(22) Incorporate design characteristics such as projecting fins, corbelling, balconies with variable materials and finishes, punctuated walls with visually recognisable patterns, decorative features, rhythm and texture and a variable colour palate to achieve façade modulation and articulation.</p> <p>(23) Avoid curtain walls, large expanses of glass and large expanses of concrete as these do not create well-articulated and harmonious façades.</p> <p>(24) Express important corners by giving visual prominence to parts of the façade, including changes in articulation, material or colour, roof expression or increased height (where identified in the Locality Controls in Part D2).</p> <p>(25) Provide a greater proportion of solid areas to void areas on all façades and incorporate non-reflective materials.</p>		

Requirement	Proposal	Complies
<p>(26) Use non-reflective glass or recess glass behind balconies to minimise reflectivity.</p> <p>(27) Windows and openings are to be generally of a vertical character and located within vertical bays.</p> <p>(28) Air-conditioning units/fans/vents/stacks/hoods etc are to be inconspicuously located so as not to be visible from the shopping street and any other major side street.</p>		
<b>3.6.2 Active Frontages</b>		
(1) Provide direct visual connections between footpaths and shops.	Complies.	Yes
(2) Wrap shop fronts around corners into side streets to increase the area of active frontage.	NA	NA
(3) Design building openings at the ground floor to be in keeping with the overall building and bay scale and proportions.	Complies.	Yes
(4) For cafe/dining uses, provide openable window areas in association with seating overlooking the street, to create the effect of outdoor dining. Note: Applications for outdoor dining must comply with Council's Code for Commercial Use of Public Footways.	The use has not been nominated but can service a café/dining use.	Yes
(5) For commercial uses, avoid blank walls, dark or obscure glass to the street frontage.	Complies.	Yes
(6) Incorporate continuous, independent and barrier free access to ground floor commercial entries, including	Complies.	Yes

Requirement	Proposal	Complies
<p>effective signage, sufficient illumination, tactile ground surface indicators and pathways with limited cross-falls, sufficient width, comfortable seating and slip-resistant floor surfaces.</p> <p>(7) Open grilles or see-through security screens are preferred to shutters, to optimise the openness of windows and any spill lighting of the footpath. Shutters, if provided, must be minimum 65% visually permeable.</p> <p>(8) Pedestrian access to upper level uses is preferred from the side street or rear lane. If provided from the main street, openings for access are to be between 1.5m and 3m wide.</p> <p>(9) Recessed shop frontages are not permitted except in the cases of heritage buildings where the recess is sympathetic to the building character.</p>	<p>Not proposed.</p> <p>1.5m</p> <p>Not proposed.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
<p><b>3.6.3 Awnings</b></p> <p>(1) Awnings should retain any original awning features present that contribute to the desired locality character.</p> <p>(2) Provide under awning lighting to improve public safety.</p> <p>(3) Wrap awnings around the corners of the main commercial street onto side streets.</p> <p>(4) Design awnings in the high range 3.6m – 4m and no higher or lower than adjoining awnings.</p> <p>(5) Provide awnings flat or near-</p>	<p>A new awning is proposed which is in keeping with the desired character.</p> <p>Can be conditioned.</p> <p>NA</p> <p>3.5m</p>	<p>Yes</p> <p>Yes</p> <p>NA</p> <p>Yes</p> <p>Yes</p>

Requirement	Proposal	Complies
flat in shape (not tilted upwards away from the facade), and opaque in finish.	Complies.	
<b>3.6.4 Balconies</b>		
(1) Each apartment is to have at least one primary balcony.	Complies.	Yes
(2) Primary balconies are to have a minimum depth of 2.5m and a minimum size of 10m <sup>2</sup> .	Compliant with ADG controls.	Yes
(3) Design balconies that are recessed into the wall or enclosed with walls, columns or roofs to provide sufficient enclosure and visual firmness.	Complies.	Yes
(4) Design balustrades that allow for views into, and along the street.	Complies.	Yes
(5) Employ juliet balconies and French windows to articulate facades with architectural detail and vertically proportioned windows.	Not proposed.	NA
(6) Locate balconies adjacent to main living areas to expand the living space of units, where possible.	Complies.	Yes
(7) Balconies are to be designed to respond to the local context. In this regard, special attention should be paid to the design of balconies for buildings situated on busy roads and/or adjacent to railway lines. This may be achieved by: (i) layering and recessing balconies to increase noise buffering from busy roads and railway lines; (ii) grouping balcony openings; (iii) providing balconies with operable screens, windows, or operable walls/sliding doors with a balustrade; (iv)	Complies.	Yes

Requirement	Proposal	Complies
recessing balconies in response to acoustic and visual privacy issues; and (v) ensure the privacy of occupants, neighbours, and public is taken into account by careful design and balustrades with a balance of transparent and solid materials.		
<b>3.6.5 Materials &amp; Finishes</b>		
(1) Utilise high quality and durable materials and finishes.	Complies.	Yes
(2) Combine different materials and finishes to assist building articulation and modulation.	Complies.	Yes
(3) Where the Locality includes a significant facade or streetscape, materials and finishes are to compliment the existing streetscape.	NA	NA
(4) Avoid large unarticulated expanses of any single material to facades.	Complies.	Yes
<b>3.6.6 Mobility and Access</b>		
(1) New development and refurbishments are to comply with the requirements of the Building Code of Australia (BCA) and the Australian Standards.	The application has been accompanied by an access report that details that compliance can be achieved at Construction Certificate Stage.	Yes
(2) All buildings with a residential component that have access to more than two storeys are required to have lift access.	Complies.	Yes
<b>3.6.7 Public Art</b>		
(1) Development on sites over 1000m <sup>2</sup> should, where possible include the provision of high quality artwork within development in a publicly accessible location.	NA	NA
(2) The artwork should be prepared having regard to links between the Locality and details of such artwork		



Requirement	Proposal	Complies
and the proposed location are to be submitted with the Development Application.		
<b>3.6.8 Roof forms and Parapets</b>		
(1) Variation to the existing pattern of roof forms may only occur where the parapet line is not disrupted and where the new roof is not visible from the street below or adjacent public areas.	Flat roof design proposed.	Yes
(2) Minimise the bulk and mass of roofs and their potential for overshadowing.	Complies.	Yes
(3) Design roofs to generate a visually interesting skyline and minimise apparent bulk.	Complies.	Yes
(4) Conceal lift over runs and plant equipment within well designed roofs.	Centrally located lift overrun.	Yes
(5) Roof fixtures (such as roof vents, chimneys, aerials, solar collectors, mobile phone transmitters, satellite dishes) are to be inconspicuously located so as not to be visible from the street (including side streets).	NA	NA
(6) Television antennae are to be located within the roof space.	Noted.	-
<b>3.6.9 Signage</b>		
(1) Comply with the requirements of Part F1- Advertising and Signage	Not proposed	NA
<b>3.7 Vehicular Access &amp; Parking</b>		
Car Parking		
(1) Car parking for the commercial /retail component of a development is to be provided in accordance with the requirements in Part B4.	Refer to earlier discussions.	Yes
<b>3.8 Dwelling Design – Apartment Mix &amp; Dwelling Size</b>		
(1) Provide a mix of studios, 1, 2 and 3 or more bedroom apartments in varying layouts.	Complies.	Yes

Requirement	Proposal	Complies
(2) Dwellings within the residential component of a mixed development must have the minimum internal floor areas (IFA): • Studios - minimum IFA of 40m <sup>2</sup> • 1 bedroom unit - minimum IFA of 60m <sup>2</sup> • 2 bedroom unit - minimum IFA of 85m <sup>2</sup> • 3 bedroom unit - minimum IFA of 100m <sup>2</sup> .	Complies with ADG controls.	Yes
(3) In all instances the first bedroom is to maintain an internal floor area of 15m <sup>2</sup> and the second bedroom is to maintain a minimum internal floor area of 12m <sup>2</sup> .	Complies with ADG controls.	Yes
(4) Consider the design needs of those who work from home in the internal configuration of residential apartments.	Complies.	Yes
<b>3.10 Storage</b>		
(1) All developments must provide a designated secure storage space (in addition to any areas set aside for off street parking) to a minimum floor area of 4m <sup>2</sup> for each dwelling or unit.	Provided in parking level.	Yes
(2) The storage space may be incorporated as part of the garage.		
<b>3.11 Clothes Drying</b>		
(1) Wherever possible, provide dedicated external clothes drying areas for all apartments that will be utilised by the residents, while being screened from the public view.	Clothes drying can be accommodated within units.	Yes
(2) Additional balconies (i.e. not main balconies) may be considered appropriate for this purpose, provided that they are screened from public areas		
<b>3.12 Amenity</b>		
<b>3.12.1 Visual and Acoustic Privacy</b> <i>Visual Privacy</i>		

Requirement	Proposal	Complies
(1) Design building separation for parallel ranges of buildings to at least the following standards for the residential component: f 12 metres between habitable rooms/the edge of their balconies f 9 metres between habitable rooms/the edge of their balconies and non-habitable rooms f 6 metres between non-habitable rooms.	Refer to ADG.	Yes
(2) Offset facade openings from existing openings in adjacent development to minimise direct overlooking of rooms and private open spaces.	Nil setbacks proposed as required.	Yes
(3) For street wall buildings, design zero side setbacks to result in zero building separation, providing dual aspect commercial or residential uses with openings to the front (street) and the rear.	Units either have street or rear facing orientation.	Yes
(4) For ground floor retail/commercial uses, provide appropriate rear and side setbacks to adjacent residential uses, and design building layout to avoid overlooking of private spaces.	Rear setback proposed.	Yes
(5) Utilise design elements to increase levels of privacy such as landscaping, screening, offset windows, recessed balconies, louvres, planter boxes, pergolas or shading devices.	Achieved.	Yes
(6) Development adjacent to the Railway Line or adjacent to road corridor with annual average daily traffic volume of more than 40,000 vehicles.	NA	NA
<i>Acoustic Privacy – General</i>		
(7) Design and site buildings	Complies.	Yes

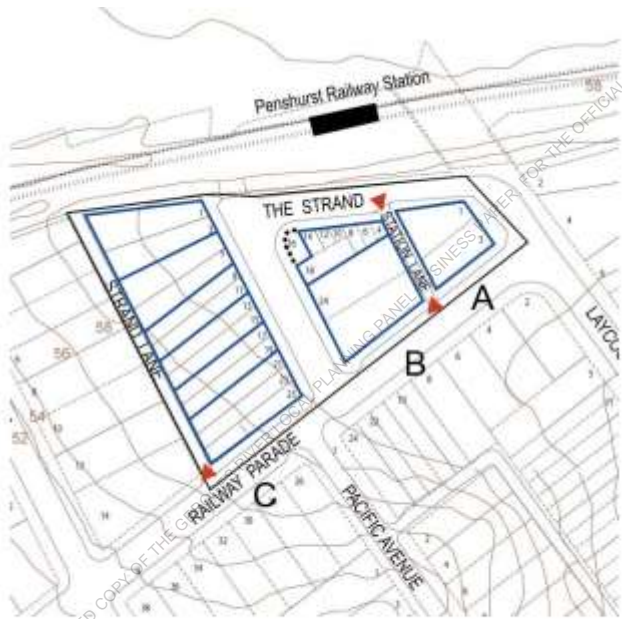
Requirement	Proposal	Complies
adjacent to noise generating land uses to minimise noise impacts, for example through building layout and location and size of openings.	NA	NA
(8) Where appropriate locate individual buildings and groups of buildings to act as barriers to the noise.	Complies.	Yes
(9) Utilise the site and building layout to maximise the potential for acoustic privacy by providing adequate building separation within the development and from neighbouring buildings	Complies.	Yes
(10) Locate and design all noise generating equipment such as mechanical plant rooms, mechanical ventilation from car parks, driveway entry shutters, garbage collection areas or similar to protect the acoustic privacy of workers, residents and neighbours. The noise level generated by any equipment must not exceed an Laeq of 5dBA above background noise at the property boundary.	Complies.	Yes
(11) Development is to meet or exceed the sound insulation requirements between separating walls and floors of adjoining dwellings of the Building Code of Australia.	Noted.	-
(12) With particular regard to timber flooring in the residential component of developments, appropriate insulation between floors is to achieve a minimum sound attenuation of (50Rw)	NA	NA
(13) Where development is proposed adjacent to the railway line or a classified road corridor compliance with the		

Requirement	Proposal	Complies
requirements of the ISEPP.		
<b>3.12.2 Safety and Security</b>		
(1) Maximise passive surveillance by orienting buildings towards the street, such that building frontages and entries overlook and are clearly visible from the street and provide a sense of address and visual interest.	The development is appropriately designed to satisfy this criterion.	Yes
(2) Avoid blank walls addressing streets and any public plazas or pocket parks.	The development is appropriately designed in this regard.	Yes
(3) Clearly design buildings and spaces, and the entries to buildings, to delineate public from private space to provide a clear sense of ownership, minimise ambiguity and discourage illegitimate use.	Achieved.	Yes
(4) Delineate public, semi public and private space through the use of barriers, such as low fences or landscaping, post boxes, lighting and signage.	Not applicable to this development.	Yes
(5) Avoid building recesses, alcoves or dense landscaping in places where concealment is possible.	Not proposed in this development.	Yes
(6) Design and place facilities such as toilets and parents rooms to maximise opportunities for casual surveillance.	NA	NA
(7) Place services such as Automatic Teller Machines (ATMs) and public telephones in highly visible locations and be accessible and well lit at night.	NA	NA
(8) Solid roller shutters are not permitted as security devices on shop fronts (windows and doors). Open grille security devices may be used on shop	NA	NA

Requirement	Proposal	Complies
fronts if such devices are necessary but should be unobtrusive and sympathetic to the character of the building and the streetscape, with minimum transparency of 65% to provide light spill to the pavement and create a sense of openness to the street.		
<b>3.13 Open Space and Landscaping</b>		
(1) Retain existing, and incorporate new indigenous trees, shrubs and ground cover where appropriate.	Such landscaping does not currently exist on the site.	NA
(2) Maximise deep soil zones to provide for substantial landscaping and mature trees.	Refer to earlier ADG discussion.	Yes
(3) Submit a landscape plan prepared by a qualified landscape architect.	Complies.	Yes
(4) Where development is proposed adjacent to low density residential development, an appropriate landscape buffer is to be planted to provide separation and screening between the proposed development and the existing low density development (Refer to Locality Controls). These areas should be deep soil areas so as to allow for the planting of large/medium trees.	Refer to earlier ADG discussion.	Yes

## Part D2: Commercial Locality Guides

Requirement	Proposal	Comply
<b>Part D2.15 Penshurst</b>		
<b>15.3.1 Height</b>		
(1) The maximum number of levels = 3.	Kogarah LEP 2013 permits a height of 21m - refer to discussion on height earlier in this report.	Variation supported on merit.
(2) The maximum overall building height (to the uppermost habitable part of the building) = 10.2m.	It is noted that the	

Requirement	Proposal	Comply								
(3) The total overall building height (including roofs and any projections such as plant, lift overruns, blades or the like) shall not exceed 2m above the habitable part of the building.  (4) No development is permitted in the roof void.	DCP predated the LEP change resulting in the 7-storey height limit. Accordingly, the DCP height limit is legally overridden by the LEP.									
<b>15.3.2 Preferred Land Use</b>  (15) The preferred land uses in this locality are as follows:  <table><tr><th>Level</th><th>Preferred Land Use</th></tr><tr><td>Ground floor (Level 1)</td><td>Retail</td></tr><tr><td>First floor (Level 2)</td><td>Commercial and/or Residential</td></tr><tr><td>Second floor (Level 3)</td><td>Residential and/or commercial</td></tr></table>	Level	Preferred Land Use	Ground floor (Level 1)	Retail	First floor (Level 2)	Commercial and/or Residential	Second floor (Level 3)	Residential and/or commercial	Ground floor – commercial  Upper floors – residential	Yes
Level	Preferred Land Use									
Ground floor (Level 1)	Retail									
First floor (Level 2)	Commercial and/or Residential									
Second floor (Level 3)	Residential and/or commercial									
<b>15.3.3 Amalgamation</b>  (15) All sites are required to be amalgamated as shown in Figure 8.    Figure 8. Site amalgamation requirements	Complies	Yes								
<b>15.3.4 Density</b>  (1) Density should fit within the required building setbacks	Kogarah LEP 2013 permits a FSR of 2.5:1. The proposal complies at 2.49:1.	Yes								
<b>15.3.5 Pedestrian Entry</b>  (1) Pedestrian entry should be obtained from The Strand and Railway Parade.	Pedestrian entry is provided from The Strand.	Yes								
<b>15.3.6 Vehicle Access</b>  (1) Vehicle access should be obtained from	Vehicular access is proposed from Strand Lane.	Yes								

Requirement	Proposal	Comply
Strand Lane or Station Lane.		
<b>15.3.7 Car Parking</b>		
(1) For commercial/retail component of a development, no on-site parking is required to be provided.	No commercial parking is proposed.	Yes
(2) Residential parking is to be provided in developments at the following rates:		
(i) One (1) resident car space is to be provided on site for each dwelling;	18 units – 18 spaces.	Yes
(ii) One (1) visitor car space is to be provided on site for each five (5) dwellings.	18/5 = 4 spaces.	Yes
(3) The number of on site resident and/or visitor car parking spaces for residential development may be reduced at Council's discretion if the applicant can demonstrate a reduced parking need.	Not required.	NA
(4) Off street parking is to be provided for any new development either underground or at the rear of the properties.	Basement level parking is proposed.	Yes
(5) Where a basement is provided as part of a development, no part of the basement is to be elevated above ground level fronting The Strand.	Complies.	Yes
(6) Where a basement is provided this is not to protrude more than 1m above natural ground level.	The slope of the land to Strand Lane requires the parking level to protrude above natural ground. This design is consistent with adjacent development to the north.	Yes
<b>15.3.8 Awnings</b>		
(1) Development is to provide a suspended awning across the full frontage of the development and within 20m of the intersection to side streets.	An awning is provided along The Strand elevation.	Yes
<b>15.3.9 Façade Treatment</b>		
(1) Encourage a consistency in the façade treatment of new buildings with appropriate use of materials, colours, awning design and low awning advertising.	Suitable materials and finishes and awning design are proposed. No signage is proposed.	Yes



Requirement	Proposal	Comply
15.6 Block C – Bounded by The Strand, Railway Parade and Strand Lane		
15.6.1 Setbacks		
(1) The front setback to The Strand being as follows:	G: to boundary First: to boundary 2/3/4/5: 3m	Yes Yes Yes
(2) The setback to Railway Parade being as follows:	NA	NA
(3) The setback to the public walkway adjacent to railway line being as follows:	NA	NA
(4) The rear setback to Strand Lane being as follows:		
	</	

### Developer Contributions

95. The proposed development would require payment of developer contributions under Section 7.11 of the Environmental Planning and Assessment Act 1979. If the development consent is granted a condition outlining the required contributions will be imposed.

### Impacts

#### Natural Environment

96. The proposed development will not adversely affect the natural environment.

### **Built Environment**

97. The proposal represents an appropriate planning outcome for the site with respect to its bulk, scale and density, façade articulation and expression and is an appropriate response to the context of the site and its B2 Local Centre zoning.
98. A number of design changes have been included in the conditions of consent provided at the end of this report to improve the detailed resolution of layouts and elevations, including architectural elements of the front and rear elevations and general arrangements of apartments.

### **Social Impact**

99. No adverse social impacts have been identified as part of the assessment. The proposed development, in principle, will cater for a cross-section of the community and will assist with providing for additional housing in the area.

### **Economic Impact**

100. There is no apparent adverse economic impact that is likely to result within the locality. It is likely there will be a small positive economic impact as a result of the construction of the development.

### **Suitability of the site**

101. The site is zoned B2 Local Centre. The proposal is a permissible form of development in this zone and has been designed to reflect the context of the area.

### **Submissions and the Public Interest**

102. The application was neighbour notified for a period of fourteen (14) days. 24 submissions were received.
103. The amended plans are substantially the same as the original plans and were not re-notified.
104. The issue raised in the submissions are addressed below:

<b>Issue</b>	<b>Comment</b>
<i>Height is inappropriate for the site/locality</i>	The proposal complies with the 21m height limit for the site, with the exception of the top of the lift overrun (up to 0.568m), which is deemed an acceptable breach.
<i>Adverse traffic impacts on the locality</i>	Council's Traffic Engineer has reviewed the Traffic Report submitted by the applicant and raises no concern with regard to traffic impacts as a result of the development.
<i>Out of character for the area</i>	The proposal meets the objectives and controls for height and density in accordance with the Kogarah LEP and is in keeping with the desired future character of the area.
<i>Limited detail provided on the affordable housing</i>	The affordable housing component of the proposal has been removed.
<i>Privacy impacts on properties on Strand Lane</i>	The setbacks proposed to Strand Lane meet the requirements of the Apartment Design Guide to ensure privacy impacts are minimised.
<i>Privacy impacts on neighbouring medical practice</i>	There are no living area windows or balconies facing the adjoining building on The Strand to enable views into the practice.

<i>Construction impacts on neighbouring buildings</i>	Conditions of consent have been imposed for the preparation of pre- and post- construction dilapidation reports for adjoining buildings.
<i>Impacts on use of the laneway</i>	A condition of consent has been imposed for give-way linemarking on Strand Lane subject to approval by the Local Traffic Committee.
<i>Adverse impacts of construction noise</i>	Conditions of consent have been imposed to restrict hours of construction to between 7.00 am to 5.00 pm (inclusive) Monday to Saturday and no work on Sundays and Public Holidays, and Demolition and excavation works are restricted to: 8.00 am to 5.00 pm (inclusive) Monday to Friday only.
<i>Overshadowing impacts on streets within McRae's Estate</i>	The shadow diagrams submitted with the application demonstrate the shadow will not reach Centre Street.
<i>Adverse impact on heritage conservation area to the west</i>	Council's Heritage Advisor has reviewed the Heritage Impact Statement submitted by the applicant and raises no concern with the proposal and agrees there will be no impact on the adjoining heritage conservation area.

## Referrals

### Council Referrals

#### Development Engineer

105. Council's Development Engineer has raised no objection to the proposal subject to conditions of consent should the application be approved.

#### Traffic Engineer

106. Council's Traffic Engineer has raised no objection to the proposal subject to conditions of consent should the application be approved.

#### Heritage Advisor

107. Council's Heritage Advisor has raised no objection to the proposal subject to adherence with the nominated schedule of colours and finishes.

#### Consultant Arborist

108. Council's Arborist has raised no objection to the proposal subject to conditions of consent should the application be approved.

#### Waste Consultant

109. Council's Waste Consultant has raised no objection to the proposal subject to conditions of consent should the application be approved.

#### Urban Designer

110. Council's Urban Designer has provided conditions of consent should the application be approved.

## External Referrals

#### Ausgrid

111. The application was referred to Ausgrid in accordance with Clause 45(2) of State Environmental Planning Policy (Infrastructure) 2007. Ausgrid did not raise any objection to the proposal, no conditions recommended.

## Conclusion

112. The proposal has been assessed using the matters for consideration listed in Section 4.15 of the Environmental Planning and Assessment Act 1979. The proposal is considered to be a reasonable development form and the scale, bulk and height is considered to be an acceptable planning and design outcome for this site, subject to a number of conditions to ensure it is consistent with the existing and desired future character of development in the locality.
113. A number of design changes have been included in the conditions of consent provided at the end of this report to improve the detailed resolution of layouts and elevations, including architectural elements of the front and rear elevations and general arrangements of apartments.
114. The proposal has been assessed against the provisions of relevant State Environmental Planning Policies, the Kogarah Local Environmental Plan 2012 and Kogarah Development Control Plan 2013 and satisfies the key planning controls and/or objectives of each plan.

## Determination and Statement of Reasons

### Statement of Reasons

115. The reasons for this recommendation are:

- The proposal is permissible in the zone with development consent.
- The proposal is an appropriate response to the desired future character of the site and locality.
- The proposed development complies with the requirements of the relevant environmental planning instruments except in the height of the development. Clause 4.6 exception has been submitted in support of the application which is considered to be acceptable having regard to the justification provided in the report above.
- The building will not unreasonably affect the amenity of any immediately adjoining properties in terms of unreasonable overlooking, privacy, overshadowing or view loss.

### Determination

116. That Georges River Local Planning Panel support the request for variation under Clause 4.6 of Georges River Local Environmental Plan 2021, in relation to the Height of Building (Clause 4.3) development standard, as the variation sought satisfies the objectives of the standard and sufficient environmental planning grounds have been provided in the written request for variation justifying that compliance would be unnecessary and unreasonable in the circumstances of the case. The proposal is also in the public interest and it satisfies the objectives of the zone resulting in no adverse environmental impacts.
117. Pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act, 1979 (as amended), Development Application DA2021/0241 for demolition works and construction of a shop top housing development, site works and landscaping on Lots 19 and 20 in DP8761 known as 5A-7 The Strand, Penshurst, is granted Development Consent subject to the following conditions of consent:

## Development Details

1. **Fit-out of commercial premises** - No approval is granted for the use or fit-out of the commercial premises. Separate Development Consent for the use and fit-out is required prior to the occupation of the retail component of the development.
2. **Signage** - A separate application shall be submitted to Council prior to the erection of any signage unless the proposed signage is 'exempt development' under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 or any other applicable environmental planning instrument.
3. **Approved Plans** - The development must be implemented in accordance with the approved plans and supporting documentation listed below which have been endorsed by Council's approved stamp, except where marked up on the plans and/or amended by conditions of this consent:

Description	Reference No.	Date	Revision	Prepared by
Site Plan	Ap01	January 2023	I	ATJ Architects
Floor Plans	Ap02	January 2023	I	ATJ Architects
Floor Plans	Ap03	January 2023	I	ATJ Architects
Floor Plans	Ap04	January 2023	I	ATJ Architects
Elevations	Ap05	January 2023	I	ATJ Architects
Elevations	Ap06	January 2023	I	ATJ Architects
Sections	Ap07	January 2023	I	ATJ Architects
Sections	Ap08	January 2023	I	ATJ Architects
Erosion and Sediment Control Plan	Ap15	January 2023	I	ATJ Architects
Bulk Excavation Plan	Ap16	January 2023	I	ATJ Architects
Schedule of Finishes Issue D		January 2023	I	ATJ Architects
Proposed Landscape	Sheets L01 to L05	19/4/2023	D	Aspect Designs
Stormwater Drainage	2162 Sheets 1 to 3	26/4/2023	D	John Romanous & Associates

### Plans/Reports relied on:

Traffic Report	22166	19/5/2023		CJP Consulting Engineers
Heritage Impact Statement		21/5/2023		NBRS

4. **Electricity Supply** – Electricity supply to the development is to be underground.

## Separate Approvals Required Under Other Legislation

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

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

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

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

6. **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' (overhead type) hoarding or 'C type' scaffold, in accordance with the requirements of SafeWork NSW, must be erected along that portion of the footways/roadway where the building is within 3 metres of the street boundary.

An application for this work under Section 68 of the Local Government Act 1993 <<http://www.legislation.nsw.gov.au/>> and the Roads Act 1993 must be submitted for approval to Council.

The following information is to be submitted with a Hoarding Application under Section 68 of the Local Government Act 1993 <<http://www.legislation.nsw.gov.au/>> and Section 138 of the Roads Act 1993 <<http://www.legislation.nsw.gov.au/>>:

- 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 at [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au) <<http://www.georgesriver.nsw.gov.au>>) before the commencement of work; and
- d) Public Risk Insurance Policy with a minimum cover of \$20 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.

7. **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 car park 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 <<http://www.legislation.nsw.gov.au/>> and the Roads Act 1993 <<http://www.legislation.nsw.gov.au/>> for approval, prior to commencement of those works. The following details must be submitted.

- a) That cable anchors will be stressed released when the building extends above ground level to the satisfaction of Council.
- b) 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.
- c) Documentary evidence of such insurance cover to the value of \$20 million.
- d) The applicant must register a non-terminating bank guarantee in favour of Council for the amount of [\$50,000].  
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.
- e) That 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.

8. **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 (eg Opening the road for the purpose of connections to utility providers);
- (j) Stormwater and ancillary works in the road reserve;
- (k) Stormwater and ancillary to public infrastructure on private land; and
- (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](http://www.georgesriver.nsw.gov.au). For further information, please contact Council's Customer Service Centre on (02) 9330 6400.

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

## Requirements of Concurrence, Integrated & Other Government Authorities

### 10. Sydney Trains

- A1.** *Prior to the commencement of works, the Applicant shall provide certification from a qualified Geotechnical and Structural Engineer stating that the proposed works are to have no negative impact on the rail corridor and associated rail infrastructure.*
- A2.** *Prior to the issue of an Occupation Certificate (whether an interim or final Occupation Certificate), a report must be prepared and submitted to the Certifying Authority and Council certifying that the completed development meets the requirements of State Environmental Planning Policy (Infrastructure) 2007 and with the Department of Planning and Infrastructure's Development Assessment Guideline titled "Development Near Rail Corridors and Busy Roads - Interim Guidelines" as set down in the subject condition of this consent. Such a report must include external and internal noise levels to ensure that the external noise levels during the test are representative of the typical maximum levels that may occur at this development, and that internal noise levels meet the required dB(A) levels. Where it is found that internal noise levels are greater than the required dB(A) level, necessary corrective measures must be carried out to ensure that internal noise levels are compliant with the requirements of this consent.*
- A3.** *Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk.*



*A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate. The Principal Certifying Authority must ensure that the recommendations of the electrolysis report are incorporated in the construction drawings and documentation prior to the issuing of the relevant Construction Certificate.*

- A4.** *Prior to the issuing of a Construction Certificate the Applicant must submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains requirements. If required by Sydney Trains, the Applicant must amend the plan showing all craneage and other aerial operations to comply with all Sydney Trains requirements. The Principal Certifying Authority is not to issue the construction Certificate until written confirmation has been received from the Sydney Trains confirming that this condition has been satisfied.*
- A5.** *Copies of any certificates, drawings, approvals/certification or documents endorsed by, given to or issued by Sydney Trains or TAHE (Transport Asset Holding Entity) must be submitted to Council for its records prior to the issuing of the applicable Construction Certificate or Occupation Certificate.*
- A6.** *The Applicant must ensure that at all times they have a representative (which has been notified to Sydney Trains in writing), who:*
  - ☐ *oversees the carrying out of the Applicant's obligations under the conditions of this consent and in accordance with correspondence issued by Sydney Trains;*
  - ☐ *acts as the authorised representative of the Applicant; and*
  - ☐ *is available (or has a delegate notified in writing to Sydney Trains that is available) on a 7 day a week basis to liaise with the representative of Sydney Trains, as notified to the Applicant.*
- A7.** *Without in any way limiting the operation of any other condition of this consent, the Applicant must, during demolition, excavation and construction works, consult in good faith with Sydney Trains in relation to the carrying out of the development works and must respond or provide documentation as soon as practicable to any queries raised by Sydney Trains in relation to the works.*
- A8.** *Where a condition of consent requires consultation with Sydney Trains, the Applicant shall forward all requests and/or documentation to the relevant Sydney Trains External Interface Management team. In this instance the relevant interface team is Illawarra Interface and they can be contacted via email on [Illawarra\\_Interface@transport.nsw.gov.au](mailto:Illawarra_Interface@transport.nsw.gov.au).*

- 11. 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](http://www.ausgrid.com.au) (Business and Commercial Services).
- 12. Connection to the network will be required prior to the release of any Occupation Certificate** - Where works within the road reserve are to be carried out by the developer, a Road Opening Permit must be obtained from Council's Customer Service Centre before commencement of work.

13. **Electricity Supply to development** – All existing overhead power lines within or at the immediate street frontage to the development site shall be relocated underground to Energy Australia standards and specifications. If not practicable to relocate the power line underground, arrangements shall be made with Energy Australia to place the conduit to carry those power lines underground so that they can be utilised at a later date by Energy Australia. In this regard all associated costs shall be borne by the applicant.
14. **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](http://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.
15. **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 <<http://legislation.nsw.gov.au/>> 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](http://www.sydneywater.com.au) <<http://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.
16. **Section 73 Compliance Certificate** - A Section 73 Compliance Certificate under the Sydney Water Act 1994 <<http://legislation.nsw.gov.au/>> must be submitted to the PCA prior to the issue of the Occupation Certificate.

#### **Prior to the Issue of a Construction Certificate**

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 including but not limited to:
- a) All neighbouring buildings likely to be affected by the excavation as determined by the consulting engineer.

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. Site Management Plan** - A Site Management Plan detailing all weather access control points, sedimentation controls, fencing, builder's site sheds office, amenities, materials storage and unloading arrangements must be submitted with the application for the Construction Certificate.

**19. Erosion & 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 topsoil is confined to within 3m of the approved building area (no trees to be removed without approval)
- (c) All clean water runoff 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.

**20. Vehicular Access Grades** - While reconfiguring, realigning and proposing any vehicular access, the applicant must submit a profile (longitudinal section) demonstrating access clearance by the B85 Design Vehicle (85% percentile vehicle in accordance with AS2890.1 2004) for the entry.

This profile (scale 1:20) is to show levels and grades from road centreline to the proposed internal garage floor level including but not limited to levels of, road centreline, changes of grade on road surface, lip of gutter, invert of gutter, back of vehicular crossing(gutter layback), front of path, back of path and boundary. The profiles provided are to also include the natural surface of the land as well as the proposed design including cut and fill dimensions.

Additional profiles are to be provided on either side of driveway when longitudinal grade of road exceeds 8%.

The profile will be used to assess suitability of proposed internal driveway levels and does not represent final footpath or road levels. The levels on Councils road related area including boundary level will be verified following the submission of an "Application for Driveway Crossing and Associated Works on Council Road Reserve" issued under Section 138 Roads Act.

**21. Stormwater System – General** – 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 be drained in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).
- (b) 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.

**22. On-site Stormwater Detention** – The submitted Concept Stormwater and OSD Plan prepared by John Romanous and Associates P/L with reference to plans as follows: **"Stormwater Drainage/Sediment Control Details", Drawing No. 2162 – S1/3, S2/3 & S3/3, Rev D**, dated 26/4/2023, prepared by John Romanous and Associates P/L.

- a) The above drainage plans have been assessed as a concept plans only. Final detailed plans of the drainage system, prepared by a consulting stormwater drainage engineer specialising in hydraulic engineering, shall be submitted for approval with the Construction Certificate.
- b) An OSD facility designed by a professional engineer who specialises in Hydraulic engineering must be designed, approved and installed.
- c) The required OSD storage requirements and permissible discharge are to be calculated in accordance with Table 3 of Council's Stormwater Management Policy.
- d) A minimum 21.50 cubic metre OSD volume is to be provided in accordance with the Stormwater Concept Plan and Council's Stormwater Management Policy.
- e) All 900x900 square grates must be installed on the top surface of the tank in order to allow cross ventilation & tank's inspection conveniently from the top of the tank.
- f) A minimum depth of the OSD tank shall be 800mm to be maintained.
- g) The OSD facility shall be designed to meet all legislated safety requirements. A durable metal plate or similar sign is to be placed at the OSD facility and must bear the words:

"BEWARE: This is an on-site detention basin/tank for rainwater which could overflow during heavy storms."

Full details shall accompany the application for the Construction Certificate.

**23. Stormwater Drainage Application** – This Development Consent does not give approval to undertake works on public infrastructure.

A separate approval of a Stormwater Drainage Application is required under Section 138 of the Roads Act 1993 and/or Section 68 of the Local Government Act 1993 to undertake:

- (a) Stormwater & ancillary works in the road reserve. This includes new pits/pipes and associated connections to Council's drainage systems.
- (b) Stormwater & ancillary to public infrastructure on private land

The Stormwater Drainage Application approval must be obtained and evidence of the approval provided to the Certifying Authority prior to the issue of the Construction Certificate.

The Application Form for this activity can be downloaded from Council's website [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au). For further information, please contact Council's Customer Service Centre on (02) 9330 6400.

**24. 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.
- d) The civil/traffic engineer shall provide specific written certification on the plans that:
  - (i) Vehicular access can be obtained using grades of 25% (1 in 4) maximum; and
  - (ii) All changes in grade (transitions) comply with Australian Standard 2890.1 (2004)

**25. Bicycle facilities prior to CC** - Facilities for the parking of bicycles either at grade or in a basement car park area are to be consistent with the approved plans referenced in this consent and shall comply with the requirements of AS2890.3: 2015 Parking Facilities, Part 3: Bicycle parking.

Details demonstrating compliance with this requirement prepared by a qualified professional engineer specialising in traffic and parking design are to be submitted to the satisfaction of the Certifying Authority prior to the release of a Construction Certificate.

Certification from a qualified professional engineer specialising in traffic and parking design that the design complies with the standard specified in this condition must also accompany the details demonstrating compliance, to the satisfaction of the Certifying Authority.

**26. Visitor Parking** - Prior to the issue of a construction certificate, a minimum of four (4) visitor car parking spaces are to be allocated on the plans and signed off by an experienced traffic engineer to comply with AS2890.1:2004.

- 27. Sight Lines** - Plans must demonstrate compliance with Figure 3.2 (20km/h) and 3.3 of AS2890.1:2004 should be provided to ensure sight lines are retained and landscaping does not impact sight lines.
- 28. Traffic Management – Compliance with AS2890.2** - 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). A certification is to be submitted from a qualified consulting traffic engineer outlining that traffic management systems design complied with AS2890.2.
- 29. Fire Safety Measures** - Prior to the issue of a construction certificate (other than for a Construction Certificate that is limited to excavation and shoring works) 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 such a construction certificate, which is required to be submitted to the Certifier. Such a 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.
- 30. Structural details** - Engineer's details prepared by a practising consulting Structural Engineer being used to construct all reinforced concrete works including but not limited to structural beams, columns, OSD Tank structures design and other structural members. The details are to be submitted to the Certifier (including a design certification from the consulting structural engineer) for approval prior to construction of the specified works. A copy shall be forwarded to Council where Council is not the Certifier.
- 31. Damage Deposit - Major Works** - In order to insure against damage to Council property the following is required:
- 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: **\$42,190.86**
  - Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee to enable assessment of any damage and repairs where required: **\$175.00**
  - Submit to Council, before the commencement of work, a dilapidation report 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 review the dilapidation report and the Works-As-Executed Drawings (if applicable) and inspect the public works.

The damage deposit will be refunded in full upon completion of work where no damage occurs and where Council is satisfied with the completion of works. Alternatively, the damage deposit will be forfeited or partly refunded based on the damage incurred.

- 32. Access for Persons with a Disability** - Access and sanitary facilities for persons with disabilities must be provided to the premises/building 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 for approval.

- 33. Commonwealth Disability (Access to Premises) Standard** - The Commonwealth Disability (Access to Premises - Buildings) Standards 2010 (the Premises Standards) applies to all applications (i.e. Construction Certificate). This requires any new building, part of a building and the affected part of the existing building to comply with the Premises Standards, the Building Code of Australia and AS 1428.
- 34. Construction vehicle and pedestrian plan of management – Major Development - Prior CC** - Prior to the issuing of a Construction Certificate, a Construction Vehicle and Pedestrian Plan of Management (CVPPM) shall be submitted to Council for the approval of Council's Senior Traffic and Parking Assessment Officer. The CVPPM shall be prepared for the various stages of the development and include, but not be limited to, the following:
- (a) Details of the scope of works to be undertaken during the demolition, excavation, construction stages etc., and the duration of each.
  - (b) Indicate the consent approved hours of work.
  - (c) Identify the routes to be travelled within the Council area for trucks travelling to and from the site.
  - (d) Identify other developments occurring concurrently in the area including those within the street and up to 500m from the site.  
The developer/builder shall liaise fortnightly with other identified developers/builders to minimize any cumulative traffic impacts.
  - (e) Include a plan showing the location of any schools, pre schools and long day care centres within 200m of the site.
  - (f) Detail the number of and where construction worker vehicles will be parked during the various stages of the development.
  - (g) Identify any proposed temporary road closures, temporary changes to traffic flow and loss of pedestrian or cyclist access likely to occur as a result of works being undertaken during the various work stages.
  - (h) Detail the size (including dimensions), number and frequency of trucks movements to and from the site during the various stages of work.
  - (i) Include copies of all required Traffic Control Plans (TCPs). All TCP's shall be prepared by RMS accredited persons.
  - (j) Provide, if required, swept wheel path drawings for the different types of vehicles accessing the site. The swept wheel path drawings:
    - May be required if it is considered truck movements into and out of the site associated with the various stages of development have the potential to damage public or private infrastructure/property.
    - May be required if it is considered truck movements into and out of the site cannot be carried out without a loss of on street vehicle parking spaces either in close proximity to or removed from the site.
    - Shall be prepared by a suitably qualified and experienced traffic engineering consultant.
  - (k) Show the location and length of any proposed Works Zones including any adjustments required to Council's infrastructure, parking control signs etc. to implement the zones. **NOTE:** Works Zones require the approval of the Georges River Council Traffic Committee prior to installation.
  - (l) Show the locations of where it is proposed to stand trucks remote from the site should they be unable on arrival to immediately enter the site or an approved Works Zone. Double parking, parking in NO STOPPING/NO STANDING zones or across neighboring property driveways is not permitted.



**NOTE:** A copy of the approved CVPPM must be kept at the site and made available to the Principal Certifying Authority or Council on request:  
Evidence of Council's written approval must be provided to the Certifying Authority prior to the release of any Construction Certificate.

The approved construction vehicle and pedestrian plan of management must be adhered to at all times during the carrying out of the construction works approved under this consent.

**35. SEPP 65 Design Verification Statement** - A design verification statement, prepared by a qualified designer, shall be submitted to the Certifying Authority 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. Acoustic Report - 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.

An Acoustic Report shall be prepared by a suitably qualified acoustic consultant demonstrating that the operation of the premises and plant equipment shall not give rise to a 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.

**37. 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 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 pierced prior to any excavation occurring to reinforce the walls of the excavation to prevent any subsidence to the required setbacks and neighbouring sites.



**38. NBN Connection** - Prior to the issue of the Subdivision or Construction Certificate in connection with a development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:

- (i) the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose; and
- (ii) the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

(Note real estate development project has the meanings given in section 372Q of the Telecommunications Act).

**39. 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](http://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
<b>GENERAL FEES</b>	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See <a href="https://portal.longservice.nsw.gov.au/bci/levy/">https://portal.longservice.nsw.gov.au/bci/levy/</a>	
Builders Damage Deposit	\$42,190.86
Inspection Fee for Refund of Damage Deposit	\$175.00
<b>DEVELOPMENT CONTRIBUTIONS</b>	
Georges River Council Local Infrastructure Contributions Plan 2021	\$316,028.72

### 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.

### 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](http://www.georgesriver.nsw.gov.au).

- 40. BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No. 1171952M\_04 be implemented on the plans lodged with the application for the Construction Certificate.
- 41. Required design changes** - The following changes are required to be made. The changes are to be shown on the Construction Certificate plans:
- Facade and exterior amendments

- a) West-facing windows on level 5 shall be amended to complement proportions of west-facing bay windows on levels 2 to 4: the bedroom window shall be altered to incorporate two panes from the typical bay windows below, and a continuous band of horizontally-proportioned high-lights shall be provided for the ensuite and main bathroom.
- b) North-facing bedroom windows on levels 1 to 4 which face the light-well shall be amended to incorporate proportions of west-facing bay windows on levels 2 to 4: each window shall incorporate tall vertically-proportions which match a single pane in the typical bay windows, and vertical alignments of windows shall be staggered to achieve fire-separation.
- c) Northern and southern-side elevations shall incorporate continuous panels of brickwork (or an equivalent material such as pre-cast panels with embedded brick tiles) without interruption by projecting slab-edges.
- d) Steel framed pergolas shall be provided for the following locations, and shall incorporate pipe-columns that are arranged to align with projecting window bays:
  - i. Ground floor west-facing: across the full width of the commercial terrace;
  - ii. Level one west-facing: across the full elevation;
  - iii. Level four west-facing: above indented balconies to units 16 and 17;
  - iv. Level five west-facing: above the full width of the outdoor dining area, together with the lobby walkway;
  - v. Level five east-facing: across the full elevation.

- e) The planar western elevation of the basement shall be articulated by three recessed panels that straddle doors to the garbage store, the vehicle entrance and adjacent fire door, and the primary fire-egress adjacent the SW corner.
- f) West-facing windows which are not protected by balconies or pergolas shall incorporate exterior sun-screening to reduce indoor glare and summer heat-loading.

*Reasons: to co-ordinate the architectural compositions of facades and exterior elements in order to demonstrate satisfactory quality with regard to context and streetscape, as well as to achieve satisfactory indoor amenity.*

#### Technical amendments

- g) The ground floor plan shall incorporate structural columns in locations that match or complement basement columns.

*Reason: to avoid the need for future modifications which may not be subject to comprehensive evaluation of design quality.*

#### Interior amendments

- h) The ground floor lobby shall be extended to the street frontage, and adjacent to the dining undercroft, shall be enclosed by see-through security screens which complement architectural design of the eastern elevation.
- i) Unit 1 service areas and storage shall be reconfigured:
  - i. Facing the apartment's entrance hallway, provide a bank of storage cupboards approximately 3m long and 600mm deep, and adjust the kitchen layout as required;
  - ii. The main bathroom shall incorporate a standard galley layout with all fixtures arranged along the eastern wall, and with a wider shower stall for accessibility;
  - iii. The laundry shall be rotated to provide a galley arrangement for wider cabinets (and equipment) along the western wall;
  - iv. The ensuite and walk-in robe shall be swapped in order to consolidate plumbing runs along the northern side wall.
- j) Unit 2 service areas and storage shall be reconfigured:
  - i. The kitchen, laundry, cupboards and a TV shelf unit shall be consolidated as a single run across the full width of the apartment's northern wall;
  - ii. The apartment entrance shall be reconfigured as necessary, and the laundry as well as scattered cupboards shall be relocated or deleted;
  - iii. Walls surrounding the 'island' laundry and cupboard shall be deleted.
- k) Unit 3 service areas and storage shall be reconfigured:
  - i. The bathroom shall be reconfigured as a standard 1.5m wide 'galley' with all fixtures and a hydraulic duct arranged along the western wall;
  - ii. The walk-in robe shall be replaced by cupboards along the western wall of the bedroom together with a study alcove;
  - iii. Kitchen and living room cabinets shall be arranged in a continuous L-shaped run, and the corner lined cupboard shall be deleted.
- l) Unit 4 service areas and storage shall be reconfigured:
  - i. The kitchen, laundry, cupboards and a TV shelf unit shall be consolidated as a single run across the full width of the apartment's northern wall;

- ii. The laundry and linen cupboard shall be reconfigured as a 'bed-head' wardrobe;
  - iii. The apartment entrance shall be moved southwards to accommodate the single run of cabinets (and the entrance to the neighbouring unit 3 shall be reconfigured accordingly).
- m) Unit 5 service areas and storage shall be reconfigured:
  - i. Facing the apartment's entrance hallway, a bank of storage cupboards approximately 3m long and 600mm deep shall be provided, and the kitchen layout shall be adjusted as required;
  - ii. The main bathroom shall incorporate a standard galley layout with all fixtures arranged along the western wall, a wider shower stall for accessibility, and with a service duct at the western end of the shower stall;
  - iii. The laundry shall be rotated to provide a galley arrangement for wider cabinets;
  - iv. The ensuite shall be widened to achieve a standard 1.5m wide galley bathroom which has all fixtures arranged along the eastern wall;
  - v. The hydraulic duct outside the NE corner of the living room shall be moved 'inboard' and shall be incorporated with a continuous run of cabinets and TV shelving along the northern wall.
- n) Units 6, 10 and 14 shall reconfigure service areas and storage:
  - i. The ensuite shall be reconfigured as a standard 1.5m wide 'galley' with all fixtures arranged along the western wall, and the walk-in robe shall be replaced by cupboards along the western wall of the bedroom;
  - ii. Facing the apartment's entrance hallway, a bank of storage cupboards approximately 2.2m long and 600mm deep shall be provided, and the laundry shall be relocated to a cupboard which abuts the southern wall of the ensuite (amended per the preceding condition).
- o) Units 7, 11 and 15 shall reconfigure service areas and storage:
  - i. The kitchen, laundry and cupboards shall be consolidated as a single run across the full width of the apartment's northern wall;
  - ii. The apartment entrance shall be reconfigured as necessary, and the laundry as well as scattered cupboards shall be relocated or deleted;
  - iii. The southern wall of the living room shall incorporate a continuous run of cabinets and TV shelving.
  - iv. Note: condition 3i has not been used to ensure clear cross-referencing with diagrams
- p) Units 8, 12 and 16 shall reconfigure service areas and storage:
  - i. The ensuite shall be reconfigured similar to the standard 1.5m wide 'galley' with a shower stall and toilet along the eastern wall, the hydraulic duct shall be relocated from the southern wall to the western end of the shower stall, and a basin in place of the current duct on the splayed southern wall;
  - ii. The study entrance shall be recessed to match the western kitchen benchtop;
  - iii. The doorway to bedroom one shall be relocated as a sliding door next to the western elevation, and living room storage shall be consolidated as a single continuous run of TV shelves and a storage cupboard along the southern living room wall;
  - iv. The doorway to bedroom two shall be moved westwards to accommodate a full-width wardrobe along the eastern bedroom wall.
- q) Units 9, 13 and 17 shall reconfigure service areas and storage:

- i. The ensuite shall be reconfigured as a standard 1.5m wide 'galley' with all fixtures arranged along the western wall, and the walk-in robe shall be replaced by cupboards along the eastern wall of the bedroom;
- ii. Facing the apartment's entrance hallway, a bank of storage cupboards approximately 2.2m long and 600mm deep shall be provided, and the laundry shall be relocated to a cupboard which abuts the southern wall of the ensuite (amended per the preceding condition).

*Reasons: to provide satisfactory residential amenity for all apartments and adequate safety for the primary building entrance in order to demonstrate appropriate design quality.*

Plans addressing the matters identified above are to be submitted to Georges River Council for the written approval of Council's Manager Development and Building and endorsed by Council's Stamp. The Construction Certificate plans are to be consistent with any design amendment plans approved under this condition.

- 42. Waste Management Plan** - Waste management provisions at the site will be delivered in accordance with the Waste Management Plan.

**43. Construction and Demolition waste management**

The applicant must provide details of the proposed contractors used for managing demolition/construction wastes to Council prior to the issue of a Construction Certificate. The applicant must maintain records of licensed waste management disposal for up to 7 years as evidence of correct management of wastes from the development. Copies of all receipts for the disposal, or processing of all such materials shall be submitted to the PCA and Council, where Council is not the Principal Certifying Authority.

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.

- 44. Waste Contractors** - The applicant must provide details of the proposed contractors used for managing demolition/construction wastes to Council prior to the issue of a Construction Certificate. The applicant must maintain records of licensed waste management disposal for up to 7 years as evidence of correct management of wastes.

- 45. Allocation of street addresses** - In order to comply with AS/NZS 4819:2011 Rural and Urban Addressing, the NSW Addressing User Manual (Geographical Names Board of NSW) and Georges River Council's requirements, the street address for the subject development is allocated as follows:

**Primary Address**

- 5 The Strand Penshurst NSW 2222

## Unit Addresses

Unit numbers on DA Plans		Unit numbers and addresses allocated by Council				
Level	Unit No.	Unit No	Street No	Street Name	Suburb	COMPLETE ADDRESS
Basement	-	Basement Carpark (B1)				
Ground Floor	-	G01	5	The Strand	PENSHURST NSW 2222	G01/5 The Strand, PENSHURST NSW 2222
First Floor	Unit 1	101	5	The Strand	PENSHURST NSW 2223	101/5 The Strand, PENSHURST NSW 2223
First Floor	Unit 2	102	5	The Strand	PENSHURST NSW 2224	102/5 The Strand, PENSHURST NSW 2224
First Floor	Unit 3	103	5	The Strand	PENSHURST NSW 2225	103/5 The Strand, PENSHURST NSW 2225
First Floor	Unit 4	104	5	The Strand	PENSHURST NSW 2226	104/5 The Strand, PENSHURST NSW 2226
First Floor	Unit 5	105	5	The Strand	PENSHURST NSW 2227	105/5 The Strand, PENSHURST NSW 2227
Second Floor	Unit 6	201	5	The Strand	PENSHURST NSW 2228	201/5 The Strand, PENSHURST NSW 2228
Second Floor	Unit 7	202	5	The Strand	PENSHURST NSW 2229	202/5 The Strand, PENSHURST NSW 2229
Second Floor	Unit 8	203	5	The Strand	PENSHURST NSW 2230	203/5 The Strand, PENSHURST NSW 2230
Second Floor	Unit 9	204	5	The Strand	PENSHURST NSW 2231	204/5 The Strand, PENSHURST NSW 2231
Third Floor	Unit 10	301	5	The Strand	PENSHURST NSW 2232	301/5 The Strand, PENSHURST NSW 2232
Third Floor	Unit 11	302	5	The Strand	PENSHURST NSW 2233	302/5 The Strand, PENSHURST NSW 2233
Third Floor	Unit 12	303	5	The Strand	PENSHURST NSW 2234	303/5 The Strand, PENSHURST NSW 2234
Third Floor	Unit 13	304	5	The Strand	PENSHURST NSW 2235	304/5 The Strand, PENSHURST NSW 2235
Fourth Floor	Unit 14	401	5	The Strand	PENSHURST NSW 2236	401/5 The Strand, PENSHURST NSW 2236
Fourth Floor	Unit 15	402	5	The Strand	PENSHURST NSW 2237	402/5 The Strand, PENSHURST NSW 2237
Fourth Floor	Unit 16	403	5	The Strand	PENSHURST NSW 2238	403/5 The Strand, PENSHURST NSW 2238
Fourth Floor	Unit 17	404	5	The Strand	PENSHURST NSW 2239	404/5 The Strand, PENSHURST NSW 2239
Fifth Floor	Unit 18	501	5	The Strand	PENSHURST NSW 2240	501/5 The Strand, PENSHURST NSW 2240

Details indicating compliance with this condition must be shown on the plans lodged with any Construction Certificate for approval.

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

- 46. Notice of Commencement** - The beneficiary of the development consent must give at least two (2) days notice to the Council and the Principal Certifier of their intention to commence the erection of a building.
- 47. Notification of Critical Stage Inspections** - No later than two (2) days before the building work commences, the Principal Certifier must notify:
- the consent authority and the Council (if not the consent authority) of his or her appointment; and
  - the beneficiary of the development consent of the critical stage inspections and other inspections that are to be carried out with respect to the building work.
- 48. 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:

- Photographs showing the existing condition of the road pavement fronting the site,
- Photographs showing the existing condition of the kerb and gutter fronting the site,
- Photographs showing the existing condition of the footpath pavement fronting the site,
- Photographs showing the existing condition of any retaining walls within the footway or road, and
- 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.

49. **Structural Engineers Details - Supporting Council road/footway** - Prior to the commencement of work in connection with the excavation of the site associated with the basement carpark, structural engineer's details relating to the method of supporting Council's roadways/footways must be submitted to the satisfaction of Council.

50. **Demolition & 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 PCA 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](http://www.SafeWork.nsw.gov.au).

51. **Demolition Notification Requirements** - The following notification requirements apply to this consent:

- (a) The developer /builder must notify adjoining residents five (5) working days prior to demolition. Such notification is to be a clearly written note giving the date demolition will commence, contact details of the developer/builder, licensed asbestos demolisher and the appropriate regulatory authority. Notification is to be placed in the letterbox of every premises (including every residential flat or unit, if any) either side and immediately at the rear of the demolition site.
- (b) Five (5) working days prior to demolition, the developer/builder is to provide written notification to Council advising of the demolition date, details of the SafeWork licensed asbestos demolisher and the list of residents advised of the demolition.

- (c) On demolition sites where buildings to be demolished contain asbestos, a standard commercially manufactured sign containing the words “DANGER ASBESTOS REMOVAL IN PROGRESS” measuring not less than 400mm x 300mm is to be erected in a prominent visible position (from street frontage) on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos material has been removed from the site to an approved waste facility.

- 52. 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.
- 53. Dial before your dig** - The applicant shall contact “Before You Dig Australia” to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from “BYDA” shall be forwarded to the Principal Certifying Authority (PCA) and Council for their records.
- 54. Registered Surveyors Report - During Development Work** - A report must be submitted to the PCA at each of the following applicable stages of construction:
- a) Set out before commencing excavation.
  - b) Floor slabs or foundation wall, before formwork or commencing brickwork.
  - c) Completion of Foundation Walls - Before any construction of flooring, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans.
  - d) Completion of Floor Slab Formwork - Before pouring of concrete/walls construction, detailing the location of the structure relative to adjacent boundaries and floor levels relative to the datum shown on the approved plans. In multi-storey buildings a further survey must be provided at each subsequent storey.
  - e) Completion of any Pool Formwork - Before concreting of pool shell, detailing the location of the pool relative to the adjacent boundaries and its height relative to the datum shown on the approved plans.
  - f) Completion of any Roof Framing - Before roof covered detailing eaves/gutter setback from boundaries.
  - g) Completion of all Work - Detailing the location of the structure (including eaves/gutters) relative to adjacent boundaries and its height relative to the datum shown on the approved plans. A final Check Survey must indicate the reduced level of the main ridge.

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



- 55. 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.

### During Construction/Work

- 56. Demolition** - Approval is granted for the demolition of all buildings and outbuildings currently on the property, subject to compliance with the following:-

- (a) Demolition is to be carried out in accordance with the applicable provisions of Australian Standard AS2601-2001 - Demolition of Structures.

**Note:** Developers are reminded that WorkCover requires that all plant and equipment used in demolition work must comply with the relevant Australian Standards and manufacturer specifications.

- (b) The developer is to notify owners and occupiers of premises on either side, opposite and at the rear of the development site 5 working days prior to demolition commencing. Such notification is to be a clearly written on A4 size paper giving the date demolition will commence and is to be placed in the letterbox of every premises (including every residential flat or unit, if any). The demolition must not commence prior to the date stated in the notification.
- (c) 5 working days (i.e., Monday to Friday with the exclusion of Public Holidays) notice in writing is to be given to the principal certifier (or Georges River Council (**Council**) if no certifier has been appointed) for inspection of the site prior to the commencement of works. Such written notice is to include the date when demolition will commence and details of the name, address, business hours, contact telephone number and licence number of the demolisher. Works are not to commence prior to principal certifier's inspection (or Council's inspection, if no certifier has been appointed) and works must also not commence prior to the commencement date nominated in the written notice. Works are not to commence prior to principal certifier's inspection (or Council's inspection, if no certifier has been appointed) and works must also not commence prior to the commencement date nominated in the written notice.
- (d) Should the building to be demolished be found to be wholly or partly clad with asbestos cement, approval to commence demolition will not be given until the principal certifier (or Council, if no certifier has been appointed) is satisfied that all measures are in place so as to comply with Work Cover's document "Your Guide to Working with Asbestos", and demolition works must at all times comply with its requirements.
- (e) On demolition sites where buildings to be demolished contain asbestos cement, a standard commercially manufactured sign containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm is to be erected in a prominent visible position on the site to the satisfaction of Council's officers. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site to an approved waste facility. This condition is imposed for the purpose of worker and public safety and to ensure compliance with Clause 259(2)(c) of the Occupational Health and Safety Regulation 2001.
- (f) All previously connected services are to be appropriately disconnected as part of the demolition works. The applicant is obliged to consult with the various service authorities regarding their requirements for the disconnection of services.

- (g) Demolition works involving the removal and disposal of asbestos cement in excess of 10 square meters, must only be undertaken by contractors who hold a current WorkCover “Demolition Licence” and a current WorkCover “Class 2 (Restricted) Asbestos Licence”.
- (h) Demolition is to be completed within 5 days of commencement or in accordance with a detailed demolition plan outlining method and timing of demolition submitted to the satisfaction of the principal certifier (or Council if no certifier has been appointed).
- (i) Demolition works are restricted to Monday to Friday between the hours of 7.00am to 5.00pm. No demolition works are to be undertaken on Saturdays, Sundays or Public Holidays.
- (j) 1.8m high Protective fencing is to be installed to prevent public access to the site.
- (k) A pedestrian and Traffic Management Plan must be submitted to the satisfaction of Council’s Delegate prior to commencement of demolition and/or excavation. It must include details of the:
  - (i) Proposed ingress and egress of vehicles to and from the construction site;
  - (ii) Proposed protection of pedestrians adjacent to the site;
  - (iii) Proposed pedestrian management whilst vehicles are entering and leaving the site.
- (l) All asbestos laden waste, including asbestos cement flat and corrugated sheets must be disposed of at a tipping facility licensed by the Environment Protection Authority (EPA).
- (m) Before demolition works begin, adequate toilet facilities are to be provided.
- (n) After completion, the applicant must notify the principal certifier (or Council where no Certifier has been appointed) within 7 days to assess the site and ensure compliance with AS2601-2001 – Demolition of Structures. A copy of the notice of completion of demolition must also be provided to Council where Council does not inspect demolition works.
- (o) Within 14 days of completion of demolition, the applicant must submit to Council:
  - (i) An asbestos clearance certificate issued by a suitably qualified person if asbestos was removed from the site; and
  - (ii) A signed statement verifying that demolition work and the recycling of materials was undertaken in accordance with the Waste Management Plan approved with this consent. In reviewing such documentation Council will require the provision of original.
  - (iii) Payment of any relevant fees or bonds in accordance with Council’s current schedule of fees and charges.

**57. Worksite traffic and pedestrian control – During Works** Traffic and pedestrian control shall be in accordance with TfNSW ‘Traffic Control at Works Sites- Technical Manual’ version 6.1 and the approved construction vehicle and pedestrian plan of management while the works approved under this consent are being carried out.

**58. 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 that is the subject of this consent to Council’s street gutter.

**59. Registered Surveyors Report - During Construction Works** - A report must be submitted by a Register Surveyor (signed and registration number) with construction finished level information (RL’s in mAHD) to PCA and Council at each of the following applicable stages of construction:

- a) Set out before commencing excavation.
- b) The minimum basement ramp crest level shall be set at RL 57.73mAHD.
- c) A Consulting Structural Design Engineer with currently valid NER certificate of registration is to carry out inspections to certify all civil and building construction works within the Proposed Ground Floor of both dwellings are all in accordance with DA approved plans in order to ensure that habitable floor level must be set at all approved levels prior to pouring concrete.

60. **Damage within Road Reserve & Council Assets** - The owner will bear the cost of restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site. This may include works by Public Utility Authorities in the course of providing services to the site.
61. **Public Utility & Telecommunication Assets** - The owner will bear the cost of any relocation or modification required to any Public Utility Authority assets including telecommunication lines & cables and restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site.
62. **Works Zone** - The installation of a "Works Zone" for the site will require the approval from the Traffic Advisory Committee. As a result, the applicant will provide a formal request to Council's Traffic Section with the duration and exact location of the required "Works Zone" at least 6 weeks prior to its required installation date. All costs associated with the installation of a "Works Zone" will be at the applicants expense.
63. **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.
64. **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.
65. **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, water mains, gas mains, connecting of stormwater to the kerb and telecommunication. This is for any work that involves excavation through or within a public road, kerb and gutter, and or the public footway between the road and the property boundary. The permit is to be lodged prior to the commencement of works. Additional approval is required from Roads and Maritime Services for works on a State Road.
66. **Development Engineering - Damage within Road Reserve and Council Assets** - The owner shall bear the cost of restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site. This may include works by Public Utility Authorities in the course of providing services to the site.

- 67. Development Engineering - Public Utility and Telecommunication Assets** - The owner shall bear the cost of any relocation or modification required to any Public Utility Authority assets including telecommunication lines and cables and restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site.
- 68. Archaeological Discovery During Excavation** -
- (a) Should any relics be unexpectedly discovered on the site during excavation, all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW should be informed in accordance with section 146 of the Heritage Act 1977.
  - (b) Should any Aboriginal objects be unexpectedly discovered then all excavation or disturbance of the area is to stop immediately and NSW Government Office of Environment and Heritage is to be informed in accordance with Section 89A of the National Parks and Wildlife Act 1974.
  - (c) Should any archaeological remains or Aboriginal objects be discovered, a copy of recording of the finds and the final archaeological summary report is to be submitted to Council prior to the Occupational Certificate;
  - (d) If the discovery is on Council's land, Council must be informed.
- 69. Site sign - Soil & 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.
- 70. Hours of construction for demolition and building work** - Unless authorised by Council:
- a. Building construction and delivery of material hours are restricted to: 7.00 am to 5.00 pm (inclusive) Monday to Saturday and no work on Sundays and Public Holidays.
  - b. Demolition and excavation works are restricted to: 8.00 am to 5.00 pm (inclusive) Monday to Friday only. Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site.
- 71. 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.
- 72. 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 PCA and Council, where Council is not the Principal Certifying Authority.

- 73. Hazardous or Intractable Waste – Removal and Disposal.** Hazardous or intractable waste arising from the demolition or construction process must be removed and disposed of in accordance with the requirements of SafeWork NSW and the NSW Environment Protection Authority and all applicable legislation. If the site is found to be contaminated then all work is to cease, the site made safe, Council informed and an Environmental Consultant engaged to investigate the site, prepare a report and forward to Council for assessment as to the method of decontamination.
- 74. Works Zone** - The installation of a "Works Zone" for the site will require the approval from the Traffic Advisory Committee. As a result, the applicant will provide a formal request to Council's Traffic Section with the duration and exact location of the required "Works Zone" at least 6 weeks prior to its required installation date. All costs associated with the installation of a "Works Zone" will be at the applicants expense.
- 75. Structural Certificate During Construction** - The proposed building will 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 will 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, will be submitted to the Principal Certifier at each stage of Construction or prior issue of the Occupation Certificate.
- 76. Landscape Works** - All landscape works shall be carried out in accordance with the approved landscape plans and specifications, drawn by Aspect Designs.com.au, Rev D, sheets 1 - 5 and dated 19/4/23, subject to the following -
- a) The applicant must engage a licensed and reputable nursery grower early within the build phase and order all trees and plant material early, to ensure that all tree and plant Spp, pot/bag sizes and quantities are guaranteed at the time of the landscape and planting phase.
  - b) All trees proposed upon the approved landscape plan shall comply with AS 2303 – 2018, *Tree Stock for Landscape use* and *NATSPEC Specifying Trees: a guide to assessment of tree quality (2003)*.
  - c) A fully automatic irrigation system must be installed by a licensed and competent irrigation installer. The system must comply with NSW industry regulations, Standards and must service and irrigate all garden beds.

#### **Prior to the issue of the Occupation Certificate**

- 77. Completion of Landscape Works** - All landscape works, the planting of all 10x trees/ferns and all plant material must be in accordance with approved landscape plans, specifications and conditions of consent, to be completed prior to the issue of a final occupation certificate for the site.

A certificate of compliance for the planting of all 10x trees/ferns, all shrubs proposed for the site, testing of irrigation system for all garden beds, must be prepared by a qualified AQF 5 Horticulturist or Landscape Designer and forwarded to the PCA for approval prior to the issue of an occupation certificate.

**78. Car Stacker operation and maintenance Prior to OC**

The car stackers shall be operational and be the subject of a maintenance contract prior to the issue of the Occupation Certificate to the satisfaction of the Certifying Authority. Details of the maintenance contract, including details of a 24/7 breakdown service, shall be submitted to the Certifying Authority for approval.

**79. Car, Bicycle and Motorcycle space provision**

Car Parking, bicycle and motorcycle spacing is to be allocated as referenced in this consent.

Any required visitor parking spaces, car wash bays and loading bays are to be marked as such on the ground surface, with signage also to be provided for car parking visitor spaces, loading bays and car wash bays.

In mixed use developments, where non-residential parking spaces are provided, these are to be clearly marked as such on the ground surface with signage also provided.

The requirements of this condition must be implemented to the satisfaction of the Certifying Authority prior to the release of the Occupation Certificate.

**80. Restriction to User and Positive Covenant for Car Stacker 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 car stacker 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;

**Restrictions on Use of Land**

The registered proprietor shall not make or permit or suffer the making of any alterations to any car lift system which is, or shall be, constructed on the lot(s) burdened without the prior consent in writing of Georges River Council.

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

**Positive Covenants**

1. The registered proprietor of the lot(s) hereby burdened will in respect of the system:
  - a) keep the system clean and free from silt, rubbish and debris
  - b) 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
  - c) 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
  - d) 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.

2. Pursuant to Section 88F(3) of the Conveyancing Act 1919 the Council shall have the following additional powers:
  - a) 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 1(d) above
  - b) 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 (i) hereof. Such expense shall include reasonable wages for the Council's employees engaged in effecting the work referred to in (i) 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.

The restriction and positive covenant must be registered on the title(s) of the land affected by this development prior to the release of any Occupation Certificate by the Principal Certifier.

81. **Vehicular crossing & Frontage Works – Major development** - The following road frontage works shall be constructed in accordance with the specifications issued under the 'Application for Driveway Crossing and Associated Works on Council Road Reserve' approval issued by Council's Assets and Infrastructure Division:

- (a) Construct the driveway crossing in accordance with Council's specifications for vehicular crossings.
- (b) Construct a new 150mm high concrete kerb with 450mm wide gutter for the full frontage(s) of the site in Strand Lane in accordance with Council's specifications for kerb and guttering.
- (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 and in accordance with Council's Specification for Driveway Crossings and Associated Works.

A private contractor shall carry out the above work, at the expense of the applicant and in accordance with Council's Specification for Driveway Crossings and Associated Works. The driveway and road frontage works are to be completed before the issue of the Occupation Certificate.

82. **BASIX Commitments** – Certification that all measures as detailed in the BASIX Certificate No. 1171952M\_04 have been implemented within the development must accompany the Occupation Certificate with implementation confirmed to the satisfaction of the Certification Authority.

### 83. 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;

#### 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."

#### Positive Covenants

1. *The registered proprietor of the lot(s) hereby burdened will in respect of the system:*
  - a) *keep the system clean and free from silt, rubbish and debris*
  - b) *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*
  - c) *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*
  - d) *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.*
2. *Pursuant to Section 88F(3) of the Conveyancing Act 1919 the Council shall have the following additional powers:*
  - a) *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 1(d) above*
  - b) *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 (i) hereof. Such expense shall include reasonable wages for the Council's employees engaged in effecting the work referred to in (i) 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.*

**84. Maintenance Schedule – 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.

**85. Stormwater drainage works – Works As Executed - Underground Tank**  
Prior to the issue of the Occupation Certificate, storm water 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) and the structural certification from qualified consulting structural engineer involved the design of OSD tank structures;
- (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.
- (f) The Work-As-Executed plans are prepared on the copies of the approved drainage plans issued with the Construction Certificate and variations are marked in red ink;
- (g) The Work-As-Executed plans have been jointly prepared and duly signed by registered surveyor and consulting OSD design engineer certifying the accuracy of dimensions, invert levels, surface levels, storage volume etc;
- (h) 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.

Council must advise in writing that they are satisfied with the Works-As-Executed prior to the issue of an Occupation Certificate.

**86. Requirements prior to the issue of the Occupation Certificate - Stormwater and Onsite Detention Works** – 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 including a certificate from consulting stormwater drainage engineer submitted to Council prior to the issue of the Occupation Certificate.
- (b) Work as Executed Plans jointly prepared and duly signed by a Chartered Consulting Stormwater Drainage Engineer and Registered Surveyor when all the site engineering works are complete shall be submitted to the PCA and the Council (for Council's final approval of WAE plans) prior to the issue of the Occupation Certificate.

- 87. Stormwater drainage works – Works As Executed** – Prior to the issue of the Occupation Certificate, storm water 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 works within Council Roads;
  - b) The structural adequacy of the Pits, Pipes and OSD tank systems;
  - c) That the works have been constructed in accordance with the approved design;
  - d) Pits and Pipe invert levels and surface levels to Australian Height Datum;
  - e) All the stormwater/drainage works shall be completed in accordance with the approved Construction Certificate plans prior to the issue of the Occupation Certificate.
  - f) Work as Executed Plans prepared and jointly duly signed by a Chartered Consulting Civil Engineer and 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.
- 88. SEPP 65 Design Verification Statement** - The Principal Certifier will not issue an Occupation Certificate to authorise a person to commence occupation of the residential flat development unless the he/she has received a 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 of State Environmental Planning Policy No 65 Design Quality of Residential Flat Development.
- 89. Structural Certificate** - The proposed building will be constructed in accordance with details designed and certified by a practising qualified structural engineer. All structural works associated with the foundations, piers, footings and slabs for the proposed building will 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 out in accordance with the structural design; will be submitted to the Principal Certifier at each stage of construction and prior to the issue of the Occupation Certificate.
- 90. 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) Driveways and vehicular crossings within the road related area;
  - b) Removal of redundant driveways and vehicular crossings;
  - c) New footpaths within the road related area;
  - d) Relocation of any existing above ground utility services
  - e) Relocation/provision of street signs
  - f) New or replacement street trees;
  - g) New or reinstated kerb and guttering within the road related area of the frontage of the proposed development; and
  - h) New or reinstated road surface pavement within the road along the frontage of the proposed development.

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.

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

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

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 damage 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.

### Operational Conditions (On-Going)

- 92. No Structures on Street Facing Roof Plane or Awning** - No solar hot water heater storage tanks, collar panels, ventilators, air conditioning units, satellite dishes and antennae or the like are to be placed on roof planes, parapets or street awnings of the building which are visible from a public street (other than rear laneways).
- 93. Car Parking** – On site car parking allocation is to be allocated as follows:
- 4 residential visitor car parking spaces (not including the on-site car stacker).
  - 19 residential car parking spaces with at least one space allocated per unit.
  - 8 bicycle parking spaces are to be provided for site users.
- 94. Car Stacker operation and maintenance – Use** - The car stacker is to be maintained and operational at all times with the exception of times of active repair, replacement or service maintenance. An up-to-date maintenance contract is to be place at all times including details of a 24/7 breakdown service, which must be provided to Council staff upon request.
- 95. 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).
- 96. Maintenance of Sound Attenuation** - Sound attenuation must be maintained in accordance with the Acoustic Report titled Acoustical Report – DA Stage prepared by Koikas Acoustics Pty Ltd and dated 17 May 2021.

**97. Outdoor Lighting** - To avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads, outdoor lighting must comply with *AS 4282-2019: Control of the obtrusive effects of outdoor lighting*.

**98. Lighting – General Nuisance** - Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill or glare.

Flashing, moving or intermittent lights or signs are prohibited.

**99. 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.

**100. Activities and Storage of Goods Outside Buildings** - There will be no activities including storing or depositing of any goods or maintenance to any machinery external to the building with the exception of waste receptacles.

**101. Annual Fire Safety Statement** - The owner of the building premises will 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 will 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.

**102. Responsibility of Owners Corporation** - The Owners Corporation will 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 will 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.

**103. Maintenance of Landscaping** - All trees and plants forming part of the landscaping will be maintained. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilising, pest and disease control, replacement of dead or dying plants and any other operations required to maintain healthy trees, plants and turfed areas.

The maintenance of the landscaping shall be undertaken in perpetuity. Should any plants or trees die, then they shall be replaced with the same species (i.e. like for like).

- 104. Activities and storage of goods outside buildings** - There shall be no activities including storing or depositing of any goods or maintenance to any machinery external to the building with the exception of waste receptacles.
- 105. Loading & Unloading of vehicles** - All loading and unloading of vehicles in relation to the use of the premises shall take place wholly within a dedicated loading dock/area.
- 106. Entering & Exiting of vehicles** - All vehicles shall enter and exit the premises in a forward direction.
- 107. Ongoing Tree & Landscape Maintenance Works**
- All newly planted trees and plants must be maintained. Maintenance includes watering (service irrigation), weeding, removal of rubbish from tree bases, fertilising, pest and disease control, replacement of dead or dying trees and plants and other operations required to maintain healthy trees, plants and turfed areas.
  - Trees must be maintained until they reach a height where they are protected by Councils Tree Management Controls. If any trees are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species and pot/bag size. If the trees are found dead before they reach a height where they are protected by Councils Tree Management Controls, they must be replaced with the same species and pot/bag size.
- 108. Ongoing Waste Management**
- The applicant must allow bin storage at the following ratios:
    - 120L general waste per unit per week – equivalent to:  
9 x 240L general waste bins, serviced twice weekly, OR
    - 120L recycling per unit per week – equivalent to:  
9 x 240L commingled recycling bins, serviced twice weekly, OR
    - 2 x 240L organic waste bins per week, serviced once per week.
  - An interim waste storage area on each occupied floor of the development, suitable for the storage of at least 2 days' worth of general waste and recycling and organics must be catered for, in accordance with approved site plans.
  - The NSW State Government has recently mandated the implementation of separate Food Organics and Garden Organics (FOGO) collection services for all residential properties. It will be the responsibility of the Building Manager and Owners to collaborate with the Council or private waste collection contractors as required regarding a FOGO rollout to facilitate source separation and resource recovery of FOGO-eligible waste and implementation of onsite collections services. This may require a range of actions, such as residents' education, adjustment of waste management set-up and practices, the addition of organics bins and/or, the reduction of general waste bins as well as other appropriate measures that will be advised by the Council and/or private waste contractors.
  - The Strata and/or building manager will be responsible for the management of residential bins. Residential bin and bulky waste storage areas must be secured under lock and key at all times, and not accessible for use by commercial tenants.
  - Access into the bin and bulky waste storage areas must be double door width (a minimum of 1.5 metres) and/or use roller doors where space is constrained. This width is required for the entire path of the bin and bulky waste travel to the waste collection point.

- All bin and waste storage areas are to be appropriately lit (sensor lighting recommended), drained to sewer with a water outlet for bin washing/cleaning and not visible from the public domain unless secured behind wall/roof.
- The Building Manager/Body Corporate will be responsible for overseeing the rotation of the bins as required to prevent spills across each residential level.
- Receptacles for the management of any litter from communal areas must be contained in bins with lids. Bins enabling the source separation of: general waste, commingled recycling and organics are to be provided in all common areas and will be the responsibility of the Body Corporate/Building Manager to rotate and empty as required. The bins must be secured so as to prevent the dispersal of litter by wind or animals.
- For Council to provide a 'Wheel Out Wheel Back' (WOWB) service, the bin storage area must be on the ground floor and to be easily accessible by waste contractors – within 15 metres of the kerbside and the path of travel being level and on impervious surfaces (any keys/security codes provided for access to secure area if required). Waste collection contractors cannot travel into basement areas to retrieve bins for servicing.

Participation in and use of the on-property collection service is subject to site Risk Assessment and safe access by Council's waste collection contractor, determined both prior to the service commencing, and/or as required during on-going waste collection services provided to the property. The WOWB service can be cancelled at Council's discretion in which circumstance the site may be required to arrange bin presentation on the kerbside. It is the responsibility of the Site/Building Manager to maintain the waste storage areas as clean and tidy. In the event it is not, Council reserves the right to cancel the WOWB service.

- The path of bin travel must be free from stairs, well-lit (sensor lighting recommended) at an appropriate grade for a ramp as per the Building Code of Australia and be a width appropriate for the movement of bins up to 1,100L in width in accordance with AS 4123.1—2008 Mobile Waste Containers.
- Once a site is operational, Council reserves the right to cancel the on-property collection service at any time, with notice provided in writing to the Strata/Building Manager as relevant. In the event of cancellation of the on-property service and/or in the event that Council is unable to provide collection services, the Strata/Building Manager will be responsible for arranging bin and bulky waste presentation at the kerbside, or will be required to engage a private waste collection contractor, at cost to the Strata and residents, to provide waste collection services.

### Commercial Services

- Onsite storage for commercial waste will be appropriate to contain all bins required to service the proposed Ground Floor offices and Upper Ground Floor commercial space. Waste generation rates should be according to Table F3 of the NSW EPA *Better Practice Guidelines for Resource Recovery in Residential Development*. Noting that the Upper Ground Floor commercial tenancy has not been identified with a specific use, the waste generation rate for use as a 'café' should be applied to capture the worst-case waste generation scenario. A revised waste management plan and site plans must be submitted prior to issuing of an occupational certificate confirming the above noted as it relates to commercial waste storage.
- Commercial and residential bins must be stored separately. Commercial tenancies are not permitted to use the waste provisions for residential occupants. Residential bins must be secured within a locked area and commercial separated by cage/fence or similar.

- The Commercial waste storage area must accommodate at a minimum, 4 x 660 litre bins, or 2 x 1100 litre bins and 2 x 240L bins.
- The Building Manager will be responsible for managing and engaging the private waste collection contractor and ensuring service are provided in accordance with this condition. Collection and removal of all wastes, both contained within bins and loose bulky waste must be removed entirely within the confines of private property. No bins or bulky waste are to be stored on the kerbside or within the public domain at any time. Private waste collection must be performed in a source separated manner, to maximize the recovery of recyclable materials and divert waste from landfill.
- The Building Manager will be responsible for managing the commercial waste volumes and collections in line with the private waste collection contractor condition above.

**109. 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.

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

**111. Maintenance of Landscaping** - All trees and plants forming part of the landscaping must be maintained. 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.

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

### **Operational Requirements Under the Environmental Planning & Assessment Act 1979**

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

**114. 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:

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

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

**115. Notification Requirements of PCA** - No later than two days before the building work commences, the PCA must notify:

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

**116. Notice of Commencement** - The applicant must give at least two days notice to the Council and the PCA of their intention to commence the erection of a building.

A Notice of Commencement Form is attached for your convenience.

**117. Critical Stage Inspections** - The last critical stage inspection must be undertaken by the PCA. 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.

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

Where Georges River Council has been appointed as the PCA, 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.

**119. 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 PCA appointed for the building work can issue the Occupation Certificate.

An Occupation Certificate Application Form is attached for your convenience.

**END CONDITION**



## NOTES/ADVICES

1. **Review of Determination** - Division 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 submitted, reviewed and 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, Crown Development or the Land & Environment Court.

2. **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 within 12 months of the date of this determination notice.
3. **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.
4. **Access to NSW Legislations (Acts, Regulations and Planning Instruments)** - NSW legislation can be accessed free of charge at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)
5. **Energy Efficiency Provisions** - Should Council be appointed as the PCA, 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 PCA.

Energy efficiency provisions relate only to new building work or the installation of new measure. Existing building fabric and measures may not be upgraded.

6. **Compliance with Access, Mobility and AS4299** - Adaptable Housing - Should the Council be appointment as the PCA, the Construction Certificate Application must be accompanied by detailed working plans and a report or a Certificate of Compliance from an Accredited Access Consultant certifying that the building design and access to the adaptable units complies with Council's DCP and AS 4299 Adaptable Housing.
7. **Site Audit Statement** - Council may require a site audit of the Detailed Site Investigation report, Remediation Action Plan, Environmental Management Plan and/or Validation Report. If requested, a Site Audit Statement (SAS) and a site audit summary report from an accredited site auditor under the *Contaminated Land Management Act 1997*, verifying the information contained in the report is to be submitted to Council.

8. **Certified Contaminated Land Consultant** - A certified Contaminated Land Consultant is a certified Environmental Practitioner (Site Contamination) (CENVP(SC)) or certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM)

Information relating to certified Contaminated Land Consultant or accredited site auditors can be found on the NSW EPA webpage: <https://www.epa.nsw.gov.au/your-environment/contaminated-land/>

9. **Water Access Licence** - The removal of groundwater during construction may require a Water Access Licence by Water NSW. Information relating to obtaining a Water Access Licence can be found on the WaterNSW webpage: <https://www.watarnsw.com.au/customer-service/water-licensing/dewatering#stay>

10. **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/nglg.htm>) and the *Noise Policy for Industry* ([https://www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-\(2017\)](https://www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-(2017))) published 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](http://www.cjc.nsw.gov.au))
- (b) *Department of Environment and Conservation NSW, Noise Policy Section web page* ([www.environment.nsw.gov.au/noise](http://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](http://www.legislation.nsw.gov.au)).
- (d) *Australian Acoustical Society—professional society of noise-related professionals* ([www.acoustics.asn.au/index.php](http://www.acoustics.asn.au/index.php)).
- (e) *Association of Australian Acoustical Consultants—professional society of noise related professionals* ([www.aaac.org.au](http://www.aaac.org.au)).
- (f) *Department of Gaming and Racing -* ([www.dgr.nsw.gov.au](http://www.dgr.nsw.gov.au)).

11. **Acoustic Engineer Contacts & Reference Material** - Further information including lists of Acoustic Engineers can be obtained from:

- (a) *Australian Acoustical Society—professional society of noise-related professionals* ([www.acoustics.asn.au](http://www.acoustics.asn.au))
- (b) *Association of Australian Acoustical Consultants—professional society of noise related professionals* ([www.aaac.org.au](http://www.aaac.org.au))

(c) *NSW Industrial Noise Policy – Office of Environment & Heritage*  
([www.environment.nsw.gov.au](http://www.environment.nsw.gov.au))

12. **Sydney Water Section 73 Certificates** - The Section 73 Certificate must be a separate certificate that relates specifically to this development consent. For example, if the development consent relates to the subdivision of the land, a Section 73 Certificate for the construction of the building that is subject to a different development consent will not suffice.
13. **Electricity Supply** - This development may need a connection to the Ausgrid network which may require the network to be extended or its capacity augmented. You are advised to contact Ausgrid on 13 13 65 or [www.ausgrid.com.au](http://www.ausgrid.com.au) (Business and Commercial Services) for further details and information on lodging your application to connect to the network.
14. **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.
15. **Access for persons with disabilities** - Should the Council be appointed as the PCA, an Access report prepared by an Accredited Access Consultant may be required to be submitted with the Construction Certificate Application, detailing the existing level of compliance in the building with the above requirements, and to provide details of proposed upgrading work necessary to bring the building into conformity with the Premises Standards and the BCA. All recommendations of the accredited access consultant must be incorporated in the plans to be submitted with the Construction Certificate application.
16. **Long Service Levy** - 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>.

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.

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

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

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.

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.

18. **Council as PCA - Deemed to Satisfy Provisions of BCA** - Should the Council be appointed as the PCA in determining the Construction Certificate, the building must comply with all the applicable deemed to satisfy provision of the BCA. However, if an alternative fire solution is proposed it must comply with the performance requirements of the BCA, in which case, the alternative solution, prepared by an appropriately qualified fire consultant, accredited and having specialist qualifications in fire engineering, must justify the non-compliance with a detailed report, suitable evidence and expert judgement. Council will also require if deemed necessary, for the alternative solution to undergo an independent peer review by either the CSIRO or other accredited organisation. In these circumstances, the applicant must pay all costs for the independent review.
19. **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](http://www.SafeWork.nsw.gov.au)).
20. **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 and/or Section 68 Local Government Act 1993:
- (a) Complete the Stormwater Drainage Application Form which can be downloaded from Georges River Council's website at [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au).
  - (b) In the Application Form, quote the Development Consent No. (eg. DA2018/0\*\*\*) and reference this condition number (e.g. Condition 23)
  - (c) 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 stormwater applications.

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 stormwater 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.

## ATTACHMENTS

Attachment [↓](#) 1  Site Plan and Elevations

THIS IS THE PRINTED COPY OF THE GEORGES RIVER LOCAL PLANNING PANEL BUSINESS PAPER. FOR THE OFFICIAL DOCUMENT PLEASE VISIT THE GEORGES RIVER WEBSITE: [WWW.GEORGESRIVER.NSW.GOV.AU](http://WWW.GEORGESRIVER.NSW.GOV.AU)



- this drawing is copyright and the property of the author, and must not be reprinted, copied or used without the authority of the author.
- large scale drawings and written dimensions take precedence.
- do not scale from drawing
- all dimensions to be checked on site before commencement of work.
- all discrepancies to be brought to the attention of the author.

Notes

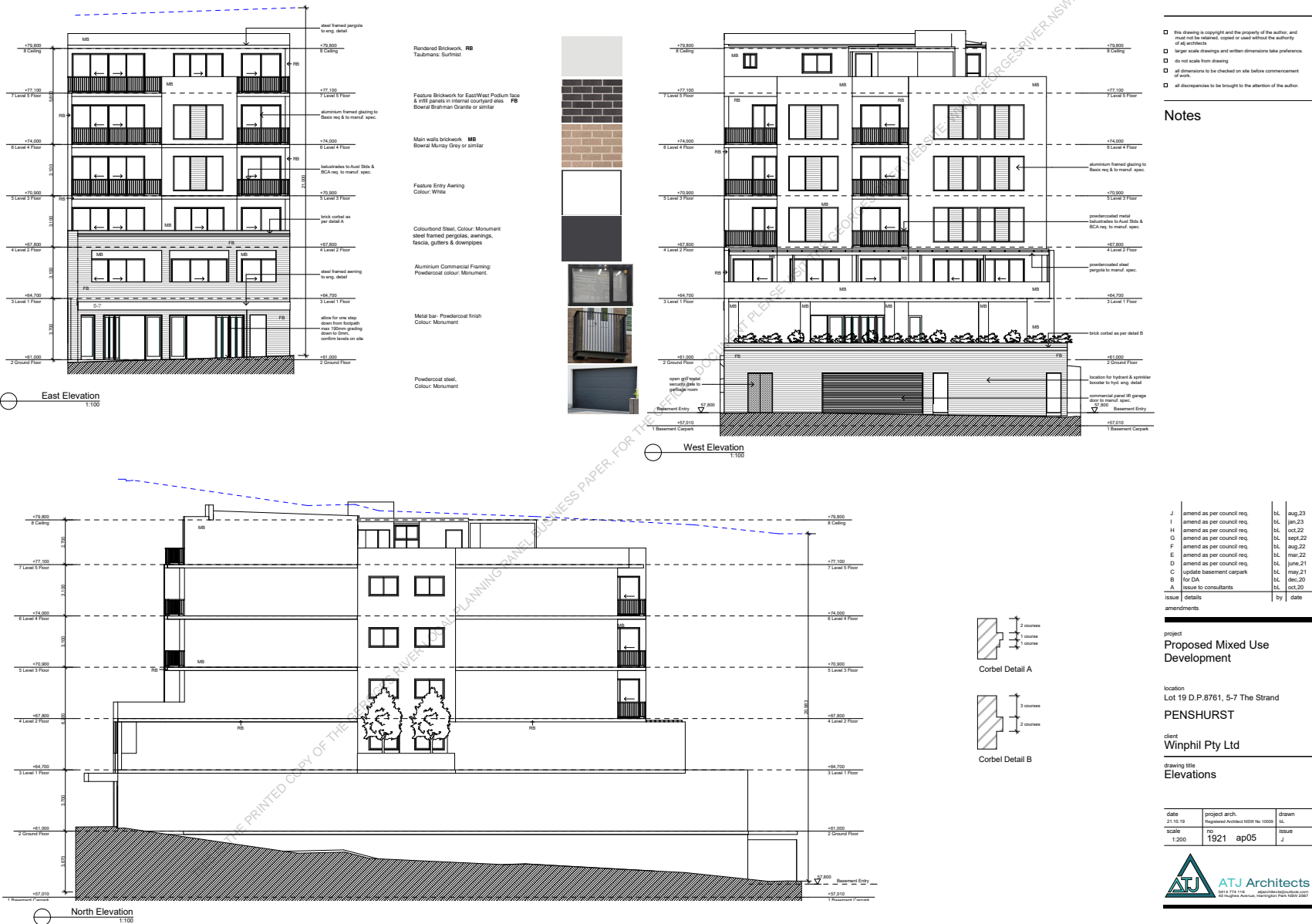
DATA											
	No	bed	area/floor	balcony	total	bath	ens	solar access	cross vent	internal store	basement store
units	1	2	89.66m <sup>2</sup>	20.43m <sup>2</sup>	110.09 m <sup>2</sup>	y	y	y	y	2.5m <sup>3</sup>	5.5m <sup>3</sup>
3 bedroom	11	3	68.04m <sup>2</sup>	15.04m <sup>2</sup>	83.08 m <sup>2</sup>	y			y	6.0m <sup>3</sup>	
2 bedroom	5	4	62.1m <sup>2</sup>	15.85m <sup>2</sup>	77.95 m <sup>2</sup>	y			y	6.1m <sup>3</sup>	
studio apartment	5	4	studio	35.88m <sup>2</sup>	11.62m <sup>2</sup>	47.5 m <sup>2</sup>	y			4.1m <sup>3</sup>	
1 bedroom	1	5	2	89.45m <sup>2</sup>	17.19m <sup>2</sup>	106.64 m <sup>2</sup>	y	y	y	2.7m <sup>3</sup>	5.3m <sup>3</sup>
total No. of units	18	6	2	75.05m <sup>2</sup>	34.35m <sup>2</sup>	109.4 m <sup>2</sup>	y	y	y	3.75m <sup>3</sup>	5.3m <sup>3</sup>
	18	7	1	52.45m <sup>2</sup>	30.55m <sup>2</sup>	83.0 m <sup>2</sup>	y	y	y	2.1m <sup>3</sup>	3.9m <sup>3</sup>
		8, 12, 16	2	90.7m <sup>2</sup>	10.01m <sup>2</sup>	100.71 m <sup>2</sup>	y	y <sup>16</sup> = 7m <sup>2</sup>	y	2.5m <sup>3</sup>	8.0m <sup>3</sup>
		9, 13, 17	2	76.58m <sup>2</sup>	11.94m <sup>2</sup>	88.52 m <sup>2</sup>	y	y	y	3.75m <sup>3</sup>	4.7m <sup>3</sup>
		10, 14	2	75.05m <sup>2</sup>	10.44m <sup>2</sup>	85.49 m <sup>2</sup>	y	y	y	3.75m <sup>3</sup>	5.1m <sup>3</sup>
		11, 15	1	52.45m <sup>2</sup>	15.97m <sup>2</sup>	68.42 m <sup>2</sup>	y	y	y	2.1m <sup>3</sup>	3.9m <sup>3</sup>
		16	3	120.38m <sup>2</sup>	29.46m <sup>2</sup>	149.85 m <sup>2</sup>	y	y	y	4.5m <sup>3</sup>	15.0m <sup>3</sup>
				residential GFA:	1489.82m <sup>2</sup>						
				ground floor GFA incl commercial :	260.05m <sup>2</sup>						
				TOTAL GFA:	1749.87m <sup>2</sup>						
				site area:	700.3m <sup>2</sup>						

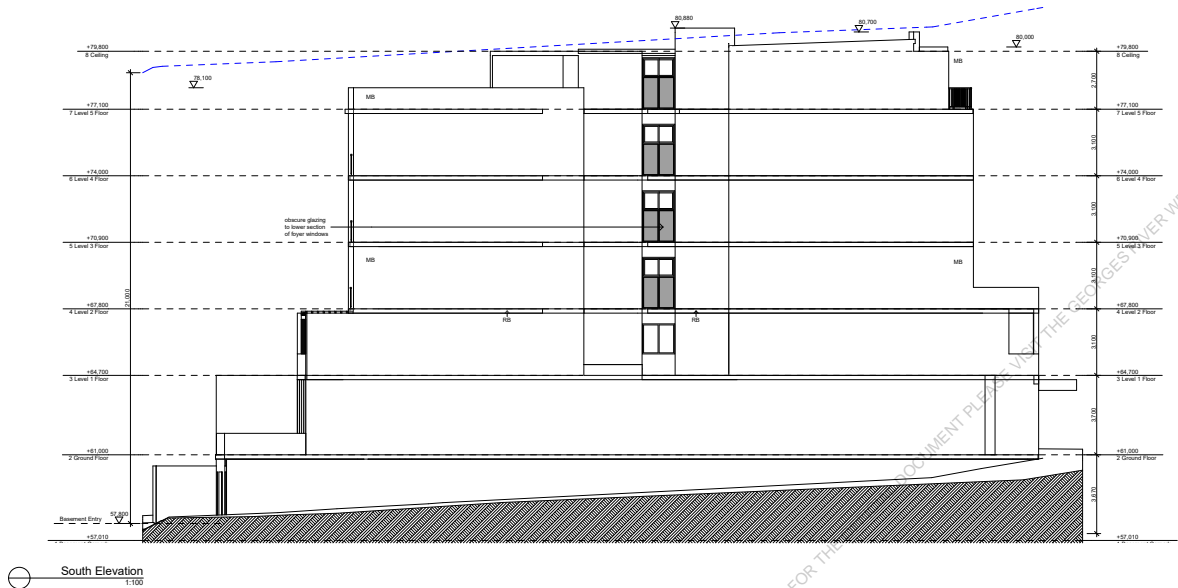
I	amend as per council req.	bl.	jan.23
H	amend as per council req.	bl.	oct.22
G	amend as per council req.	bl.	sept.22
F	amend as per council req.	bl.	aug.22
E	amend as per council req.	bl.	may.22
D	amend as per council req.	bl.	june.21
C	update basement carpark	bl.	may.21
B	for DA	bl.	dec.20
A	issue to consultants	bl.	oct.20
issue details		by	date
amendments			

project  
Proposed Mixed Use Development  
location  
Lot 19 D.P.8761, 5-7 The Strand  
PENSURST  
client  
Winphil Pty Ltd  
drawing title  
Site Plan

date	project arch.	drawn
21.10.19	Proposed Architect NSW No. 10000	bl.
scale	no	issue
1:200	1921 ap01	1







Window Schedule											
3D Front View											
ID	101	102	103	104	105	106	107	108	109	110	111
Quantity	1	1	1	1	1	1	1	1	1	1	1
W x H Size	2100x1200	1200x1200	1200x1200	1200x1200	1200x1200	1200x1200	1200x1200	1200x1200	1200x1200	1200x1200	1200x1200
Door head height	2400	2400	2400	2400	2400	2400	2400	2400	2400	2400	2400

Window Schedule  
1:1

Door List											
3D Front View											
ID	101	102	103	104	105	106	107	108	109	110	111
Quantity	1	1	1	1	1	1	1	1	1	1	1
W x H Size	1200x2400	1200x2400	1200x2400	1200x2400	1200x2400	1200x2400	1200x2400	1200x2400	1200x2400	1200x2400	1200x2400
Door head height	2400	2400	2400	2400	2400	2400	2400	2400	2400	2400	2400

Aluminium Door List  
1:1

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Notes

issue	details	by	date
amendments			
I	amend as per council req.	bl	jan.23
H	amend as per council req.	bl	oct.22
G	amend as per council req.	bl	sept.22
F	amend as per council req.	bl	aug.22
E	amend as per council req.	bl	mar.22
D	amend as per council req.	bl	june.21
C	update basement carpark	bl	may.21
B	for DA	bl	dec.20
A	issue to consultants	bl	oct.20

project  
Proposed Mixed Use Development

location  
Lot 19 D.P.8761, 5-7 The Strand

PENSHURST

client  
Winphil Pty Ltd

drawing title  
Elevations

date	project arch.	drawn
21.10.19	Proposed Architect NSW No. 1000	bl
scale	no	issue
1:200	1921	ap06
		1





**REPORT TO GEORGES RIVER COUNCIL  
LPP MEETING OF THURSDAY, 17 AUGUST 2023**

LPP020-23

<b>LPP Report No</b>	<b>LPP020-23</b>	<b>Development Application No</b>	<b>MOD2022/0098</b>
<b>Site Address &amp; Ward Locality</b>	248 Railway Parade, Kogarah Kogarah Bay Ward		
<b>Proposed Development</b>	Modification Application MOD2022/0098 involving façade amendments, changes in openings and to balconies, internal alterations including relocating and reconfiguration of suites and floor layout to development consent REV2020/0013 for site remediation, demolition works and construction of a mixed use building containing 3 levels of basement car parking, ground floor commercial and 5 levels of boarding house accommodating 42 rooms inclusive of the caretakers room at 248 Railway Parade, Kogarah		
<b>Owners</b>	Mr and Ms Toskas		
<b>Applicant</b>	Moderinn Pty Ltd		
<b>Planner/Architect</b>	Planning Direction Pty Ltd, Moderinn Pty Ltd		
<b>Date Of Lodgement</b>	6/06/2022		
<b>Submissions</b>	One (1)		
<b>Cost of Works</b>	\$8,253,821.00		
<b>Local Planning Panel Criteria</b>	The instrument of delegations requires boarding house development to be reported to the Georges River Local Planning Panel for determination. The original Development Application was refused by the Local Planning Panel on 20 February 2020 and the Review of Determination was approved by the Local Planning Panel as a deferred commencement consent on 6 August 2020.		
<b>List of all relevant s.4.15 matters (formerly s79C(1)(a))</b>	Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, State Environmental Planning Policy (Industry and Employment) 2021, State Environmental Planning Policy (BASIX) 2004, State Environmental Planning Policy (Housing) 2021, Draft State Environmental Planning Policy – Environment, Georges River Local Environmental Plan 2021, Georges River Development Control Plan 2021		
<b>List all documents submitted with this report for the Panel's consideration</b>	Architectural Plan Set, Planning Statement, Response to RFI Parking Report, Access Report Acoustic Report, Waste Management Plan		
<b>Report prepared by</b>	Coordinator Development Assessment and Consultant Planner		

<b>Recommendation</b>	That the modification application be refused for the reasons detailed at the end of this report.
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<b>Summary of matters for consideration under Section 4.15</b> Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
<b>Legislative clauses requiring consent authority satisfaction</b> 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
<b>Clause 4.6 Exceptions to development standards</b> If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Not Applicable
<b>Special Infrastructure Contributions</b> Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	Not Applicable
<b>Conditions</b> Have draft conditions been provided to the applicant for comment?	No as the application is recommended for refusal

### Site Plan



## Executive Summary

### Proposal

#### Site and Locality

1. The development site is located on the corner of Blake Street and Railway Parade in Kogarah and is legally described as Lot 48 in DP2013.
2. The site is rectangular in shape with an 11.35m frontage to Railway Parade, 35.2m along the eastern secondary frontage to Blake Street, 11.27m along the southern rear boundary and 38.02m along the western side boundary and an area of 411sqm. The site slopes from the front north western corner RL 29.24 to the rear north eastern corner RL 29.83 with a level change of 590mm.
3. A sewer main traverses the site toward the rear portion of the site.
4. A single storey masonry building with a pitched roof currently occupies the site and is being used as an automotive repair business trading as “Toskas Automotive”. Vehicular access is via Blake Street,
5. The site is zoned MU1 Mixed Use under the Georges River Local Environmental Plan 2021 (GRLEP 2021). Shop Top Housing consisting of commercial development on the ground floor and boarding houses above are permissible land uses with consent in the zone.
6. The surrounding area comprises generally of mixed use developments. A shop top housing development at 250-258 Railway Parade, Kogarah, known as “Veridian” adjoins the site directly to the west and south. This building contains the Kogarah RSL with a podium level and two (2) residential towers above. Communal open space is provided on the podium level and a second area of communal open space exists on the rooftop. This is referred to in the report as the “Kogarah RSL site”.
7. A four (4) storey shop top housing development is located on the opposite side of Blake Street to the east. Further to the east along Blake Street are 2 and 3 storey residential flat buildings. Wesley Hospital is located to the south with an electrical substation to the west on the corner of Railway Parade and English Street.
8. The Illawarra Railway line is located to the north of the site. Carlton Railway Station is approximately 411m to the west; Kogarah Railway Station is located 671sqm to the east. An underpass which connects Railway Parade to Railway Street is opposite which is accessed to the west of the site.

#### Zoning and Permissibility

9. The subject site is zoned MU1 Mixed Use under the provisions of Georges River Local Environmental Plan 2021 (GRLEP 2021). The proposal involves site remediation, demolition works and construction of a shop top housing development comprising of a commercial premises on the ground floor with five (5) levels of boarding house above containing forty two (42) rooms inclusive of the caretaker’s room. The development is serviced by three (3) levels of basement car parking with the levels serviced by a car lift.
10. Shop Top Housing, Commercial Premises and a Boarding House are all permissible land uses with development consent in the MU1 zone.

**Submissions**

11. The application was placed on neighbour notification between 27 July 2022 and 10 August 2022. One (1) submission was received.

**Referrals Internal**

12. The modification application was referred to the following Council staff for comment on the proposal:
- Builder Surveying Officer
  - Land information Officer
  - Development Engineer
  - Traffic Engineer
  - Landscape Officer
  - Environmental Health Officer and
  - Urban Designer.
13. All referral officers who responded were satisfied with the proposed modification and confirmed their previous conditions or provided new conditions of consent should the application be approved.

**Referrals External**

14. The modification application was referred to the following external bodies for comment on the proposal:
- WaterNSW
  - Sydney Trains
  - Department of Planning and Industry
  - Ausgrid
15. All external bodies were satisfied with the proposed modification and reiterated their previous conditions of consent should the application be approved.

**Reasons for Referral to the Local Planning Panel**

16. The instrument of delegations requires boarding house developments to be reported to the Georges River Local Planning Panel for determination. The original Development Application was refused by the Local Planning Panel on 20 February 2020 and the Review of Determination was approved as a deferred commencement consent on 6 August 2020.

**Conclusion**

17. The modification application has been assessed having regard to the matters for consideration under Section 4.55(2) and Section 4.15 of the Environmental Planning and Assessment Act 1979, the provisions of the relevant State Environmental Planning Policies, the Georges River Local Environmental Plan (LEP) 2021 and Georges River Development Control Plan (DCP) 2021 and found to be acceptable.
18. Modification Application MOD2022/0098 involving façade amendments, changes in openings and to balconies, internal alterations including relocating and reconfiguration of suites and floor layout to development consent REV2020/0013 approved for site remediation, demolition works and construction of a mixed use building containing 3 levels of basement car parking, ground floor commercial and 5 levels of boarding house accommodating 42 rooms inclusive of the caretakers room at 248 Railway Parade, Kogarah be refused for the reasons shown below and at the end of this report.

**Assessment Officer Recommendation****That:**

**19.** Modification Application MOD2022/0098 involving façade amendments, changes in openings and to balconies, internal alterations including relocating and reconfiguration of suites and floor layout to development consent REV2020/0013 for site remediation, demolition works and construction of a mixed use building containing 3 levels of basement car parking, ground floor commercial and 5 levels of boarding house accommodating 42 rooms inclusive of the caretakers room at 248 Railway Parade, Kogarah is determined by way of refusal for the reasons for the reasons outlined below and at the end of this report.

- 1. Environmental Planning Instrument-** The proposed modification is unsatisfactory having regard to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the proposed modification fails to demonstrate compliance with several non-discretionary development standards contained in State Environmental Planning Policy (Housing) 2021.

**Particulars**

- a) Pursuant to clause 24(2)(e) the application has failed to demonstrate adequate solar access to the communal living areas by failing to provide at least 3 hours of direct solar access to at least one (1) of the communal living area between 9am and 3pm at mid-winter.
- b) Pursuant to clause 24(2)(g) the application has failed to demonstrate an adequately sized communal living area for a boarding house containing more than 6 boarding rooms where a total of at least 30sqm of communal living area plus at least a further 2sqm for each boarding room in excess of 6 boarding rooms is required.
- c) Pursuant to clause 24(2)(h) the application has failed to demonstrate an adequately sized communal open space area for a boarding house where at least 20% of the site area is required to be provided as communal open space area.

- 2. Development Control Plan -** The proposed modification is unsatisfactory having regard to Section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as the proposed modification fails to demonstrate compliance with several provisions of Georges River Development Control Plan 2021.

**Particulars**

- a) Pursuant to Part 4.7 Boarding Houses, Internal Communal Areas clause (9) the application has failed to demonstrate an adequately sized internal communal areas where an indoor communal living area with a minimum area of 12.5sqm or 1.25sqm per resident (whichever is greater) is required.
- b) Pursuant to Part 4.7 Boarding Houses, Internal Communal Areas clause (10)(iii) the application has failed to demonstrate adequate solar access to the internal communal areas where indoor communal living areas are required to be located to receive a minimum 2 hours of solar access to at least 50% of the windows during 9am and 3pm on 21 June.

- c) Pursuant to Part 4.7 Boarding Houses, Internal Communal Areas clause (10)(iv) the application has failed to demonstrate adequate indoor communal living areas where indoor communal living areas are to be located on each level of a multi storey boarding house, where appropriate.
  - d) Pursuant to Part 4.7 Boarding Houses, Private Open Space clause (13) the application has failed to demonstrate adequate private open space for residents where at least 30% of all bedrooms are to have access to private open space with a minimum area of 4sqm in the form of a balcony or terrace area.
  - e) Pursuant to Appendix 4 Waste Management Part 4.3 On-going Waste Management for Development Types the application has failed to demonstrate adequate storage space for the required number of bins to service the development.
3. **Likely Impacts of the Development** - The proposed modification is unsatisfactory having regard to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 as the application has failed to demonstrate that it will not have a negative social and economic impact on future occupants of the boarding house.
  4. **Suitability of the Site for the Development** - The proposed modification is unsatisfactory having regard to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 in that the proposed modification in its current form has failed to demonstrate that the proposed design is suitable for the subject site having regard to the amenity of future residents.
  5. **Public Interest** - Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, given the shortcomings of the proposed design the proposed development is not considered to be in the public interest and is likely to set an undesirable precedent.

## Report In Full

### Proposed Modification

20. Development consent REV2020/0013 was granted under delegation by the Local Planning Panel on 6 August 2020 following a Review of Determination of DA2019/0232 which was refused by the Local Planning Panel on 20 February 2020. REV2020/0013 was for site remediation, demolition works and construction of a shop top housing building containing 3 levels of basement car parking, ground floor commercial and 5 levels of boarding house accommodating 43 rooms inclusive of the caretakers room at 248 Railway Parade, Kogarah.
21. The proposed works under this modification application (MOD2022/0098) seeks consent to modify the approved development by seeking façade amendments, changes in openings and to balconies, internal alterations including relocating and reconfiguration of suites and floor layout. Details of the proposed changes include the following:

#### Gross Floor Area:

1. Ground Floor: 129.0sqm to 132.0sqm
2. Typical Floors: 313.6sqm to 327.2sqm
3. Level 5 (previously First Floor): 313.6sqm to 311.1sqm
4. Proposed Total GFA: 1765.0sqm to 1751.9sqm
5. Proposed development GFA: 4.295:1 to 4.26:1

**Basement Levels 1, 2, 3 Plan:**

1. Addition of Pump Room, Switch Room and bathroom above Basement 1
2. Addition of Smoke Lobbies on FS 2 and FS 3
3. Addition of Carpark Supply
4. Addition of ramp which is followed by the changes on RL
5. Relocation of motorbike parking
6. Change on FS3 on Basement 1

**Ground Floor Plan:**

1. Changes on Bin Storage layout (including the removal of bin carousel)
2. Adjustment on external paving
3. Addition of Service Exhaust in Retail and Carpark Exhaust
4. Changes on Lobby entrance
5. Area of Main Lobby is increased from 24.3sqm to 28.6sqm

**Change to Levels 1 -5 Typical Floor Plans**

1. Change of Level 1 and 2-5 Typical Floor Plan
2. Plan1003 Level 1 Floor Plan to S4.55\_1003 Floor 1-4 Typical Plan
3. Plan1004 Level 2-5 Typical Floor Plan to S4.55\_1004 Level 5 Floor Plan

**Levels 1-4 Typical Floor Plan:**

1. Change of suite number
2. Relocation of the bin room and the removal of bin chute
3. Addition of Carpark exhaust
4. Change of dimension of the services exhaust, including the doors
5. Reduction of the corridor's width to 1.1m
6. Accessible rooms are now suites 1,10,19, & 28
  - a. Changes on suite layout
  - b. Area is increased from 35.1sqm to 45.7sqm
  - c. Balcony area is increased from 4.5sqm to 5.6sqm
7. Suites 2,11,20 & 29:
  - a. Area is decreased from 28.7sqm to 24.7sqm
  - b. Balcony area is decreased from 3.2sqm to 3.0sqm
  - c. Changes on Ensuite and Robe layout
8. Suite 3,12,21 & 30
  - a. Area is decreased from 24.5sqm to 23.4sqm
9. Suite 7,16, 25 & 34:
  - a. Area is increased from 33.3sqm to 34.1sqm
  - b. Robe is relocated
10. Suite 8,17,26,35:
  - a. Area is decreased from 31.5sqm to 30.5sqm
  - b. Ensuite is relocated
11. Suite 9/18/27/36:
  - a. Kitchen and Robe are relocated

**Manager's Room & Common Room Moved From L1 to L5**

1. Approved: 63.5sqm manager's dwelling + 10.2sqm balcony + 52.3sqm common room + 20sqm balcony = 146sqm
2. Proposed: 60.7sqm manager's dwelling + 8sqm balcony + 55.2sqm common room + 20sqm balcony = 143.9sqm

**Level 5 Floor Plan:**

1. Relocation of the bin room and removal of bin chute
2. Addition of Carpark Exhaust
3. Change of dimension of the Services Exhaust, including the doors
4. Changes on unit number
5. Manager's apartment:
  - a. Relocation and changes on Manager's Suite layout
  - b. Area is decreased from 63.5sqm to 60.7sqm
  - c. Balcony is decreased from 10.2sqm to 8.3sqm
6. Common Room:
  - a. Relocation and changes on Common Room layout
  - b. Area is increased from 52.3sqm to 55.2sqm
7. Suite 40:
  - a. Relocation of robe and kitchen
8. Former Suite 2, 3 and 4 are removed
9. Addition of Suite 38 and 39
10. Addition of skylight above Lobby
11. Addition of two (2) skylights above the Common Room.

**Roof Plan/ Site Plan**

1. Addition of one skylight above the Level 5 Lobby
2. Additional service and maintenance access; and
3. External paving is adjusted.
4. Addition of two (2) skylights above the Common Room

**Section A-A**

1. Changes on the suite numbers
2. Changes on Basement Levels and its RL
3. Additional information of sewer line

**North-Western Elevation (Railway Parade)**

1. Addition of Face Brick wall
2. Change of width of the curtain walls
3. Addition of Carpark Exhaust overrun and Hot Water Unit on the roof

**North-Eastern Elevation (Blake Street)**

1. Change to the height and width of face brick wall
2. Changes to the façade incorporating changes to Levels 1 and 5 as described previously
3. Change of width and height of the curtain walls
4. Addition of Carpark Exhaust overrun and Hot Water Unit on the roof

**South-Western Elevation**

1. Change of dimension of the windows
2. Addition of Carpark Exhaust overrun and Hot Water Unit on the roof

**South-Eastern Elevation**

1. Minor change to the width of the balconies from Level 1 to Level 5
2. Addition of Carpark Exhaust overrun and Hot Water Unit on the roof



## Site and Locality

22. The development site is located on the corner of Blake Street and Railway Parade in Kogarah and is legally described as Lot 48 in DP2013. The site is rectangular in shape with an 11.35m frontage to Railway Parade, 35.2m along the eastern secondary frontage to Blake Street, 11.27m along the southern rear boundary and 38.02m along the western side boundary and an area of 411sqm. The site slopes from the front north-western corner RL 29.24 to the rear north eastern corner RL 29.83 with a level change of 590mm. A sewer main traverses the site toward the rear portion of the site. A single storey masonry building with a pitched metal roof currently occupies the site and is being used as an automotive repair business trading as “Toskas Automotive”. Vehicular access is via Blake Street.



Figure 1 Photograph of subject site viewed from Railway Parade, Kogarah (Council's Site Inspection)



**Figure 2 Photograph of subject site viewed from Blake Street, Kogarah (Council's Site Inspection).**

23. The site is zoned MU1 - Mixed Use under the Georges River Environmental Plan 2021 (GRLEP 2021).
24. Commercial development and boarding houses are permissible land uses with consent in the zone. The surrounding area comprises generally of mixed use developments. A shop top housing development at 250-258 Railway Parade, Kogarah, known as "Veridian" adjoins the site directly to the west and south. This building contains the Kogarah RSL with a podium level and two (2) residential towers above. Communal open space is provided on the podium level and a second area of communal open space exists on the rooftop. A four (4) storey shop top housing development is located on the opposite side of Blake Street to the east. Further to the east along Blake Street are 2 and 3 storey residential flat buildings. Wesley Hospital is located to the south with an electrical substation to the west on the corner of Railway Parade and English Street.
25. The Illawarra Railway line is located to the north of the site. Carlton Railway Station is approximately 411m to the west; Kogarah Railway Station is located 671sqm to the east. An underpass which connects Railway Parade to Railway Street (within Bayside Council) is opposite which is accessed to the west of the site. The subject site is not listed as a heritage item nor is it in the immediate vicinity of any items of heritage significance.



Figure 3: Aerial View of subject site in blue (Near Maps, 2023)

## Background

26. A history of the development site and current proposal is as follows:

- DA2019/0232 which was refused by the Local Planning Panel on 20 February 2020.
- Development consent REV2020/0013 was granted under delegation by the Local Planning Panel on 6 August 2020 following a Review of Determination of DA2019/0232.
- The development consent issued with deferred commencement conditions<sup>13</sup> August 2020.
- Following submission of addition information to satisfy the deferred commencement conditions Council wrote to the applicant advising the Development Consent was now activated on 17 February 2021.
- A pre-application PRE2021/0076 was lodged September 2021 in relation to the current modification application.
- A pre-lodgement meeting was held on 19 October 2021 and a pre-lodgement letter of advice was subsequently issued by Council 24 November 2021.
- The current modification application was submitted on 6 June 2022.
- Request for Further Information sent 29 July 2022 in response to questions raised by WaterNSW.
- Request for Further Information sent 24 November 2022 querying status as registered community housing provider and need to address requirements of SEPP (Housing) 2021 and GRLEP 2021.
- Request for Further Information sent 13 January 2023 advising Council unable to support reduction in basement carparking and the applicant was ineligible to utilise the reduced car parking rates available to registered community housing providers in the SEPP (Housing) 2021 as the application was not lodge by or on behalf of a registered community housing and would not be managed by a registered community housing provider.
- The applicant amended the modification application on 1 February 2023 by reinstating the third level of basement carparking making the modification application compliant on car parking demand.
- Assessing officer resigned from Council 23 March 2023
- Application assigned to new assessing officer 29 March 2023
- Council's Assessing Officer conducted a site inspection on 15 June 2023.

- Request for Further Information sent 7 July 2023 asking the applicants to address:
1. State Environmental Planning Policy (Housing) 2021 has the following requirements:
    - clause 24(2)(e) at least 3 hours of direct solar access provided between 9am and 3pm at mid-winter in at least 1 communal living area,
    - clause 24(2)(g) for a boarding house containing more than 6 boarding rooms— a total of at least 30sqm of communal living area plus at least a further 2sqm for each boarding room in excess of 6 boarding rooms, and
    - clause 24(2)(h) communal open spaces— with a total area of at least 20% of the site area.
  2. Georges River Development Control Plan 2021 - 4.7 Boarding Houses has the following requirements:
    - Internal Communal Areas – (9) An indoor communal living area with a minimum area of 12.5sqm or 1.25sqm per resident (whichever is greater).
    - Internal Communal Areas – (10)(iii) - Indoor communal living areas are to be located to receive a minimum 2 hours of solar access to at least 50% of the windows during 9am and 3pm on 21 June;
    - Internal Communal Areas – (10)(iv) - Indoor communal living areas are to be located on each level of a multi storey boarding house, where appropriate
    - Private Open Space – (13) - 30% of all bedrooms are to have access to private open space with a minimum area of 4sqm in the form of a balcony or terrace area.
    - Bathroom, Laundries and Drying Facilities - (16) - Drying facilities, such as clotheslines located in a communal open space are to be located to maximise solar access and ensure that the usability of the space is not compromised

#### Section 4.55 Assessment

27. The application has been made pursuant to Section 4.55(2) of the *Environmental Planning & Assessment Act* 1979 to modify Development Consent No. REV2020/0013 approved 6 August 2020, seeking to modify the approved development by seeking internal alterations and façade amendments.
28. Section 4.55(2) of the *EP&A Act* 1979 enables the consent authority to modify a development consent upon application being sought by the applicant or any person entitled to act on the consent, provided that the consent authority and subject to and in accordance with the regulations, modify the consent if it:
  - (a) **It is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and**
29. The power to modify a development consent is conditional on the consent authority being satisfied that the proposed modified development is ‘substantially the same development’ as the originally approved development. The ‘*substantially the same*’ test is a threshold test that must be met before the modification can be dealt with on its merits. In applying the ‘*substantially the same*’ test, the focus is on ‘the development’. A comparison must be made between the development as modified and the development as originally granted (*Scrap Realty Pty Limited v Botany Bay City Council* [2008] NSWLEC 333 [16]).



30. The result of the comparison must be a finding that the modified development is 'essentially' or 'materially' the same as the approved development (*Moto Projects (No 2) at 309; Vacik Pty Ltd v Penrith City Council [1992] NSWLEC 8*).
31. A qualitative and quantitative comparison is required. However, differences in qualitative and quantitative effects do not necessarily mean that the character of a development is changed in a material respect (*Davi Development v Leichardt Council (2007) NSWLEC 106*).
32. In the present case, when the proposed modification works are compared between:
  - (a) the originally approved development; and
  - (b) the proposed modified development,
33. it would be reasonable to conclude that the proposed modified development is substantially the same as the original development.
34. In the case of the proposal:
  - The approved land use remains the same and there is no increase in the intensity of use on-site.
  - The number of units and car parking spaces remains the same.
  - The approved building footprint is to remain as approved.
  - No additional floor space or building height is proposed.
  - The building façade treatment to both streets have been revised/improved in response to a request by Council's Urban Designer. A simple adjustment to banding of the façade is proposed to clearly delineate a 'base', 'middle' and 'top' to emphasize the scale of the development.
  - The plan of management remains applicable as previously endorsed by Council.
35. The proposed development as modified would represent substantially the same development for which consent was originally granted being for site remediation, demolition works and construction of a mixed use building containing 3 levels of basement car parking, ground floor commercial and 5 levels of boarding house accommodating 42 rooms inclusive of the caretakers room.
- (b) **it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and**
36. WaterNSW provided General Terms of Approval, Ausgrid and Sydney Trains provided conditions of development consent for the original application. These authorities were consulted in relation to the current modification application, and they all confirmed that their requirements remain the same. The General Terms of Approval and development consent condition for these authorities will not be altered on the modified development consent.
- (c) **It has notified the application in accordance with—**
  - (i) **the regulations, if the regulations so require, or**
37. The application was neighbour notified in accordance with the provisions of Georges River Development Control Plan 2021 and one (1) submission was received.

- (ii) **a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and**

38. The application was neighbour notified in accordance with the provisions of Georges River Development Control Plan 2021 and one (1) submission was received.
- (d) **It has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.**
39. One (1) submission was received during the notification period querying the height and number of boarding house rooms. The height and number of boarding house rooms is consistent with the exiting development consent but the configuration and floor layout has changed.

#### Section 4.15 Assessment

40. In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.
41. The following is an assessment of the application with regard to Section 4.15(1) Evaluation of the Environmental Planning and Assessment Act 1979.
- (1) **Matters for consideration - general**  
*In determining an application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:*

**The provision of:**

- (i) *Any environmental planning instrument,*

#### State Environmental Planning Policies (SEPPs)

42. Compliance with the relevant State Environmental Planning Policies is summarised in the following table and discussed in further detail below.

State Environmental Planning Policy Title	Complies
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Yes
State Environmental Planning Policy (Resilience and Hazards) 2021	Yes
State Environmental Planning Policy (Transport and Infrastructure) 2021	Yes
State Environmental Planning Policy (Industry and Employment) 2021	Yes
State Environmental Planning Policy (BASIX) 2004	Yes
State Environmental Planning Policy (Housing) 2021	No

#### State Environmental Planning Policy (Biodiversity and Conservation) 2021

43. The relevant parts of the above Policy that apply to this application are Chapter 2 – Vegetation in non-rural areas, and Chapter 6 – Water Catchments.

**Chapter 2 - Vegetation in Non-Rural Areas**

44. Chapter 2 aims to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.
45. This chapter applies to clearing of:
- 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*
  - 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 (Development Control Plan).*
46. There are no existing trees on site or within the Council's road reserves along Railway Parade and Blake Street, Kogarah. The modification application has been reviewed by Councils Landscape Officer who have advised that they had no concerns subject to modifying the landscape conditions of consent on the modified development consent to reflect the planting of four (4) x Water Gum *Tristanopsis laurina* "Luscious" in 45 litre pot size as street trees by Council at the applicants expense.

**Chapter 6 – Water Catchments**

47. The primary relevant aims and objectives of this Chapter are:
- whether the development will have a neutral or beneficial effect on the quality of water entering a waterway,
  - whether the development will have an adverse impact on water flow in a natural waterbody,
  - whether the development will increase the amount of stormwater run-off from a site,
  - whether the development will incorporate on-site stormwater retention, infiltration or reuse,
  - the impact of the development on the level and quality of the water table,
  - the cumulative environmental impact of the development on the regulated catchment,
  - whether the development makes adequate provision to protect the quality and quantity of *ground water*.
48. The stormwater design has been reviewed by Council's Development Engineer. No objection was raised with respect to the management and disposal of stormwater and the previous conditions of development need to be applied to the modified development consent. The proposal is consistent with the objectives and purpose of Chapter 6 of the SEPP.

**State Environmental Planning Policy (Resilience and Hazards) 2021**

49. Chapter 2 and Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021 are relevant to the proposal.
50. Chapter 2 aims to: "*Promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016 including the management objectives for each coastal management area*".
51. The subject site is not mapped as a Coastal Environment area and a Coastal Use area.

52. Chapter 4 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.
53. Clause 4.6 requires contamination and remediation to be considered in determining a DA. 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.
54. The original application was accompanied by a Detailed Environmental Site Assessment prepared by Broadcrest Consulting Pty Ltd dated March 2020. The report concludes:
- “It is considered that this investigation area is no longer of potential contamination concern and suitable to the intended development works.”*
55. Council's Environmental Health Officer reviewed the report and raised no objection to the proposal subject to conditions. The modification application was referred to Council's Environmental Health Officer who reiterated their support for the proposal subject to the conditions previously provided remaining unaltered and with a new condition to be incorporated into a modified development consent. On this basis, the site remains suitable for the proposed development as modified with respect to contamination.

#### **State Environmental Planning Policy (Transport and Infrastructure) 2021**

56. Compliance with SEPP (Transport and Infrastructure) 2021 has been considered during the assessment of this development application. As the site is in close proximity to Sydney Trains Infrastructure and Sydney Trains originally provided concurrence subject to conditions of consent they were consulted as required by Chapter 2. Sydney Trains raised no objection to the proposed modification subject to the previous conditions of development consent being carried forward on the modified development consent. Ausgrid was consulted as required by Chapter 2 and also raised no objection to the proposed modification subject to the previous conditions of development consent being carried forward on the modified development consent.

#### **State Environmental Planning Policy (Industry and Employment) 2021**

57. SEPP (Industry and Employment) 2021 has been consideration through the assessment of this development application. It has been concluded that the above SEPP is not relevant to the proposed development.

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

58. The objectives of this Policy ensure that the performance of the development satisfies the requirements to achieve water and thermal comfort standards that will promote a more sustainable development. The original application included a BASIX certificate and the proposal was assessed against the requirements of BASIX and found to be compliant.
59. On 26 November 2021 the Environmental Planning and Assessment Amendment (Housing) Regulation 2021 came into force and inserted new definition of BASIX affected building into the Environmental Planning and Assessment Regulation 2000. The new definition excluded boarding houses that accommodate more than 12 residents, or that has a gross floor area of more than 300sqm.
60. As a consequence of these amendments, boarding houses of this size are not required to be accompanied by a valid BASIX Certificate so BASIX no longer applies to the modification.



**61.** The objectives of this Policy is to facilitate development of affordable and diverse housing in the right places and for every stage of life. The SEPP includes the planning provisions for a range of housing types including the following:

- boarding houses
- build-to-rent housing
- seniors housing
- caravan parks and manufactured home estates
- group homes
- retention of existing affordable rental housing
- secondary dwellings (granny flats)
- social and affordable housing
- short-term rental accommodation.

<b>Clause</b>	<b>Standard</b>	<b>Proposed</b>	<b>Complies</b>
<b>Division 2 Boarding Houses</b>			
23 Boarding houses permitted with consent	(1) Development for the purposes of boarding houses may be carried out with consent on land on which development for the purposes of boarding houses is permitted with consent under another environmental planning instrument.	GRLEP 2021 permits boarding houses with development consent in the MU1 zone. The application is for a modification as development consent has already been granted for a boarding house.	Yes
24 Non-discretionary development standards - the Act, s 4.15	<p>(1) The object of this section is to identify development standards for particular matters relating to development for the purposes of boarding houses that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.</p> <p>(2) The following are non-discretionary development standards in relation to the carrying out of development to which this Division applies-</p> <ul style="list-style-type: none"> <li>(a) for development in a zone in which residential flat buildings are permitted—a floor space ratio that is not more than—               <ul style="list-style-type: none"> <li>(i) the maximum</li> </ul> </li> </ul>	Noted	Yes
	(i) the maximum	GRLEP FSR 4:1	Yes

	<p>permissible floor space ratio for residential accommodation on the land, and</p> <p>(ii) an additional 25% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of the boarding house,</p> <p>(b) if paragraph (a) does not apply—a floor space ratio that is not more than the maximum permissible floor space ratio for residential accommodation on the land,</p> <p>(c) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum landscaping requirements for multi dwelling housing under a relevant planning instrument,</p> <p>(d) for development on land in Zone R4 High Density Residential—the minimum landscaping requirements for residential flat buildings under a relevant planning instrument,</p> <p>(e) at least 3 hours of direct solar access provided between 9am and 3pm at mid-winter in at least 1 communal living area,</p> <p>(f) for a boarding house</p>	<p>Maximum FSR 5:1 with additional 25% bonus Proposed FSR 4.26:1</p> <p>N/A</p> <p>N/A</p> <p>7% deep soil and landscaping within the communal areas as required by SEPP 65 and the Apartment Design Guide.</p> <p>The modification relocates the communal living area from level 1 to level 5. The existing approval is complaint for solar access but the relocation of the communal open space to level 5 fails to comply. No variation request was received.</p>	<p>No</p> <p>No</p>
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	<p>containing 6 boarding rooms—</p> <p>(i) a total of at least 30m<sup>2</sup> of communal living area, and</p> <p>(ii) minimum dimensions of 3m for each communal living area,</p> <p>(g) for a boarding house containing more than 6 boarding rooms—</p> <p>(i) a total of at least 30m<sup>2</sup> of communal living area plus at least a further 2m<sup>2</sup> for each boarding room in excess of 6 boarding rooms, and</p> <p>(ii) minimum dimensions of 3m for each communal living area,</p> <p>(h) communal open spaces—</p> <p>(i) with a total area of at least 20% of the site area, and</p> <p>(ii) each with minimum dimensions of 3m,</p> <p>(i) if a relevant planning instrument does not specify a requirement for a lower number of parking spaces—at least the following number of parking spaces—</p> <p>(i) for development on land within an accessible area—</p>	<p>N/A</p> <p>New communal living area on level 5 comprises a common room of 55.2sqm. The modification does not comply with the new communal living area requirement of 102sqm. No variation request was received.</p> <p>The communal living area complies with the 3m minimum dimension.</p> <p>New communal open space area on level 5 is 20sqm. The modification does not comply with the communal living area requirement of 20% of the site area or 82.2sqm. No variation request was received.</p> <p>The communal open space area complies with the 3m minimum dimension.</p> <p>The site is situated in an accessible area being within 400m of Carlton Railway Station and provides 21 car parking spaces for the 41 boarding house rooms so is complaint.</p>	<p>N/A</p> <p>No</p> <p>Yes</p> <p>No</p> <p>Yes</p> <p>Yes</p>
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	<p>0.2 parking spaces for each boarding room,</p> <p>(ii) otherwise—0.5 parking spaces for each boarding room,</p> <p>(j) if a relevant planning instrument specifies a requirement for a lower number of parking spaces—the lower number specified in the relevant planning instrument.</p>	N/A	N/A
25 Standards for boarding houses	<p>(1) Development consent must not be granted under this Division unless the consent authority is satisfied that—</p> <p>(a) no boarding room will have a gross floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, of more than 25m<sup>2</sup>, and</p> <p>(b) no boarding room will be occupied by more than 2 adult residents, and</p> <p>(c) adequate bathroom, kitchen and laundry facilities will be available within the boarding house for the use of each resident, and</p> <p>(d) for a boarding house on land in Zone R2 Low Density Residential or an equivalent land use zone—the boarding house will not have more than 12 boarding rooms, and</p> <p>(e) for a boarding house on land in a business zone—no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits the use,</p>	Development consent is not being sought the current application is for a modification to an existing development consent.	N/A

	<p>and</p> <p>(f) for a boarding house containing at least 6 boarding rooms—the boarding house will have at least 1 communal living area, and</p> <p>(g) the minimum lot size for the boarding house is not less than—</p> <p style="padding-left: 40px;">(i) for land in Zone R2 Low Density Residential—the minimum lot size requirements for manor houses under a relevant planning instrument, or 600m<sup>2</sup>, or</p> <p style="padding-left: 40px;">(ii) for land in Zone R3 Medium Density Residential—the minimum lot size requirements for multi dwelling housing under a relevant planning instrument, or</p> <p style="padding-left: 40px;">(iii) otherwise—the minimum lot size requirements for residential flat buildings under a relevant planning instrument, and</p> <p>(h) each boarding room has a floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, of at least the following—</p> <p style="padding-left: 40px;">(i) for a boarding room intended to be used by a single resident—12m<sup>2</sup>,</p> <p style="padding-left: 40px;">(ii) otherwise—16m<sup>2</sup>.</p> <p>(2) Development consent must not be granted under this Division unless the consent authority</p>		
		Development consent is not being sought the current application is for a	N/A

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	<p>considers whether—</p> <p>(a) the design of the boarding house will be compatible with—</p> <ul style="list-style-type: none"> <li>(i) the desirable elements of the character of the local area, or</li> <li>(ii) for precincts undergoing transition—the desired future character of the precinct, and</li> </ul> <p>(b) the front, side and rear setbacks for the boarding house are not less than—</p> <ul style="list-style-type: none"> <li>(i) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum setback requirements for multi dwelling housing under a relevant planning instrument,</li> <li>(ii) for development on land in Zone R4 High Density Residential—the minimum setback requirements for residential flat buildings under a relevant planning instrument,</li> </ul> <p>(c) if the boarding house has at least 3 storeys—the building will comply with the minimum building separation distances specified in the Apartment Design Guide, and</p> <p>(d) at least 1 motorcycle parking space will be provided for every 5 boarding rooms, and</p> <p>(e) at least 1 bicycle parking space will be provided for each boarding</p>	<p>modification to an existing development consent.</p>	
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	room.  (3) This section does not apply to development for the purposes of minor alterations or additions to an existing boarding house.	N/A	N/A
26 Must be used for affordable housing in perpetuity	1) Development consent must not be granted under this Division unless the consent authority is satisfied that from the date of the issue of the occupation certificate and continuing in perpetuity— (a) the boarding house will be used for affordable housing, and (b) the boarding house will be managed by a registered community housing provider.  (2) Subsection (1) does not apply to development on land owned by the Land and Housing Corporation or to a development application made by a public authority.	Development consent is not being sought the current application is for a modification to an existing development consent. The boarding house is not proposed to be managed by a community housing provider.  Noted	N/A  N/A
27 Subdivision of boarding houses not permitted	Development consent must not be granted for the subdivision of a boarding house.	No subdivision proposed.	Yes

### Georges River Local Environmental Plan 2021

62. The extent to which the proposed development complies with the Georges River Local Environmental Plan 2021 (GRLEP 2021) is detailed and discussed in the table below. Note that the original approval was issued pursuant to Kogarah Local Environmental Plan 2012.

Clause	Standard	Proposed	Complies
<b>Part 1 – Preliminary</b>			
1.2 – Aims of the Plan	In accordance with Clause 1.2 (2)	The development is considered to be consistent with the aims of the plan.	Yes
1.4 - Definitions	Shop top housing means:	The approved development was	Yes

	<p><i>means one or more dwellings located above the ground floor of a building, where at least the ground floor is used for commercial premises or health services facilities.</i></p> <p><i>Note— Shop top housing is a type of residential accommodation.</i></p>	consistent with the definition of shop top housing under KLEP 2012. The proposed modification will also remain consistent with the definition of shop top housing as the development continues to consist of a ground floor commercial tenancy and upper levels of boarding house.	
<b>Part 2 - Permitted or prohibited development</b>			
2.2 Zoning of Land to which the Plan applies	MU1 – Mixed Use Zone	The shop top housing development is permissible with consent.	Yes
2.3 - Zone objectives and Land Use Table	<p>Objectives of MU1 – Mixed Use Zone must be satisfied.</p> <p>Development must be permissible with consent</p>	<p>The proposal meets all objectives.</p> <p>The proposal for <i>shop top housing</i> consisting of <i>commercial premises</i> and <i>boarding houses</i> are permissible with development consent in the zone.</p>	<p>Yes</p> <p>Yes</p>
2.7 - Demolition	Demolition requires development consent.	Consent for the demolition of the existing structure formed part of the original approval. The proposed modification does not seek any changes to this part of the approval.	Yes
<b>Part 4 - Principal Development Standards</b>			
4.3 – Height of Buildings	39m as identified on Height of Buildings Map	The proposed height is the same as approved being maximum overall height of 20.4m at RL49.80 (lift overrun).	Yes
4.4 – Floor Space Ratio	<p>4:1 as identified on Floor Space Ratio Map.</p> <p>Site area: 411m<sup>2</sup> therefore</p>	The approved development has a GFA of 1,765sqm representing a FSR	Yes, given that additional floor space



	<p>maximum Gross Floor Area permitted is 1,644m<sup>2</sup></p>	<p>of 4.295:1 after utilizing a FSR bonus of 20% or 0.8 permitted under SEPP (Affordable Rental Housing) 2009.</p> <p>The modification proposes a GFA of 1,751.9sqm representing a FSR of 4.26:1 which is less than the 4.8:1 FSR permitted under SEPP (Affordable Rental Housing) 2009.</p>	<p>approved under SEPP (ARH) 2009.</p>
<p>4.4B - Exceptions to floor space ratio—non-residential uses</p>	<p>(4) Development consent must not be granted for development on the following land identified on the Floor Space Ratio Map unless the non-residential floor space ratio is—</p> <p>(b) for land identified as “Area 4”—at least 1:1.</p> <p>Site area 411m<sup>2</sup> therefore 411m<sup>2</sup></p>	<p>Development consent is not being sought, the current application is for a modification to an existing development consent.</p> <p>The approved development has a total commercial gross floor area of 80sqm representing a FSR of 0.195:1, this remains unchanged in the modification application.</p>	<p>N/A</p>
<b>Part 5 - Miscellaneous Provisions</b>			
<p>5.7 – Development below mean high water mark</p>	<p>(2) Development consent is required to carry out development on any land below the mean high water mark of any body of water subject to tidal influence (including the bed of any such water).</p>	<p>The proposal does not involve works below the Mean High Water Mark.</p>	<p>N/A</p>
<p>5.10 – Heritage conservation</p>	<p>Not identified as a heritage item and not located within a Heritage Conservation Area.</p>	<p>The site is not a heritage item or within the vicinity of a heritage item. Site is not in a heritage conservation area.</p>	<p>N/A</p>
<p>5.11 – Bush Fire Hazard</p>	<p>Bush fire hazard reduction work authorised by the</p>	<p>The subject land is not within a bush fire</p>	<p>N/A</p>

Reduction	Rural Fires Act 1997 may be carried out on any land without development consent.	prone area.	
<b>Part 6 - Additional Local Provisions</b>			
6.1 – Acid Sulfate soils	The site is not affected by acid sulfate soils.	N/A	N/A
6.2 – Earthworks	<p>Development consent is required for earthworks unless exempt development or the earthworks are ancillary to development that is permitted without consent under this Plan.</p> <p>Development consent sought for excavation requires development consent. Considerations to apply include impact on drainage patterns, soil stability and effect on adjoining properties.</p>	A geotechnical report was submitted and approved as part of the existing approval demonstrating the extent of excavation is suitable for the proposed development and can be designed to protect the adjoining development. The extend of the excavation and geotechnical requirements remain unchanged in the modification application.	Yes
6.3 – Stormwater Management	<p>(2) In deciding whether to grant development consent for development, the consent authority must be satisfied that the development—</p> <p>(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and</p> <p>(b) includes, if practicable, on-site stormwater detention or retention to minimise stormwater runoff volumes and reduce the development's reliance on mains water, groundwater or river water, and</p> <p>(c) avoids significant adverse impacts of</p>	Councils Engineers have reviewed the modification application in question and note that no changes are being made from a stormwater management perspective from the already approved development.	Yes

	<p>stormwater runoff on adjoining properties, native bushland, receiving waters and the downstream stormwater system or, if the impact cannot be reasonably avoided, minimises and mitigates the impact, and</p> <p>(d) is designed to minimise the impact on public drainage systems.</p>		
6.4 - Foreshore area and coastal hazards and risk	<p>(2) This clause applies to the following land—</p> <p>(a) land identified on the <u>Coastal Hazard and Risk Map</u>,</p> <p>(b) land identified on the <u>Foreshore Building Line Map</u>.</p> <p>(3) Development consent must not be granted for development on land to which this clause applies except for the following purposes—</p> <p>(a) the alteration, or demolition and rebuilding, of an existing building if the footprint of the building will not extend further forward than the footprint of the existing building into—</p> <p>(i) the foreshore building line, or</p> <p>(ii) the land identified on the <u>Coastal Hazard and Risk Map</u>,</p> <p>(b) the erection of a building if the levels, depth or other exceptional features of the site make it appropriate to do so,</p> <p>(c) boat sheds, cycling paths, fences, sea walls, swimming pools, water recreation structures or walking tracks.</p> <p>(4) In deciding whether to grant development consent, the consent</p>	The site is not located in a foreshore area and/or coastal hazards and risk area.	N/A

	<p>authority must consider the following matters—</p> <p>(a) whether the development addresses the impacts of sea level rise and tidal inundation as a result of climate change,</p> <p>(b) whether the development could be located on parts of the site not exposed to coastal hazards,</p> <p>(c) whether the development will cause congestion or generate conflict between people using open space areas or the waterway,</p> <p>(d) whether the development will cause environmental harm by pollution or siltation of the waterway,</p> <p>(e) opportunities to provide reasonable, continuous public access along the foreshore, considering the needs of property owners,</p> <p>(f) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p> <p>(5) In this clause—</p> <p><b>foreshore area</b> means the land between the foreshore building line and the mean high water mark of the nearest bay or river.</p> <p><b>foreshore building line</b> means the line shown as the foreshore building line on the <u>Foreshore Building Line Map</u>.</p>		
6.5 - Riparian land and waterways	<p>(2) This clause applies to land identified as “Sensitive land” on the <u>Riparian Lands and Waterways Map</u>.</p> <p>(3) In deciding whether to grant development consent</p>	The site is not located on land identified as sensitive land.	N/A

	<p>for development on land to which this clause applies, the consent authority must consider the following—</p> <p>(a) whether the development is likely to have an adverse impact on the following—</p> <p>(i) the water quality and flows within the waterway,</p> <p>(ii) the stability of the bed, shore and banks of the waterway,</p> <p>(iii) the future rehabilitation of the waterway and riparian areas,</p> <p>(iv) the biophysical, hydrological or ecological integrity of adjacent coastal wetlands, including the aquatic and riparian species, habitats and ecosystems of the waterway,</p> <p>(v) indigenous trees and other vegetation,</p> <p>(vi) opportunities for additional planting of local native riparian vegetation,</p> <p>(b) whether the development is likely to increase water extraction from the waterway,</p> <p>(c) whether the development will cause environmental harm by pollution or siltation of the waterway,</p> <p>(d) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p> <p>(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—</p> <p>(a) the development is designed, sited and will be managed to avoid significant adverse</p>		
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	<p>environmental impact, or</p> <p>(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or</p> <p>(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.</p>		
6.6 - Foreshore scenic protection area	<p>(2) This clause applies to land identified as “Foreshore scenic protection area” on the <u>Foreshore Scenic Protection Area Map</u>.</p> <p>(3) In deciding whether to grant development consent for development on land to which this clause applies, the consent authority must be satisfied that the development would facilitate the following—</p> <p>(a) the protection of the natural environment, including topography, rock formations, canopy vegetation or other significant vegetation,</p> <p>(b) the avoidance or minimisation of the disturbance and adverse impacts on remnant vegetation communities, habitat and threatened species and populations,</p> <p>(c) the maintenance and enhancement of native vegetation and habitat in parcels of a size, condition and configuration that will facilitate biodiversity protection and native flora and fauna movement through biodiversity corridors,</p> <p>(d) the achievement of no net loss of significant vegetation or habitat,</p>	The site is not in a foreshore scenic protection area.	N/A

	<p>(e) the avoidance of clearing steep slopes and facilitation of the stability of the land,</p> <p>(f) the minimisation of the impact on the views and visual environment, including views to and from the Georges River, foreshore reserves, residential areas and public places,</p> <p>(g) the minimisation of the height and bulk of the development by stepping the development to accommodate the fall in the land.</p>		
6.7 Airspace operations	<p>(2) Development consent must not be granted to development to which this clause applies unless—</p> <p>(a) the consent authority has consulted the relevant Commonwealth body, and</p> <p>(b) the relevant Commonwealth body advises the consent authority that—</p> <p>(i) the development will penetrate the Limitations or Operations Surface but it does not object to the development, or</p> <p>(ii) the development will not penetrate the Limitations or Operations Surface.</p>	No objections raised by CASA. No comments received from Sydney Airports in relation to the approved development. The modification application does not seek to change the approved height of the building.	Yes
6.8 Development in Areas subject to aircraft noise	Acoustic considerations to be satisfied.	An acoustic report was submitted with the approved application which was supported by Council's Environmental Health Officer subject to conditions. The modification was referred to the Environmental Health Officer who again	Yes

		raised no objection but suggested a new condition to be incorporated into a modified development consent if the application was to be supported.	
6.9 Essential Services	<p>Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available.</p> <p>(a) the supply of water,  (b) the supply of electricity,  (c) the supply of telecommunications facilities,  (d) the disposal and management of sewage,  (e) stormwater drainage or on-site conservation,  (f) suitable vehicular access.</p>	<p>The modification application does not propose any changes to the approved development that would impact upon the availability of essential services or the capacity for the proposal to be services.</p> <p>Water and electricity supply is available to the site.</p> <p>Telecommunications available.</p> <p>Sewage available to the site.</p> <p>Proposed stormwater disposal is satisfactory subject to conditions.</p> <p>The site intends to provide vehicular access from Blake Street.</p>	Yes
6.10 - Design excellence	<p>(2) This clause applies to development on land referred to in subclause (3) involving—</p> <p>(a) the erection of a new building, or  (b) additions or external alterations to an existing building that, in the opinion of the consent authority, are significant.</p> <p>(3) This clause applies to</p>	<p>Development consent has already been issued and the current proposal is for a modification application, so this clause does not apply to the proposal.</p>	N/A



	<p>development on the following land—</p> <p>(a) land identified on the <u>Foreshore Scenic Protection Area Map</u> if the development is for one or more of the following purposes—</p> <p>(i) bed and breakfast accommodation,</p> <p>(ii) health services facilities,</p> <p>(iii) marinas,</p> <p>(iv) residential accommodation, except for secondary dwellings,</p> <p>(b) land in the following zones if the building concerned is 3 or more storeys or has a height of 12 metres or greater above ground level (existing), or both, not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking—</p> <p>(i) Zone R4 High Density Residential,</p> <p>(ii) Zone E1 Local Centre,</p> <p>(iii) Zone E2 Commercial Centre,</p> <p>(iv) Zone E4 General Industrial,</p> <p>(v) Zone MU1 Mixed Use.</p> <p>(4) Development consent must not be granted for development to which this clause applies unless the consent authority considers that the development exhibits design excellence.</p> <p>(5) In considering whether the development exhibits design excellence, the consent authority must have regard to the following matters—</p> <p>(a) whether a high standard of architectural design, materials and</p>		
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	<p>detailing appropriate to the building type and location will be achieved,</p> <p>(b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,</p> <p>(c) whether the development detrimentally impacts on view corridors,</p> <p>(d) how the development addresses the following matters—</p> <p>(i) the suitability of the land for development,</p> <p>(ii) existing and proposed uses and use mix,</p> <p>(iii) heritage issues and streetscape constraints,</p> <p>(iv) the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,</p> <p>(v) bulk, massing and modulation of buildings,</p> <p>(vi) street frontage heights,</p> <p>(vii) environmental impacts such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity,</p> <p>(viii) pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of pedestrian networks,</p> <p>(ix) the impact on, and proposed improvements to, the public domain,</p> <p>(x) achieving appropriate interfaces at ground level between the building and the public domain,</p> <p>(xi) excellence and</p>		
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	<p>integration of landscape design,</p> <p>(xii) the provision of communal spaces and meeting places,</p> <p>(xiii) the provision of public art in the public domain,</p> <p>(xiv) the provision of on-site integrated waste and recycling infrastructure,</p> <p>(xv) the promotion of safety through the application of the principles of crime prevention through environmental design.</p>		
<p>6.12 - Landscaped areas in certain residential and environment protection zones</p>	<p>(2) This clause applies to land in the following zones—</p> <p>(a) Zone R2 Low Density Residential,</p> <p>(b) Zone R3 Medium Density Residential,</p> <p>(c) Zone R4 High Density Residential,</p> <p>(d) Zone E2 Environmental Conservation.</p> <p>(3) Despite subclause (2), this clause does not apply to development referred to in <u>State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development</u>, clause 4.</p> <p>(4) Development consent must not be granted to development on land to which the clause applies unless the consent authority is satisfied that the development—</p> <p>(a) allows for the establishment of appropriate plantings—</p> <p>(i) that are of a scale and density commensurate with the height, bulk and scale of the buildings to which the development relates, and</p> <p>(ii) that will maintain and</p>	<p>Site is zoned MU1 and the clause is not applicable.</p>	<p>N/A</p>

	<p>enhance the streetscape and the desired future character of the locality, and</p> <p>(b) maintains privacy between dwellings, and</p> <p>(c) does not adversely impact the health, condition and structure of existing trees, tree canopies and tree root systems on the land or adjacent land, and</p> <p>(d) enables the establishment of indigenous vegetation and habitat for native fauna, and</p> <p>(e) integrates with the existing vegetation to protect existing trees and natural landscape features such as rock outcrops, remnant bushland, habitats and natural watercourses.</p> <p>(5) Development consent must not be granted to development on land to which this clause applies unless a percentage of the site area consists of landscaped areas that is at least—</p> <p>(a) for a dwelling house located on land outside the Foreshore Scenic Protection Area—20% of the site area, or</p>		
6.13 Development in Zones E1 and MU1	<p>(1) The objectives of this clause are as follows—</p> <p>(a) to promote uses that attract pedestrian traffic along ground floor street frontages,</p> <p>(b) to maintain existing, and encourage additional, non-residential uses along ground floor street frontages,</p> <p>(c) to strengthen the viability of existing established centres,</p> <p>(d) to maintain</p>	Development consent has already been issued and the current proposal is for a modification application, so this clause does not apply to the proposal. The proposal is however compliant with this control.	N/A

	<p>opportunities for business and retail development that is suited to high exposure locations.</p> <p>(2) This clause applies to land in the following zones—</p> <p>(a) Zone E1 Local Centre, (b) Zone MU1 Mixed Use. (c), (d) (Repealed)</p> <p>(3) Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied the development will not cause a part of the ground floor of a building that is facing a street to be used for the purposes of residential accommodation or tourist and visitor accommodation.</p> <p>(4) Subclause (3) does not apply to a part of a building that is used for the following purposes—</p> <p>(a) entrances and lobbies, including as part of a mixed use development, (b) access for fire services, (c) essential services.</p>		
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### Georges River Development Control Plan 2021

63. The proposed development is subject to the provisions of the Georges River Development Control Plan 2021. The following comments are made with respect to the proposal considering the objectives, controls and requirements contained within the DCP Section 4.7 Boarding Houses. These requirements are designed to provide further guidance in addition to the now repealed State Environmental Planning Policy (Affordable Rental Housing) 2009.

3.13 Parking Access and Transport			
Clause	Standard	Proposal	Compliance
3.13 Parking Access and Transport Refer to the car parking rates for boarding	A consent authority must not refuse consent to development to which this Division applies of any of the following grounds – parking	Car parking has been approved and will not change as part of the modification application. Carparking consists of: 21 car parking spaces for lodgers, 2 car	Yes

houses in State Environmental Planning Policy (Affordable Rental Housing) 2009. • Clause 29(2) of the SEPP states:	If– (i) in the case of development carried out by or on behalf of a social housing provider in an accessible area – at least 0.2 parking spaces are provided for each boarding room, and (ii) in the case of development carried out by or on behalf of a social housing provider not in an accessible area – at least 0.4 parking spaces are provided for each boarding room, and (iia) in the case of development not carried out by or on behalf of a social housing provider – at least 0.5 parking spaces are provided for each boarding room, and (iii) in the case of any development – not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site.	parking spaces for commercial, 1 car parking space for the manager, 3 car parking spaces are accessible and there are 2 spaces for temporary parking whilst waiting for the vehicle lift.  N/A – not social housing provider.  N/A – not social housing provider.  Complies 41 boarding rooms and 21 car parking spaces for the lodgers.  Compiles 1 accessible car parking space available for the manager.	N/A  N/A  Yes  Yes
<b>4.7 Boarding Houses</b>			
<b>Clause</b>	<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
<b>General</b>	1. Boarding Houses are to maintain a high level of resident amenity, safety and privacy by ensuring: i. Communal spaces, including laundry, bathroom, kitchen and living areas are located in safe and accessible locations; ii. Bedrooms are located so that they are separate from significant noise	Communal spaces, including laundry facilities, bathroom, kitchen and living areas are acceptably located.  Bedrooms are acceptably located and insulated from significant noise	Yes  Yes

	<p>sources and incorporate adequate sound insulation to provide reasonable amenity between bedrooms and external noise sources;</p> <p>iii. Structural fittings and fixtures for all internal rooms that enhance nonchemical pest management of the building, with all cracks and crevices sealed and insect screening to all openings; and</p> <p>iv. All appliances achieve an energy star rating of 3.5 or higher, unless otherwise legislated.</p> <p>2. Boarding houses are to be designed to minimise and mitigate any impacts on the visual and acoustic privacy of neighbouring buildings by locating:</p> <p>i. The main entry point at the front of the site, away from side boundary areas near adjoining properties;</p> <p>ii. Communal areas and bedroom windows away from the main living area or bedroom windows of any adjacent buildings;</p> <p>iii. Screen fencing, plantings, and acoustic barriers in appropriate locations; and</p> <p>iv. Double glazed windows where noise transmission affects neighbouring buildings.</p> <p>3. An application for a boarding house must be accompanied by a Plan of Management which provides all details relevant to the operation of the premises. Further details are outlined in Council's Development Application Guide.</p>	<p>sources.</p> <p>A condition to address this would be imposed if the application was to be supported.</p> <p>Approval was subject to meeting BASIX requirement which has now be repealed.</p> <p>Main entry suitably located and remains unchanged.</p> <p>Communal areas and bedroom windows suitably located.</p> <p>Acceptable acoustic treatments proposed.</p> <p>N/A as all external walls facing adjoining developments are solid.</p> <p>Plan of Management Approved and would need to be amended if this modification application was to be supported.</p>	<p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>Yes</p>
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<b>Sleeping Room Requirements</b>	<p>4. The gross floor area of a bedroom is to be at least:</p> <ul style="list-style-type: none"> <li>i. 12m<sup>2</sup> (including 1.5m<sup>2</sup> required for wardrobe space);</li> <li>ii. 4m<sup>2</sup> when a second adult occupant is intended (which must be clearly shown on plans);</li> <li>iii. 2.1m<sup>2</sup> for any ensuite (which must comprise a hand basin and toilet;</li> <li>iv. 0.8m<sup>2</sup> for any shower in the ensuite;</li> <li>v. 1.1m<sup>2</sup> for any laundry (which must comprise a wash tub and washing machine); and</li> <li>vi. 2m<sup>2</sup> for any kitchenette (which must comprise a small fridge, cupboards and shelves and microwave).</li> </ul> <p>5. Each bedroom must have access to natural light, from a window or door with a minimum aggregate area of 10% of the floor area of the room. Skylights are not to be the sole source of light.</p>	<p>Complies as the smallest bedroom Suite 38 is 15.6sqm</p> <p>Companies all other suites exceed 16sqm.</p> <p>Complies the smallest ensuite is 3.3sqm.</p> <p>Complies all showers exceed this minimum.</p> <p>Complies - combined kitchen and laundries proposed of minimum size 3.1sqm.</p> <p>Complies all boarding house rooms have natural light and ventilation to either Blake Street or Railway Parade.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<b>Internal Communal Areas</b>	<p>6. A communal kitchen area is to be provided with a minimum area that is the greater of 6.5m<sup>2</sup> (total) or 1.2m<sup>2</sup> for each resident occupying a bedroom without a kitchenette.</p> <p>7. The communal kitchen is to contain:</p> <ul style="list-style-type: none"> <li>i. One (1) sink for every six (6) people, or part thereof, with running hot and cold water; and</li> <li>ii. One (1) stove top cooker for every six (6) people, or part thereof, with appropriate exhaust ventilation.</li> </ul> <p>8. The communal kitchen</p>	<p>All boarding house rooms have their own kitchenettes plus there is a 11.4sqm kitchen in the common room.</p> <p>1 double sink with hot and cold running water, 1 six burner stove top and an oven is provided in the common room. Each boarding house suite has a sink with hot and cold water and microwave oven. The control in this circumstance requires</p>	<p>Yes</p> <p>No but acceptable as each boarding house room has their own sink and microwave.</p>



	<p>is to contain, for each resident occupying a bedroom without a kitchenette:</p> <ul style="list-style-type: none"> <li>i. 0.3m<sup>3</sup> of refrigerator storage space;</li> <li>ii. 0.05m<sup>3</sup> of freezer storage space; and</li> <li>iii. 0.30m<sup>3</sup> of lockable drawer or cupboard storage space.</li> </ul> <p>9. An indoor communal living area with a minimum area of 12.5m<sup>2</sup> or 1.25m<sup>2</sup> per resident (whichever is greater) and a minimum width of 3m. The communal living area can include any dining area, but cannot include bedrooms, bathrooms, laundries, reception area, storage, kitchens, car parking, loading docks, driveways, clothes drying areas, corridors and the like.</p> <p>10. Indoor communal living areas are to be located:</p> <ul style="list-style-type: none"> <li>i. Near commonly used spaces, such as kitchen, laundry, lobby entry area, or manager's office; with transparent internal doors, to enable natural surveillance from resident circulation;</li> <li>ii. Adjacent to the communal open space;</li> <li>iii. To receive a minimum 2 hours solar access to at least 50% of the windows during 9am and 3pm on 21 June;</li> <li>iv. On each level of a multi storey boarding house, where appropriate; and</li> <li>v. Where they will have minimal impact on</li> </ul>	<p>14 sinks and 14 cook tops in the common room based on maximum occupancy of 82 boarders which is excessive. N/A</p> <p>A communal indoor living area of 55.2sqm in the from of a common room with kitchen, dining table and lounge area is provided with 20sqm communal balcony. The proposal fails to comply with the 102.5sqm requirement of this control. No variation request was received.</p> <p>Complies the common room and common balcony are directly adjoining the manager's suite.</p> <p>Yes</p> <p>The application failed to demonstrate compliance and no variation request was received.</p> <p>No only 1 common room proposed on Level 5. No variation request was received.</p> <p>Yes</p>	<p>No</p> <p>Yes</p> <p>Yes</p> <p>No</p> <p>No</p> <p>Yes</p>
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	bedrooms and adjoining properties.		
<b>Communal Open Space</b>	<p>Communal open space is to be provided with a minimum area of 20m<sup>2</sup> and a minimum dimension of 3m.</p> <p>12. Communal open space is to be located and designed to:</p> <p>i. Generally be north-facing to receive a minimum 2 hours solar access to at least 50% of the area during 9am and 3pm on 21 June;</p> <p>ii. Be provided at ground level and incorporate soft or porous surfaces for 50% of the area;</p> <p>iii. To receive a minimum 2 hours solar access to at least 50% of the windows during 9am and 3pm on 21 June;</p> <p>iv. On each level of a multi storey boarding house, where appropriate;</p> <p>v. Be connected to communal indoor spaces, such as kitchens or living areas;</p> <p>vi. Contain communal facilities such as barbecues, seating and pergolas where appropriate; and</p> <p>vii. Be screened from adjoining properties and the public domain with plantings.</p>	<p>Communal open space balcony of 20sqm provided which exceeds the 3m minimum dimension requirements.</p> <p>Communal open space has a partial North facing orientation Level 5, the solar access has not been adequately demonstrated that this criterion has been met. Not provided as this is MU1 zone and approval is for shop top housing, no residential at ground floor. This has not been adequately demonstrated by the proposal.</p> <p>Not provided and no variation request received.</p> <p>Yes</p> <p>No barbecues proposed but seating to be provided.</p> <p>Not provided on level 5 but spatial separation distance across to the other side of Blake Street is acceptable.</p>	<p>No - Solar access to COS does not meet the requirement.</p>
<b>Private Open Space</b>	<p>30% of all bedrooms are to have access to private open space with a minimum area of 4m<sup>2</sup> in the form of a balcony or terrace area.</p>	<p>All boarding room suites have private open space in the form of balconies directly accessible from their suites. The balconies range in size from 2.2 -</p>	<p>No but it should be noted the balconies sizes are generally consistent with the balcony sizes on the</p>

		3.7sqm, none comply with the minimum area of 4sqm.No variation request was received.	approved development consent plans.
<b>Bathroom, Laundries and Drying Facilities</b>	<p>14. Communal bathroom facilities accessible to all residents 24 hours per day are to be provided with the following:</p> <p>i. One (1) wash basin, with hot and cold water, and one (1) toilet for every 10 residents, or part thereof, for each occupant of a room that does not contain an ensuite; and</p> <p>ii. Be provided at ground level and incorporate soft or porous surfaces for 50% of the area.</p> <p>15. Laundry facilities are to be provided with the following:</p> <p>i. One (1) 5kg capacity automatic washing machine and one (1) domestic dryer for every 12 residents or part thereof; and</p> <p>ii. At least one (1) large laundry tub with hot and cold running water.</p> <p>16. Drying facilities, such as clotheslines located in a communal open space are to be located to maximise solar access and ensure that the usability of the space is not compromised</p>	<p>An accessible unisex communal bathroom is proposed on the on the ground floor.</p> <p>Every boarding house suite has their own ensuite.</p> <p>N/A POS control</p> <p>Every boarding house suite has their own laundry with combined washer/dryer plus laundry tub (shared with kitchen sink) with hot and cold water.</p> <p>No communal clothes drying facilities proposed as part of this modification application consistent with the development consent.</p>	<p>Yes</p> <p>Yes</p> <p>N/A</p> <p>Yes</p> <p>No, but acceptable as the approved development did not contain communal drying facilities and all suites are to have combined washers/dryers.</p>
<b>Fire Safety</b>	17. Each sleeping room in a Class 3 building must be considered as a sole occupancy unit for the purposes of Section C and Part D1, D2 and F5 of the Building Code of Australia so as to ensure there is adequate fire safety in the building, and adequate sound	The building is capable of satisfying this Building Code of Australia requirement, and will be addressed at the Construction Certificate stage.	Yes

	insulation to provide reasonable amenity between sleeping rooms.		
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LPP020-23

### Georges River Development Control Plan 2021 Draft Amendment

64. The draft Amendment No. 3 to the Georges River Development Control Plan (DCP) 2021 is being publicly exhibited between 19 April – 19 May 2023. This amendment seeks to harmonise all DCP controls relating to the Hurstville City Centre into the Georges River DCP 2021 and rectify a number of housekeeping issues comprising of unintended omissions, numerical, typographical, interpretation and formatting errors throughout the Georges River DCP 2021. This modification application has been assessed having regard to the relevant current provisions of the Development Control Plan.

### Impacts

#### Natural Environment

65. The proposed modification is unlikely to result in adverse impacts on the natural environment. No tree removal forms part of this modification application.

#### Built Environment

66. The modification application results in internal amendment and external faced changes but no change to the building envelope. The changes to the facade are considered acceptable.

#### Social Impact

67. The non-compliances with several non-discretionary development standards contained in State Environmental Planning Policy (Housing) 2021 and several requirements of Georges River Development Control Plan 2021 has a negative accumulative impact upon the amenity of future residents, leading to an adverse social impact.

#### Economic Impact

68. The modification is unlikely to result in any unreasonable economic impacts upon future residents.

#### Suitability of the Site

69. The proposed modification in its current form has failed to demonstrate that the proposed design is suitable for the subject site having regard to the amenity of the future residents.

### Submissions, Referrals and the Public Interest

#### Submissions

70. The application was advertised, and adjoining residents were notified by letter and given fourteen (14) days in which to view the plans and submit any comments on the proposal. One (1) submission was received during the notification period.
71. This submission was not an objection or in support but instead queried the height and number of boarding house rooms with the statement “*I wonder how high it is and how many boarding house rooms?*” The height and number of boarding house rooms is consistent with the existing development consent but the configuration and floor layout has changed. The submission also made a statement that they “*thought there were restrictions coming about boarding house accommodation.*” This statement possibly relates to the introduction of the new consolidated State Environmental Planning Policy (Housing) 2021.

**Council (Internal) Referrals****Environmental Health Officer**

72. Council's Environmental Health Officer who reiterated their support for the proposal subject to the conditions previously provided remaining unaltered, and subject to one new condition being applied on a modified development consent.

**Building Surveying Officer**

73. Council's Building Surveyor raised no issues and re-affirmed the existing development consent conditions with no new or amended conditions being required.

**Traffic Engineer**

74. Council's Traffic Engineer raised no issues and provided updated wording to the Construction Traffic Management Plan condition.

**Landscape Officer**

75. The modification application has been reviewed by Council's Landscape Officer who have advised that they had no concerns subject to modifying the landscape conditions of consent on the modified development consent to reflect the planting of four (4) x Water Gum *Tristania laurina* "Luscious" in 45 litre pot size as street trees by Council at the applicant's expense.

**Development Engineer**

76. The Development Engineer advised that since the proposed modification works related to internal changes and no changes to the Stormwater Plan no comments and/or amended conditions are required.

**Land Information Officer**

77. Council's Land Information Officer raised no objection subject to changing the secondary address.

**Urban Design**

78. No response was received from Council's Urban Design Officer.

**External Referrals****Sydney Trains**

79. No change to their earlier advice on the DA all previous conditions to still be applied to the modified development.

**Ausgrid**

80. No change to their earlier advice on the DA all previous conditions to still be applied to the modified development.

**WaterNSW**

81. Advised that all General Terms of Approval (IDAS1124808) issued on 9th July 2020 for the DA are still current and apply to the modified development.

**Department of Planning and Industry**

82. No response received.

**Development Contributions**

83. Section 7.11 Contributions were applied as part of the development determination. The modification does not change the contributions levied.

## Conclusion

- 84.** The modification application MOD2022/0098 involving façade amendments, changes in openings and to balconies, internal alterations including relocating and reconfiguration of suites and floor layout to development consent REV2020/0013 for site remediation, demolition works and construction of a mixed use building containing 3 levels of basement car parking, ground floor commercial and 5 levels of boarding house accommodating 42 rooms inclusive of the caretakers room at 248 Railway Parade, Kogarah has been assessed having regard to Section 4.15 and Section 4.55 (2) of the Environmental Planning and Assessment Act 1979, relevant State Environmental Planning Policies and the provisions of the Georges River Local Environmental Plan 2021, and the Georges River Development Control Plan 2021 and found to be unacceptable and is determined by way of refusal as set out below:

## Reasons for Refusal

- 85.** Pursuant to Section 4.55(2) of the Environmental Planning and Assessment Act, 1979, as amended, the Georges River Local Planning Panel, refuses Modification Application MOD2022/0098 involving façade amendments, changes in openings and to balconies, internal alterations including relocating and reconfiguration of suites and floor layout to development consent REV2020/0013 for site remediation, demolition works and construction of a mixed use building containing 3 levels of basement car parking, ground floor commercial and 5 levels of boarding house accommodating 42 rooms inclusive of the caretakers room for the Lot 48 at DP2013, known as 248 Railway Parade, Kogarah, is recommended for refusal for the reasons outlined below.

- 1. Environmental Planning Instrument-** The proposed modification is unsatisfactory having regard to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the proposed modification fails to demonstrate compliance with several non-discretionary development standards contained in State Environmental Planning Policy (Housing) 2021.

### Particulars

- a) Pursuant to clause 24(2)(e) the application has failed to demonstrate adequate solar access to the communal living areas by failing to provide at least 3 hours of direct solar access to at least one (1) of the communal living area between 9am and 3pm at mid-winter.
- b) Pursuant to clause 24(2)(g) the application has failed to demonstrate an adequately sized communal living area for a boarding house containing more than 6 boarding rooms where a total of at least 30sqm of communal living area plus at least a further 2sqm for each boarding room in excess of 6 boarding rooms is required.
- c) Pursuant to clause 24(2)(h) the application has failed to demonstrate an adequately sized communal open space area for a boarding house where at least 20% of the site area is required to be provided as communal open space area.

- 2. Likely Impacts of the Development** - The proposed modification is unsatisfactory having regard to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 as the application has failed to demonstrate that it will not have a negative social and economic impact on future occupants of the boarding house.

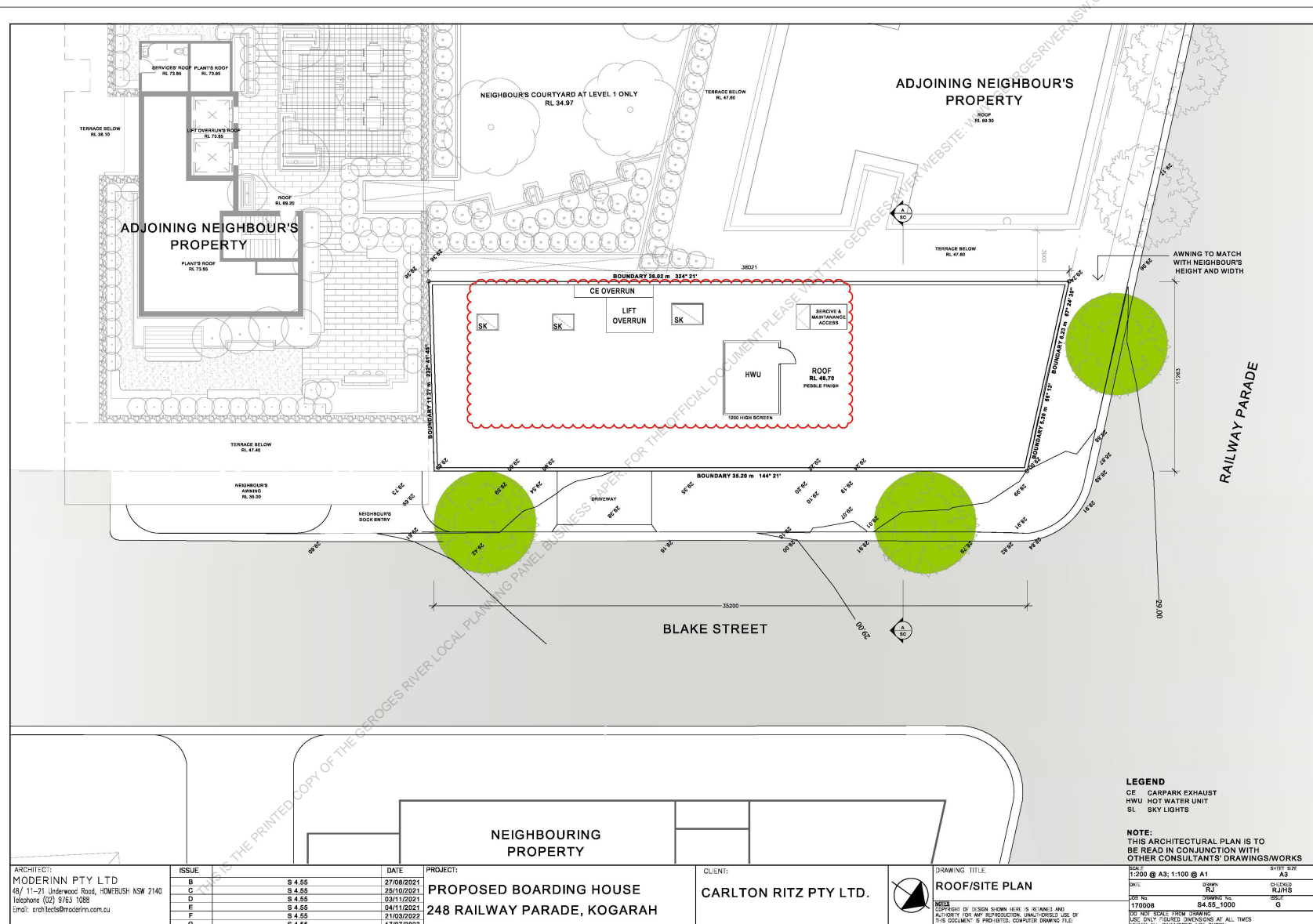
3. **Suitability of the Site for the Development** - The proposed modification is unsatisfactory having regard to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 in that the proposed modification in its current form has failed to demonstrate that the proposed design is suitable for the subject site having regard to the amenity of future residents.
4. **Development Control Plan** - The proposed modification is unsatisfactory having regard to Section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as the proposed modification fails to demonstrate compliance with several provisions of Georges River Development Control Plan 2021.

#### Particulars

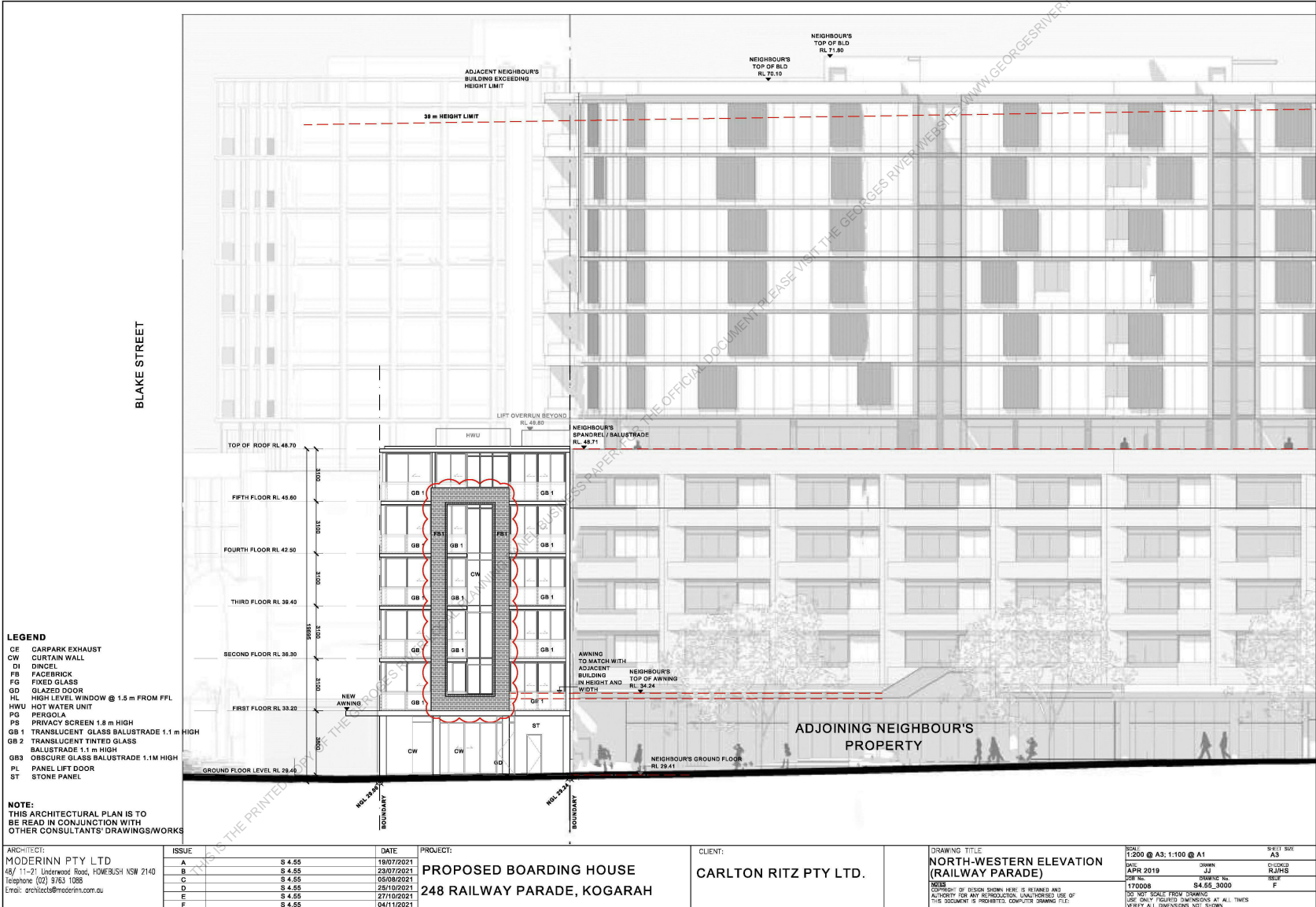
- a) Pursuant to Part 4.7 Boarding Houses, Internal Communal Areas clause (9) the application has failed to demonstrate an adequately sized internal communal areas where an indoor communal living area with a minimum area of 105sqm (1.25sqm per resident) is required.
  - b) Pursuant to Part 4.7 Boarding Houses, Internal Communal Areas clause (10)(iii) the application has failed to demonstrate adequate solar access to the internal communal areas where indoor communal living areas are required to be located to receive a minimum 2 hours of solar access to at least 50% of the windows during 9am and 3pm on 21 June.
  - c) Pursuant to Part 4.7 Boarding Houses, Internal Communal Areas clause (10)(iv) the application has failed to demonstrate adequate indoor communal living areas where indoor communal living areas are to be located on each level of a multi storey boarding house.
  - d) Pursuant to Part 4.7 Boarding Houses, Private Open Space clause (13) the application has failed to demonstrate adequate private open space for residents where at least 30% of all bedrooms are to have access to private open space with a minimum area of 4sqm in the form of a balcony or terrace area.
  - e) Pursuant to Appendix 4 Waste Management Part 4.3 On-going Waste Management for Development Types the application has failed to demonstrate adequate storage space for the required number of bins to service the development.
5. **Plan of Management** – the Plan of Management for the site has not been updated to reflect the modifications sought by this application.
  6. **Public Interest** - Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, given the shortcomings of the proposed design the proposed development is not considered to be in the public interest and is likely to set an undesirable precedent.

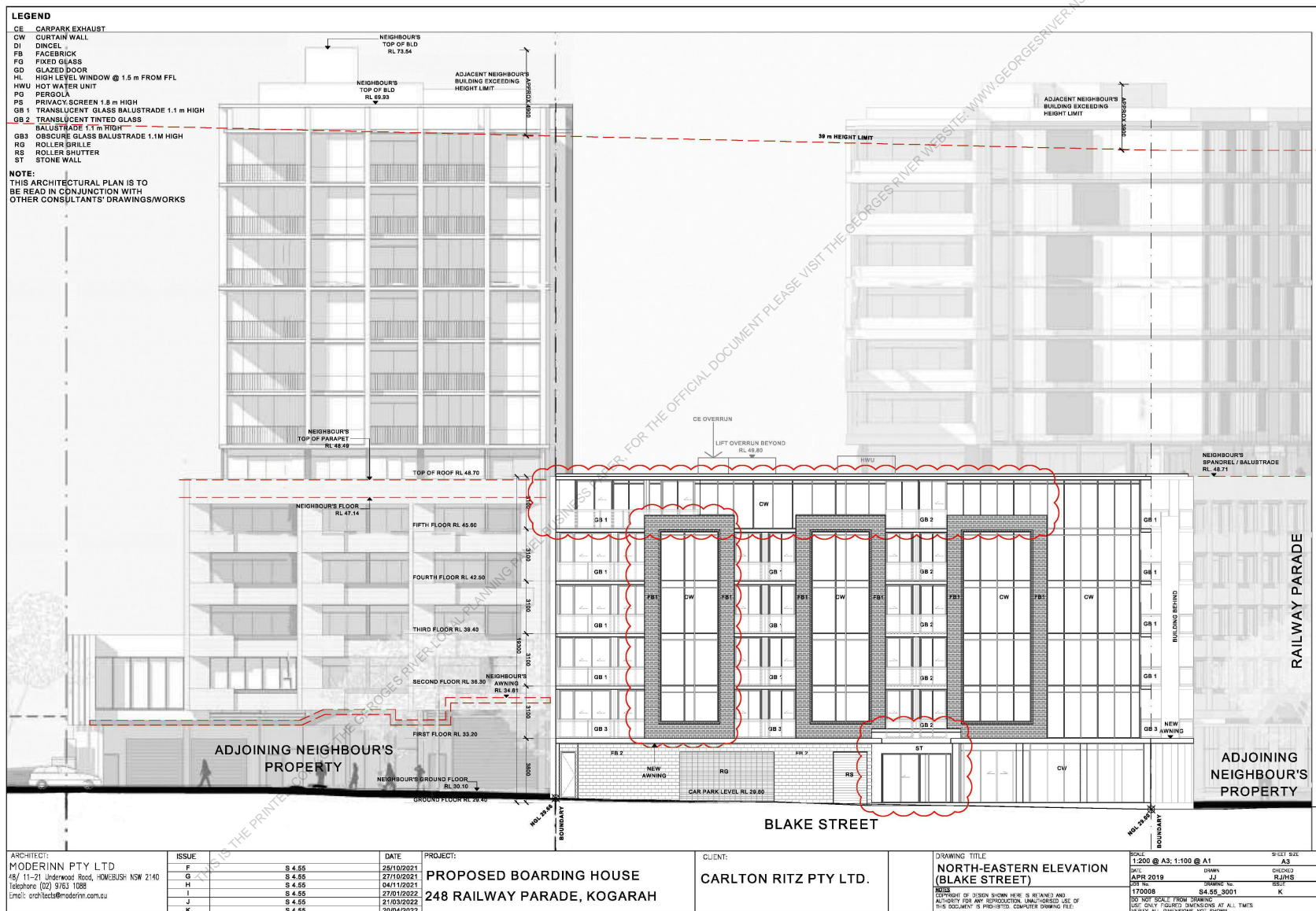
#### ATTACHMENTS

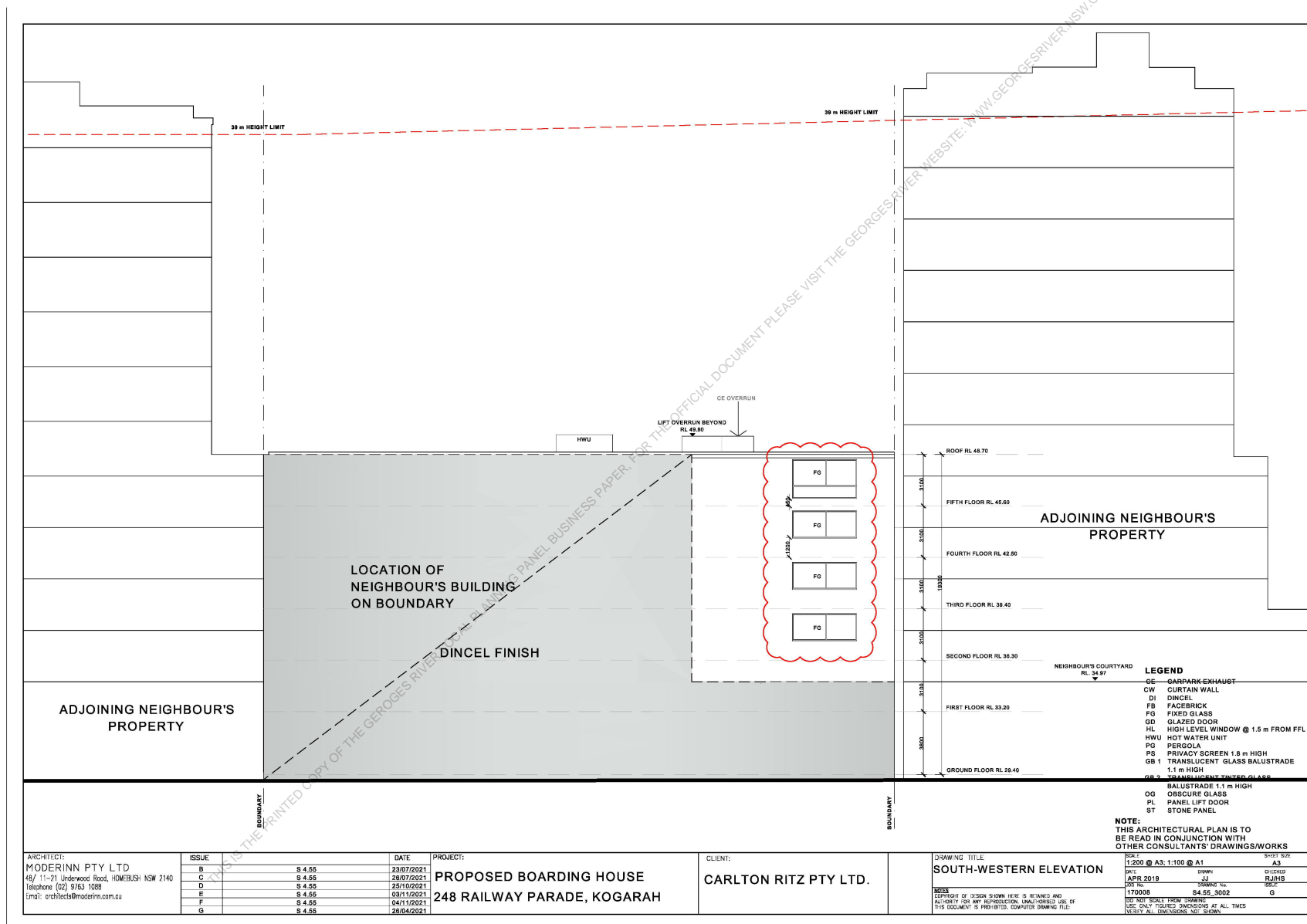
Attachment [1](#)  Architectural Plan Set

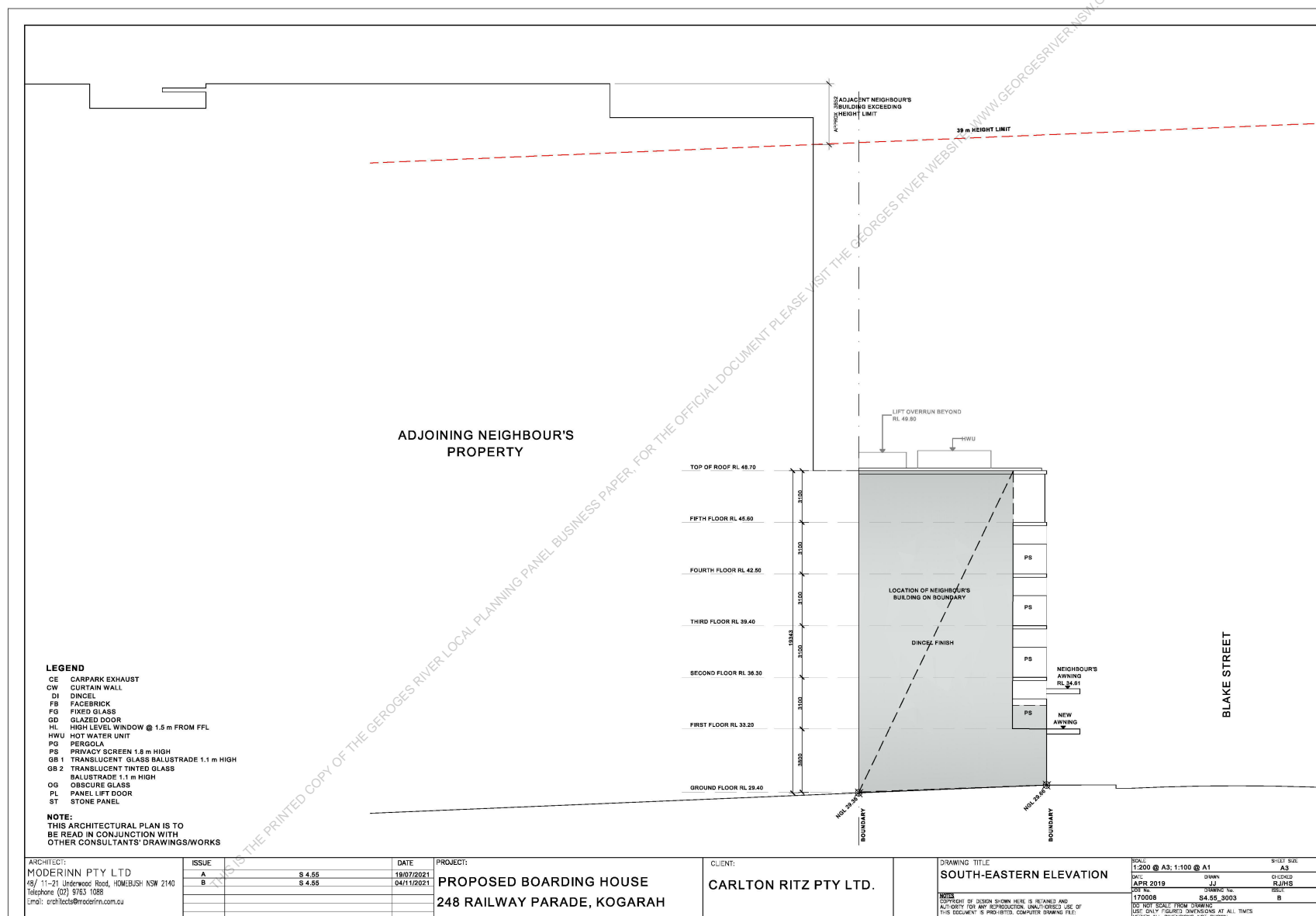












# REPORT TO GEORGES RIVER COUNCIL LPP MEETING OF THURSDAY, 17 AUGUST 2023

LPP025-23

<b>LPP Report No</b>	<b>LPP025-23</b>	<b>Development Application No</b>	<b>DA2022/0399</b>
<b>Site Address &amp; Ward Locality</b>	50 Dora Street, Hurstville Lot 8 DP 9355 Hurstville Ward		
<b>Proposed Development</b>	Alterations and additions to an existing dwelling including construction of an attached secondary dwelling. The subject site is listed as a local heritage item under Schedule 5 of GRLEP 2021.		
<b>Owners</b>	Kathy Watson		
<b>Applicant</b>	Kathy Watson		
<b>Planner/Architect</b>	Margaret Skilbeck		
<b>Date Of Lodgement</b>	5/11/2022		
<b>Submissions</b>	Nil		
<b>Cost of Works</b>	\$252,425.00		
<b>Local Planning Panel Criteria</b>	Heritage Item		
<b>List of all relevant s.4.15 matters (formerly s79C(1)(a))</b>	State Environmental Planning Policy (Biodiversity and Conservation) 2021; State Environmental Planning Policy (Resilience and Hazards) 2021; State Environmental Planning Policy (Transport and Infrastructure) 2021; State Environmental Planning Policy (Affordable Rental Housing) 2009; Georges River Local Environmental Plan 2021		
<b>List all documents submitted with this report for the Panel's consideration</b>	Statement of Environmental Effects Architectural Plans, Landscape Plans and Stormwater Plans Heritage Impact Assessment Report Arboricultural Impact Assessment		
<b>Report prepared by</b>	Senior Development Assessment Planner		

<b>Recommendation</b>	Approval, subject to conditions.
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<b>Summary of matters for consideration under Section 4.15</b> Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	<b>Yes</b>
<b>Legislative clauses requiring consent authority satisfaction</b> 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?	<b>Yes</b>



<b>Clause 4.6 Exceptions to development standards</b> If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	<b>Not Applicable</b>
<b>Special Infrastructure Contributions</b> Does the DA require Special Infrastructure Contributions conditions (under s7.24)?	<b>Not Applicable</b>
<b>Conditions</b> Have draft conditions been provided to the applicant for comment?	<b>No, standard conditions have been attached with no design changes</b>

### Site Plan



Figure 1: Aerial image of the subject site (orange arrow) and the surrounding properties.

## Executive Summary

### Proposal

- Alterations and additions to the existing dwelling house as below:
  - Demolition of rear lean-to areas to accommodate a new bathroom.
  - Addition of a new window along the northern elevation.
  - Construction of a link corridor to access new kitchen and dining area, and
  - Construction of an attached secondary dwelling with access from the rear.
 Additional works ancillary to dwelling include:
  - Removal of 2 existing site trees.

**Site and Locality**

2. The site is known as 50 Dora Street, Hurstville and is legally described as Lot 8 DP 9355. The site is a regular mid-block allotment with a total site area of 493.2m<sup>2</sup>. Currently on the site is a detached single storey residential dwelling.
3. There are no parking structures presently provided on the site. There is driveway access along the south side of the house leading to a now demolished garage located behind the house. The garage floor slab remains in place.
4. The site is an item of heritage significance, known as 'Busigny' Item No. 168, which is listed on Schedule 5 of Georges River Local Environmental Plan 2021.
5. Existing development in the locality consists of single and two storey detached homes.

**Zoning and Permissibility**

6. The site is zoned R2 Low Density Residential. The proposed works are ancillary to the existing dwelling and the construction of a secondary dwelling is permissible with consent under the zone applying to the land.

**Submissions**

7. The application was on public notification from 24 November 2022 to 8 December 2022 in accordance with the Georges River Development Control Plan 2021.
8. During this time no submissions were received opposing the proposed works.

**Reason for Referral to the Local Planning Panel**

9. The proposed works includes partial demolition of a dwelling which is listed as a heritage item under Schedule 5 of the Georges River Local Environmental Plan 2021.

**Conclusion**

10. An assessment has been undertaken in accordance with the applicable assessment criterion as outlined in this report and as such the proposal is considered satisfactory based upon the following conclusions:
  - The proposal includes a variation to the side setback control to the southern boundary of 900mm. The variation to the side setback control is acceptable under merit in this instance for the following reasons:
    - The non-compliance is due to the site constraints of the subject site being a heritage item which required a design that would be compatible with the envisioned character of the site.
    - In addition, the proposed rear setback allows for the retention of existing mature vegetation that would have otherwise been impacted if the proposed secondary dwelling were to be located to comply with the control.
    - The rooms along the southern boundary of the secondary dwelling include bedroom and bathroom which are low-traffic rooms and is not considered to cause an adverse visual or acoustic privacy impact to the adjoining properties.
    - Locating the secondary dwelling with the non-compliant side setback allows for a usable private open space and a continuous landscape corridor.
  - The proposal is consistent with the existing and desired future character of the area.
  - The proposal retains a single storey structure and all works are proposed to the rear of the dwelling.

## Report in Full Proposal

11. Alterations and additions to the existing dwelling house as below:
- Demolition of rear lean-to areas to accommodate a new bathroom.
  - Addition of a new window along the northern elevation.
  - Construction of a link corridor to access new kitchen and dining area, and
  - Construction of an attached secondary dwelling with access from the rear.
- Additional works ancillary to dwelling include:
- Removal of 2 existing site trees.

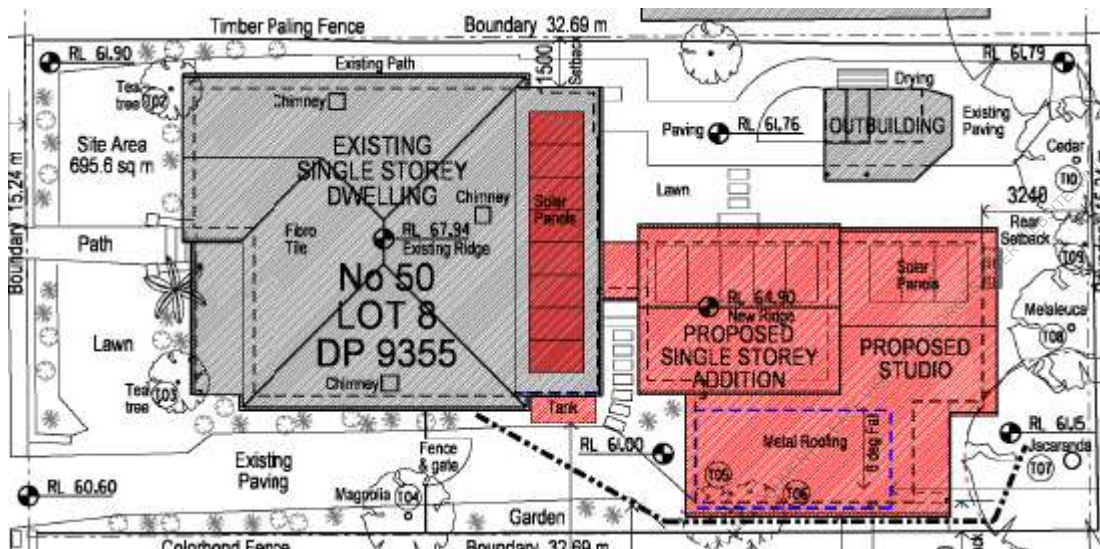


Figure 2: Site plan of the proposed works highlighted in red.

## Site and Locality

12. The site is known as 50 Dora Street, Hurstville and is legally described as Lot 8 DP 9355. The site is a regular mid-block allotment with a total site area of 493.2m<sup>2</sup>. Currently on the site is a detached single storey residential dwelling.
13. There are no parking structures presently provided on the site. There is driveway access along the south side of the house leading to a now demolished garage located behind the house. The garage floor slab remains in place.
14. The site is an item of heritage significance, known as 'Busigny' Item No. 168, which is listed on Schedule 5 of Georges River Local Environmental Plan 2021.
15. Existing development in the locality consists of single and two storey detached homes.





**Figure 3:** Rear of the subject property, viewed from the rear boundary.



**Figure 4:** Rear of the property when viewed from the front/side boundary.

## Background

16. On 15 November 2022 the application was lodged with Council.

17. On 20 December 2022 a request for additional Information letter was sent to the applicant relating to:
  - Heritage: Re-design of the proposal to reduce the overdevelopment of the site.
  - It was recommended a site meeting take place to discuss suitable design alternatives.
  - Amended stormwater plans demonstrating adequate drainage of the site.
  - Amended landscape plan addressing heritage concerns.
18. A on-site meeting was requested by the applicant and the owner which was held on the 31 January 2023 to discuss the content of the additional information requested with possible resolutions. Council's Senior Planner, Heritage Advisor, Landscape Consultant along with the applicant and the applicant's architect were in attendance.
19. On 1 March 2023 revised documentation was received which was re-referred to Council's technical specialists for comments.
20. On 4 April 2023 A second request for additional information letter was sent to the applicant relating to:
  - Heritage: Re-design of the proposal with potential suitable designs.
21. On 15 May 2023 revised documentation was received which was re-referred to Council's Technical Specialists for final comments. These plans form the basis of the below assessment report.

### Submissions and the Public Interest

22. The application was on public notification from 24 November 2022 to 8 December 2022 in accordance with the Georges River Development Control Plan 2021.
23. During this time no submissions were received opposing the proposed works.

### Planning Assessment

#### State Environmental Planning Policies

24. Compliance with the relevant State Environmental Planning Policies (SEPPs) are discussed in the table below.

State Environmental Planning Policy	Complies
State Environmental Planning Policy (Resilience and Hazards) 2021	Yes
State Environmental Planning Policy (Transport and Infrastructure) 2021	Yes
State Environmental Planning Policy (Housing) 2021	Yes
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Yes
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Yes

#### State Environmental Planning Policy - Chapter 4 – Remediation of Land

25. Clause 4.6 of the SEPP states that a consent authority must not consent to the carrying out of any development on land unless:
  - (a) It has considered whether the land is contaminated; and
  - (b) If the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and

- (c) If the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is suitable for that purpose.

26. A review of the site history of the subject property indicates that the site has historically been used for the purposes of residential purposes. Given this, there is no evidence that the site is contaminated, and as such the site is considered suitable for the proposed development.

27. **State Environmental Planning Policy (Biodiversity and Conservation) 2021**

- 1) *A council may issue a permit to a landholder to clear vegetation to which this Part applies in any non-rural area of the State.*
- 2) *A permit cannot be granted to clear native vegetation in any non-rural area of the State that exceeds the biodiversity offsets scheme threshold.*
- 3) *A permit under this Part cannot allow the clearing of vegetation—*
  - a. *that is or forms part of a heritage item or that is within a heritage conservation area, or*
  - b. *that is or forms part of an Aboriginal object or that is within an Aboriginal place of heritage significance, unless the council is satisfied that the proposed activity—*
  - c. *is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area, and*
  - d. *would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.*
- 4) *A permit may be granted under this Part subject to any conditions specified in the permit.*

Council's Landscape Officer has assessed the proposed removal of trees and found it to be satisfactory. The biodiversity offsets scheme threshold does not apply to the site.

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

28. *A BASIX Certificate is required to be lodged for any development application in NSW considered to be BASIX Affected Development by the Environmental Planning and Assessment Regulation 2000, unless the development constitutes BASIX Excluded Development (see Clause 3) of the Regulations.*
29. The development is BASIX Affected Development and is accompanied by a BASIX Certificate.
30. The supplied plan set incorporates the provisions of the BASIX and a condition of consent will be included in determination to ensure the proposal is constructed in accordance with a current BASIX.
31. Therefore, the proposal is considered to satisfy the requirements of this SEPP.
32. The details of the provided BASIX Certificate are provided below:

**BASIX Certificate Details**

Author:	Architelle
Certificate Date:	15 May 2023
Certificate Number:	A465495_02

**State Environmental Planning Policy (Housing) 2021**

LPP025-23

Chapter 3 Diverse Housing – Division 2 - Secondary dwellings permitted with consent		
Clause 52 (2) Development may be carried out with consent		
Standard	Proposed	Compliance
a) No dwellings, other than the principal dwelling and secondary dwelling will be located on the land.	The proposal does not propose any additional dwellings beyond the principal and secondary dwellings proposed.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
b) The total floor area of the principal dwelling and secondary dwelling is no more than the maximum floor area permitted for a dwelling house on the land under another Environmental Planning Instrument.	The total floor area does not exceed the maximum floor space ratio applicable to the site under Clause 4.4A of the LEP.	
c) The total floor area of the secondary dwelling is no more than 60m <sup>2</sup>	The total floor area of the secondary dwelling is 44m <sup>2</sup> .	
Clause 53 (2) - Non-discretionary development standards—the Act, s 4.15		
Standard	Proposed	Compliance
a) A detached secondary dwelling requires a minimum site area of 450m <sup>2</sup>	The subject site has a site area of 493.2m <sup>2</sup>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
b) The number of parking spaces provided on the site is the same as the number of parking spaces provided on the site immediately before the development is carried out.	No additional car parking is proposed for the secondary dwelling.	

**State Environmental Planning Policy (Transport and Infrastructure) 2021**

<i>Division 5 Electricity transmission or distribution networks</i>		
<b>Subdivision 2 Development likely to affect an electricity transmission or distribution network. Clause 2.48 Determination of development applications – other development</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
Where a development involves: (a) The penetration of ground within 2m of an underground electricity power line or electricity distribution pole, or within 10 of any part of an electricity tower,	Notice was sent to the electricity supply authority, with a response received. The matters identified in that response have been incorporated into the recommendation as conditions of consent.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A



<p>(b) Development carried out</p> <p>i. Within or immediately adjacent to an easement for electricity purposes;</p> <p>ii. Immediately adjacent to an electricity substation, or</p> <p>iii. Within 5m of an overhead electricity power line,</p> <p>(c) The installation of a swimming pool any part of which is-</p> <p>i. Within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level;</p> <p>ii. Within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool</p> <p>(d) Development involving, or requiring the placement of power lines underground, unless an agreement with respect to the placement of underground powerlines is in force between the electricity supply authority and the council for the land concerned.</p> <p>Council must give written notice to the electricity supply authority, and take into consideration any response to the notice received within 21 days after the notice is given.</p>		
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### Georges River Local Environmental Plan 2021

Part 1 – Preliminary		
Clause 1.2 – Aims of the Plan		
Standard	Proposal	Compliance
In accordance with Clause 1.2 (2)	The development is considered to be consistent with the aims of the plan.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Clause 1.2 – Aims of the Plan		
Standard	Proposal	Compliance
<b>Dwelling House</b> means: <i>a building containing only one dwelling.</i> And <b>Secondary dwelling</b> means	The proposed development is consistent with the definition.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

<p><i>a self-contained dwelling that—</i></p> <p>(a) is established in conjunction with another dwelling (the <b>principal dwelling</b>), and</p> <p>(b) is on the same lot of land as the principal dwelling, and</p> <p>i is located within, or is attached to, or is separate from, the principal dwelling.</p>		
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## Part 2 – Permitted or prohibited development

### Clause 2.3 – Zone objectives and Land Use Table

Standard	Proposal	Compliance
<p>The subject site zoned R2 General Residential :</p> <p>The objectives of the zone are:</p> <ul style="list-style-type: none"> <li>To provide for the housing needs of the community;</li> <li>To enable other land uses that provide facilities or services to meet the day to day needs of residents;</li> <li>The promote a high standard of urban design and built form that enhances the local character of the suburb and achieves a high level of residential amenity,</li> <li>To provide for housing within a landscaped setting that enhances the existing environmental character of the Georges River Local Government Area.</li> </ul>	<p>The proposal is consistent with the zone objectives as the development:</p> <ul style="list-style-type: none"> <li>Provides housing to service the community</li> <li>Is without negative impact on facilities and services</li> <li>Proposes a built form which is keeping with the character of the local community and promotes amenity</li> <li>Incorporates a satisfactory landscape plan which enhances the local environment.</li> </ul>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p>

### Land Use Table

R2 Low Density Residential	Ancillary development to the Dwelling House consists of secondary dwelling which is permissible under SEPP (Housing) 2021.	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p>
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## Part 4 – Principal Development Standards

### Clause 4.3 – Height of Buildings

Standard	Proposal	Compliance
<p>The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.</p> <p>Maximum height is 9m as identified on Height of Buildings Map</p>	<p>The proposal has a maximum overall height of 4.5m above existing ground level.</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p>

### Clause 4.4A - Exceptions to floor space ratio—certain residential accommodation

Standard	Proposal	Compliance
<p>The maximum floor space ratio for a <b>dwelling house</b> (as the site is situated on land identified as “Area 1” on the <a href="#">Floor Space Ratio Map</a>) must not exceed the maximum floor space ratio specified below (based on allotment size).</p> <p><b><u>Site area not more than 650m<sup>2</sup></u></b>  Maximum 0.55:1  (or 271.26m<sup>2</sup>)</p>	<p>The proposed dwelling house gross floor area compares as follows:</p> <p>GFA: 164m<sup>2</sup></p> <p>FSR: 0.33:1</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>Clause 4.6 - Exceptions to development standards</b>		
Standard	Proposal	Compliance
In accordance with Clause 4.6 (1) through to and including (8)	No variation proposed	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
<b>Part 5 – Miscellaneous Provisions</b>		
<b>Clause 5.4 Controls relating to miscellaneous permissible uses</b>		
Standard	Proposal	Compliance
<p>The total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater:</p> <p>(a) 60m<sup>2</sup> or</p> <p>(b) 10% of the floor area of the principal dwelling.</p>	The proposal complies with this requirement.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>Clause 5.7 – Development below mean high water mark</b>		
Standard	Proposal	Compliance
Development consent is required to carry out development on any land below the mean high water mark of any body of water subject to tidal influence (including the bed of any such water).	The proposal does not involve works below the Mean High Water Mark.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
<b>Clause 5.10 – Heritage conservation</b>		
Standard	Proposal	Compliance
Council must, before granting consent under this clause with respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned.	<p>The site contains Item number I168 and known as ‘Busigny’ as listed in Schedule 5 of the LEP.</p> <p>‘Busigny’ is a notably intact and asymmetrical late Federation style vernacular bungalow in its original setting.</p> <p>The proposal has been reviewed by Council’s Heritage Advisor who has considered the effect of the proposal</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

	on the item and is satisfied, subject to conditions that the proposal is appropriate in this regard. Detailed comments are provided later in this report.	
<b>Clause - 5.21 Flood Planning</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area.	The subject land is not flood affected	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
<b>Part 6 – Additional Local Provisions</b>		
<b>Clause 6.1 – Acid sulfate soils</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
<p>(2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.</p> <p><b>Class 5</b> The site is identified as containing Class 5 Acid Sulfate Soils.</p> <p>Consent may not be granted for any Works within 100 metres of adjacent Class 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the water table is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 2, 3 or 4 land unless an acid sulfate soils management plan has been prepared.</p>	The site identified as containing Class 5 acid sulfate soils, but the works are not located on land within 500m of land of a lower class, and is not below 5m Australian Height Datum. No further action is therefore required.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>Clause 6.2 Earthworks</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
<p>Council must consider the following prior to granting consent for any earthworks:</p> <p>(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</p> <p>(b) the effect of the</p>	<p>The proposal has been considered in this regard. The proposed earth works are satisfactory with regards the matters identified.</p> <p>The development has been executed in a manner that minimizes disruption to drainage patterns and ensures soil stability in the surrounding area.</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A



<p>development on the likely future use or redevelopment of the land,</p> <p>(c) the quality of the fill or the soil to be excavated, or both,</p> <p>(d) the effect of the development on the existing and likely amenity of adjoining properties,</p> <p>(e) measures to minimise the need for cut and fill, particularly on sites with a slope of 15% or greater, by stepping the development to accommodate the fall in the land,</p> <p>(f) the source of any fill material and the destination of any excavated material,</p> <p>(g) the likelihood of disturbing relics,</p> <p>(h) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</p> <p>(i) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p>	<p>Measures have been implemented to mitigate any adverse effects on the existing and anticipated amenity of neighbouring properties caused by the development.</p> <p>The design and construction of the development have effectively minimized the need for extensive cut and fill operations.</p> <p>The sourcing of any fill material will be subject to conditions.</p> <p>Adequate measures have been proposed and implemented to avoid, minimize, or mitigate any potential negative impacts associated with the proposed earthworks.</p>	
<b>Clause 6.3 – Stormwater Management</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
<p>(2) In deciding whether to grant development consent for development, the consent authority must be satisfied that the development—</p> <p>(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and</p> <p>(b) includes, if practicable, on-site stormwater detention or retention to minimise stormwater runoff volumes and reduce the development's reliance on mains water, groundwater or river water, and</p> <p>(c) avoids significant adverse impacts of stormwater runoff on adjoining properties, native</p>	<p>The proposal has been considered in this regard. The proposal is satisfactory with regards the matters identified.</p> <p>The development maximizes water permeable surfaces, considering soil characteristics for on-site water infiltration.</p> <p>The development incorporates on-site stormwater detention/retention to minimize runoff volumes.</p> <p>Adverse impacts on neighbouring properties, native bushland, receiving waters, and the downstream stormwater system and. public drainage systems are also not considered to be impacted.</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> N/A</p>

bushland, receiving waters and the downstream stormwater system or, if the impact cannot be reasonably avoided, minimises and mitigates the impact, and (d) is designed to minimise the impact on public drainage systems.		
<b>Clause 6.4 – Foreshore area and coastal hazards and risk</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
(2) This clause applies to the following land— (a) and identified on the Coastal Hazard and Risk Map, (b) land identified on the Foreshore Building Line Map.	The site is not located on land identified in the Coastal Hazard and Risk Map or on the Foreshore Building Line Map.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
<b>Clause 6.5 – Riparian land and waterways</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
(2) This clause applies to land identified as “Sensitive land” on the Riparian Lands and Waterways Map.	The site is not located on Sensitive Land as identified on the Riparian Land and Waterways Map.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
<b>Clause 6.6 Foreshore scenic protection area</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
(2) This clause applies to land identified as “Foreshore scenic protection area” on the Foreshore Scenic Protection Area Map.	The site is not located within the Foreshore Scenic Protection Area as identified on the Foreshore Scenic Protection Area Map.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
<b>Clause 6.8 Development in areas subject to aircraft noise</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
NOTE: Applies to 67-89 Croydon Road, 1-7 Somerset (odd only), 2-8 Bristol (even), 1-5 Bristol (odd) in Hurstville.	The proposal is not located on the land identified by the Clause.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
<b>Clause 6.9 Essential Services</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
Development consent must not be granted to development unless Council is satisfied that any of the following services that are essential for the development are available, or that adequate arrangements have been made to make them available when required a) the supply of water, b) the supply of electricity, c) the supply of telecommunications facilities,	The proposal has, or includes arrangements that will make available, the: <ul style="list-style-type: none"> <li>the supply of water,</li> <li>the supply of electricity,</li> <li>the supply of telecommunications facilities,</li> <li>the disposal and management of sewage,</li> <li>stormwater drainage or on-site conservation,</li> <li>vehicular access.</li> </ul>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

d) the disposal and management of sewage e) stormwater drainage or on-site conservation, f) suitable vehicular access.		
<b>Clause 6.10 Design Excellence</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
(2) This clause applies to development on land within the Foreshore Scenic Protection Area.	The proposal is not located in the Foreshore Scenic Protection Area, or in the specified zones.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
<b>Clause 6.12 – Landscaped areas</b>		
<b>Standard</b>	<b>Proposal</b>	<b>Compliance</b>
<p>(4) Development consent must not be granted to development on land to which the clause applies unless the consent authority is satisfied that the development</p> <p>(a) allows for the establishment of appropriate plantings— that are of a scale and density commensurate with the height, bulk and scale of the buildings to which the development relates, and</p> <p>that will maintain and enhance the streetscape and the desired future character of the locality, and</p> <p>(b) maintains privacy between dwellings, and</p> <p>(c) does not adversely impact the health, condition and structure of existing trees, tree canopies and tree root systems on the land or adjacent land, and</p> <p>(d) enables the establishment of indigenous vegetation and habitat for native fauna, and</p> <p>(e) integrates with the existing vegetation to protect existing trees and natural landscape features such as rock outcrops, remnant bushland, habitats and natural watercourses.</p> <p>(5) Development consent must not be granted to development on land to which this clause applies unless a percentage of</p>	<p>The subject site is situated within the R2 Low Density Residential Zone</p> <p>The assessment of the proposal has identified that the proposal is satisfactory that the provided landscape scheme and development is satisfactory with regards the matters identified in the Clause.</p> <p>The proposal provides a landscaped area equivalent to 28% (or 139m<sup>2</sup>).</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

the site area consists of landscaped areas that is at least—		
(a) For a dwelling house located on land outside the Foreshore Scenic Protection Area—20% of the site area (equivalent to <b>98.64m<sup>2</sup></b> )		

## Georges River Development Control Plan 2021

### Part 3 – General Planning Considerations

<b>3.2 Biodiversity</b>		
<b>3.2.1 Trees and Vegetation</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
Tree removal and replacement planting is to comply with the provisions of the relevant SEPP's and Council's Tree Management Policy.	The proposal has been assessed with regards to the identified matters and complies with the identified requirements (see specialist comments).	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>3.2.2 Green Web - All Green Web Areas</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
2. Green web areas to be landscaped with species indigenous to the Georges River Council area as per Council's Biodiversity Guide and Appendix 1 – Tree Planting of the Tree Management Policy.	The proposal incorporates planting of species as specified.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
3. Development in Green Web areas should contribute to the maintenance of local habitats and connectivity between bushland remnants.	The proposed development and landscaping scheme contributes to the maintenance of local habitats and connectivity between bushland remnants.	
4. Development in Green Web areas should seek to retain unique environmental features of the site including: <ul style="list-style-type: none"> <li>i. Rock outcrops;</li> <li>ii. Wetlands and the like;</li> <li>iii. Watercourses, drainage lines and riparian land;</li> <li>iv. Groups of significant trees and vegetation; and</li> <li>v. Mature trees with hollows and other fauna habitat features on the site.</li> </ul>	The proposal seeks to retain the specified features.	
5. In Green Web areas, bushfire asset protection zones must not be in identified area of key habitat and corridors, except in	The proposal relates to an excluded development type.	

the case of development or redevelopment of single dwellings and secondary dwellings on existing lots, or alterations and additions to existing dwellings.		
6. Development should ensure that off-site impacts into adjoining bushland are minimised, such as weed invasion, increased run-off, and stormwater pollutants.	The proposal adequately addresses the specified impacts.	
<b>3.3 Landscaping</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
<p>1. Landscaping on site should be incorporated into the site planning of a development to (where appropriate):</p> <ul style="list-style-type: none"> <li>i. Reinforce the desired future character of the locality;</li> <li>ii. Maintain significant landscape features;</li> <li>iii. Be consistent with any dominant species in the adjoining area of ecological significance;</li> <li>iv. Incorporate fire resistant species in areas susceptible to bushfire hazard;</li> <li>v. Provide planting within setback zones;</li> <li>vi. Soften the visual impact of buildings, carparks and roads;</li> <li>vii. Cater for outdoor recreation areas;</li> <li>viii. Separate conflicting uses;</li> <li>ix. Screen undesirable elements;</li> <li>x. Provide opportunities for on-site stormwater infiltration, in particular around existing trees and vegetation;</li> <li>xi. Consider the future maintenance requirements of landscaped areas;</li> <li>xii. Protect the effective functioning of overhead, surface level or</li> </ul>	<p>The landscape scheme proposed addresses the matters identified as appropriate.</p> <p>It achieves this by maintaining significant landscape features at the rear.</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

underground utilities; and xiii. Improve the aesthetic quality of the development.		
2. Landscape planting should achieve a mature height in scale with the structures on the site.	The proposed landscaping is of an appropriate scale relative to the proposed structures.	
3. Where landscaping is required, this should incorporate locally indigenous plants listed in the GRDCP 2021 Backyard Biodiversity Guide and Council's Tree Management Policy.	The proposal suitably incorporates locally indigenous species.	
<b>3.5 Earthworks</b>		
<b>3.5.1 Earthworks</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
1. Natural ground level should be maintained within 900mm of a side or rear boundary.	The proposal maintains existing ground level near site and rear boundaries.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
2. Cut and fill should not alter natural or existing ground levels by more than 1m	The proposal does not alter natural/existing ground level by more than 1m	
3. Habitable Rooms (not including bathrooms, laundries and storerooms) are to be located above existing ground level.	Habitable rooms are located above existing ground level.	
4. Rock outcrops, overhangs, boulders, sandstone platforms or sandstone retaining walls are not to be removed or covered.	All existing elements as specified are being retained.	
5. Development is to be located so that the clearing of vegetation is avoided.	The proposal and associated earthworks is sited so that vegetation removal is avoided where practical and desirable.	
6. Cut and fill within a tree protection zone of a tree on the development site or adjoining land must be undertaken in accordance with AS4970 (protection of trees on development sites).	Condition(s) are to be applied to ensure that the development complies with accordance with AS4970.	
7. Soil depth around buildings should be capable of sustaining trees as well as shrubs and smaller scale gardens.	Adequate soil depths are provided which can sustain vegetation.	
8. Earthworks are not to increase	The earthworks proposed do not impact	

or concentrate overland stormwater flow or aggravating existing flood conditions on adjacent land.	adversely on stormwater or flood with regards to impacts on adjoining properties.	
9. Fill material must be virgin excavated natural material (VENM)	Condition(s) are to be applied to ensure that any fill is to be VENM.	

### 3.5.2 Construction Management/Erosion and Sediment Control

Control	Proposal	Compliance
1. Development must minimise any soil loss from the site to reduce impacts of sedimentation on waterways through the use of the following: <ul style="list-style-type: none"> <li>- Sediment fencing;</li> <li>- Water diversion;</li> <li>- Single entry/exit points</li> <li>- Filtration materials such as straw bales and turf strips.</li> </ul>	<p>The proposal includes a sediment control plan indicating implementation of these measures.</p> <p>A suitable condition will be included in the consent which ensures compliance with the control.</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
2. Development that involves site disturbance is to provide an erosion and sediment control plan which details the proposed method of soil management and its implementation. Such measures are to be in accordance with The Blue Book – Managing Urban Stormwater, Soils & Construction by LandCom		
3. Development is to minimise site disturbance including impacts on vegetation and significant trees and the need for cut and fill.	The proposal minimises cut and fill and site disturbance.	
5. Development which has a high potential risk to groundwater must submit a geotechnical report to address how possible impacts on groundwater are minimised.	The proposal is not considered to have a high potential risk to groundwater.	

### 3.6 Contaminated Land

Control	Proposal	Compliance
2. The application is accompanied by sufficient information to determine: <ul style="list-style-type: none"> <li>i. The extent to which the land is contaminated</li> </ul>	<p>The Assessing Officer has reviewed:</p> <ul style="list-style-type: none"> <li>• Councils Contamination Records</li> <li>• Arial Imaging (inc. historic imaging)</li> <li>• Conducted a site inspection.</li> </ul>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

<p>(both soil and ground water);</p> <p>ii. Whether the land is suitable in its contaminated state (or will be suitable after remediation) for the purpose for which the development is proposed to be carried out;</p> <p>iii. Whether the land requires remediation to make the land suitable for the intended use prior to that development being carried out; and</p> <p>iv. If the land has been previously investigated or remediated, development cannot be carried out until Council has considered the nature, distribution, and levels of residues remaining on the land, and Council has determined that the land is suitable for the intended use.</p> <p>Operating practices and technology must be employed to prevent contamination of ground water.</p>	<p>A review of the above indicates that the site has historically been used for Residential purposes and there is no evidence that any use under Table 1 of the contaminated land planning guidelines has occurred on site. Given this, there is no evidence that the site is contaminated and the site is considered suitable for the proposed development.</p>	
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### 3.7 – Heritage

#### 3.7.1 - Aboriginal Cultural Heritage

Control	Proposal	Compliance
<p>1. Approvals to be obtained from relevant agencies prior to works commencing on sites that contains, or has potential to contain Aboriginal objects;</p> <p>2. Building and landscaping works, including paths and driveways, are not to disturb any aboriginal objects.</p> <p>3. New works, including excavations for swimming pools, jetties and boat sheds is to be sited away from the foreshore where possible;</p> <p>4. New works are to be sited away from rock outcrops and</p>	<p>There is no known evidence that Aboriginal objects are present on the site.</p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> N/A</p>



overhangs		
<b>3.7.2 – Non-Aboriginal Cultural Heritage</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
Non-Aboriginal Heritage 1. Retain features (including landscape features) that contribute to the significance of the item; 2. Remove unsympathetic elements, especially where substantial changes are proposed to a heritage item, and there is potential for an improved heritage setback; 3. New work is to be consistent with the massing, form, and scale of the significant features of the heritage item; 4. Retain significant fabric, features, or parts of the heritage item that represent key periods of the item's history or development; 5. Locate change away from original areas of the heritage item that are intact. For example, where a building's significance is related to the front of a building, locate new works to the rear. 6. All works are to be consistent with an adopted Conservation Management Plan/s, where applicable.	Council's Heritage Advisor has reviewed the proposal and is satisfied that the outlined matters are addressed, and the proposal is suitable for the site. A detailed assessment is discussed under the Referrals section.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>3.7.3 - Archaeological Management</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
1. Minimise depth of any excavation and locate new work away from areas known to contain archaeological relics 2. Ensure reversibility of changes.	The site is not known to contain archaeological remains. Nonetheless, a condition is included to ensure the appropriate management of unexpected finds where they occur.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>3.7.4 - Heritage Items – Specific Site Requirements</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
(Applies to 24 Penshurst Avenue Penshurst and 211-217 Rocky Point Road Ramsgate	The application is not located in an area subject to the controls of this section	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A

Matters in Appendix 2 of the DCP to be considered.		
<b>3.7.5 - Heritage Conservation Areas</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
<ol style="list-style-type: none"> <li>Any development in the HCA is to address and respond to the requirements in the relevant HCA Guidelines contained in Appendix 3.</li> <li>New development must demonstrate how it respects the heritage values of the HCA (as detailed in the guidelines).</li> <li>Demolition of dwellings in the HCAs identified as Contributory or Neutral will generally not be supported, unless a structural assessment has been undertaken by a suitably qualified professional and a report is submitted to Council confirming that the building is structurally unsound.</li> </ol>	The site is not located in a heritage conservation area.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
<b>3.7.6 - Development in the vicinity of a Heritage Item or Heritage Conservation Area</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
<ol style="list-style-type: none"> <li>Respect and respond to the curtilage, setbacks, form and style of the heritage item or heritage conservation area in the design and siting of new work.</li> <li>Maintain significant public domain views to and from the heritage item or HCA.</li> <li>Ensure compatibility with the orientation and alignment of the heritage item.</li> <li>Provide an adequate area around the heritage item to allow for its interpretation.</li> <li>Retain original or significant landscape features that are associated with the heritage item or that contribute to its setting.</li> <li>Protect and allow</li> </ol>	The proposal is not within the vicinity of a heritage item nor is it within a heritage conservation area.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A

interpretation of archaeological features as appropriate.		
<b>3.10 Water Management</b>		
<b>Stormwater Management</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
1. Development must comply with Council's Stormwater Management Policy.	The proposal has been reviewed by Council's Development Engineer and has been found to be satisfactory with regards to this clause.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
2. Water Sensitive Urban Design (WSUD) principles are to be incorporated into the design of stormwater drainage, on -site retention and detention, landscaping and within the overall design of the development.	Conditions suggested by Council's Engineer have been applied.	
<b>Water Quality</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
6. Measures to control pollutants in stormwater discharge from development sites are to be included in any development.	The proposal includes a sediment control plan, and is otherwise satisfactory with regards the relevant parts of the clause.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
7. Runoff entering directly to waterways or bushland is to be treated to reduce erosion and sedimentation, nutrient and seed dispersal.		
<b>3.11 Ecologically Sustainable Development</b>		
<b>Residential Buildings</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
1. All BASIX affected development must comply with SEPP (Building Sustainability Index: BASIX) 2004.	A BASIX has been provided with the application, the proposal shall be conditioned to comply with the BASIX.  See BASIX SEPP assessment	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>3.12 Waste Management</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
1. Development must comply with Council's Waste Management requirements regarding construction waste and ongoing management of waste materials (per Appendix 4 of the GRDCP).	The proposal complies with Appendix 4 of the GRDCP and therefore complies with the controls of this section.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

<b>3.13 Parking Access and Transport</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
As per the table within this section the development is to provide parking at the following rates:	No additional car parking is proposed within this application.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
<b>3.15.1 Infrastructure</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
3. The public domain should be improved by new street plantings and footpath improvements	The proposed development is not considered to warrant the need for new street tree plantings or footpath upgrades	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A

#### Part 4 – General Land Use

33. The provisions of this part relate to specific development types not subject of this application and are not applicable to this proposal.

#### Part 5 – Residential Locality Statements

<b>Hurstville (Non-CBD)</b>	
<b>Future Desired Character</b>	<b>Consistency with Desired Character</b>
Retain and enhance the existing low density suburban residential character through articulated contemporary developments. Conserve the high quality of existing streetscape within the Heritage Conservation Area. Encourage well-designed medium and high density residential development towards the Hurstville City Centre. Encourage tree planting and landscaping within the front setback space to enhance the existing leafy streetscape character. Encourage consistent setbacks of buildings from the street and the provision of landscaping within the front setback with uniform fence heights.	The proposal is consistent with the future desired character of the precinct.

#### Part 6 – Residential Controls

**6.1.2 Single Dwellings - 6.1.2.1 Streetscape Character and Built Form**

<b>6.1.2.1 Streetscape Character and Built Form</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
1. New buildings and additions are to consider the Desired Future Character statement in Part 5 of this DCP.	See Part 5 Assessment above.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
2. New buildings and additions are to be designed with an articulated front façade.	Achieved.	
3. Developments on sites with two (2) or more frontages are to address all frontages.	The site only has one (1) site frontage.	
4. Dwelling houses are to have windows presenting to the street from a habitable room to encourage passive surveillance.	Achieved.	
5. Development must be sensitively designed so as to minimise adverse impacts on the amenity and view corridors of neighbouring public and private property while maintaining reasonable amenity for the proposed development and is to balance this requirement with the amenity afforded to the new development.	Achieved.	
6. The maximum size of voids at the first floor level should be a cumulative total of 15m <sup>2</sup> (excluding voids associated with internal stairs).	Not applicable.	

<b>6.1.2.2 Building Scale and Height</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
1. New buildings are to consider and respond to the predominant and desired future scale of buildings within the neighbourhood, and consider the topography and form of the site.	The alterations and additions to the existing dwelling responds to the predominant, and desired future scale of the locality, and suitable responds to site topography.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
2. On sites with a gradient or cross fall greater than 1:10, dwellings are to adopt a split level approach to minimise excavation and fill. The overall design of the dwelling	N/A	

should respond to the topography of the site.		
3. A maximum of two (2) storeys plus basement is permissible at any point above ground level (existing). Basements are to protrude no more than 1m above existing ground level.	The proposal complies with this height. Basements are not proposed.	

**6.1.2.3 Setbacks - Front Setbacks**

Control	Proposal	Compliance
1. The minimum setback from the primary street boundary is: i) 4.5m to the main building wall / facade; ii) 5.5m to the front facade of a garage or carport; or iii) Where the prevailing street setback is greater than the minimum, the average setback of dwellings on adjoining lots is to be applied.	No changes proposed to the existing front setback.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A

**6.1.2.3 Setbacks - Side and Rear Setbacks**

Control	Proposal	Compliance
1. Buildings are to have a <b>minimum rear setback</b> of 15% of the average site length equivalent to 4.9m; or 6m, whichever is the greater (excluding detached secondary dwellings – see Point 12 in Section 6.1.2.12- Secondary Dwellings of this DCP).	The proposal provides a rear setback of 15m at its nearest point.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
2. The minimum <b>side setbacks</b> for ground and first floor are:	The lot width is 15.24m	
ii) 1.2m for lots greater than 12.5m in width measured at the front building line for the length of the development.	1.5m at nearest point.	

**6.1.2.4 - Private Open Space**

Control	Proposal	Compliance
1. Private open space is to be located at the rear of the property and/or behind the building line and is to have a minimum area of 60m <sup>2</sup> with minimum dimensions of 6m and located on the same level (not terraced or over rock outcrops).	116.3m <sup>2</sup> provided, all with compliant dimensions and on the same level.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
2. Private open space is to be provided for all dwellings, (with the exception of secondary dwellings, which are able to	Provided.	

share the private open space of the principal dwelling).		
3. Private open space is to be located so as to maximise solar access.	Achieved.	
4. Private open space is to be designed to minimise adverse impacts upon the privacy of the occupants of adjacent buildings.	Achieved.	

**6.1.2.5 Landscaping**

Control	Proposal	Compliance
1. Landscaped area (has the same meaning as GRLEP 2021) is to be provided in accordance with the table contained within Clause 6.12 Landscaped areas in certain residential and environmental protection zones of GRLEP 2021.	Achieved.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
3. The front setback area is to have an area where at least one (1) tree capable of achieving a minimum mature height of 10m with a spreading canopy can be accommodated. A schedule of appropriate species to consider is provided in Council's Tree Management Policy.	No changes are proposed to the existing front setback landscaped area.	

**6.1.2.6 Excavation (Cut and Fill)**

Control	Proposal	Compliance
1. Any excavation must not extend beyond the building footprint, including for any basement car park.	Achieved.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
2. The depth of cut or fill must not exceed 1.0m from existing ground level, except where the excavation is for a basement car park.	Achieved.	
3. Developments should avoid unnecessary earthworks by designing and siting buildings that respond to the natural slope of the land. The building footprint must be designed to minimise cut and fill by allowing the building mass to step in accordance with the slope of the land.	Achieved.	

**6.1.2.7 Vehicular Access, Parking and Circulation**

Control	Proposal	Compliance
1. Car parking is to be provided in accordance with the requirements in Part 3 of this DCP.	No changes are proposed to the existing car parking.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A

<b>6.1.2.8 - Visual Privacy</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
1. Windows from active rooms are to be offset with windows in adjacent dwellings, or appropriately treated so as to avoid direct overlooking onto neighbouring windows.	Achieved.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
4. Windows for primary living rooms must be designed so that they reasonably maintain the privacy of adjoining main living rooms and private open space areas.	Achieved.	
5. Development applications are to be accompanied by a survey plan or site analysis plan (to AHD) of the proposed dwelling showing the location of adjoining property windows, floors levels, window sill levels and ridge and gutter line levels.	Provided.	

<b>6.1.2.10 Solar Access</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
1. New buildings and additions are sited and designed to facilitate a minimum of 3 hours direct sunlight between 9am and 3pm on 21 June onto living room windows and at least 50% of the minimum amount of private open space.	Achieved. The proposal maintains a single storey structure and is not considered to include adverse solar access impacts to the adjoining properties or the subject private open space.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

<b>6.1.2.11 Materials, Colour Schemes and Details</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
1. Large expansive surfaces of predominantly white, light or primary colours which would dominate the streetscape or other vistas should not be used.	Achieved.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
4. All materials and finishes utilised should have low reflectivity.	Achieved.	

<b>6.1.2.12. Secondary Dwellings</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
2. For a dwelling that includes a secondary dwelling, the minimum private open space requirements for the principal dwelling must be complied with.	Achieved.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
6. The minimum side and rear boundary setbacks is 1.5m excluding laneways where a nil setback is permitted.	Sides – min 900mm  Rear – Min 3.246m	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> <b>No, refer to discussion below</b>



8. Car parking required for the principal dwelling of this DCP must be provided in accordance with the requirements outlined in Part 3 General Issues of this DCP.	No additional car parking is proposed for the secondary dwelling.	<b>compliance table.</b> <input type="checkbox"/> N/A
9. The minimum landscaped area specified in the Georges River LEP 2021 for single dwelling development is to be provided on the site.	Provided.	
10. Stormwater management is to be provided in accordance with the provisions contained in Dwelling Houses.	Provided.	
<b>6.1.2.13 Site Facilities</b>		
<b>Control</b>	<b>Proposal</b>	<b>Compliance</b>
1. All dwellings are to be provided with adequate and practical internal and external storage (garage, garden sheds, etc.).	Provided.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
2. Provision for water, sewerage and stormwater drainage for the site shall be nominated on the plans to Council's satisfaction.	Provided.	

**Assessment – Side Setback Variation**

34. The proposal includes a variation to the side setback control to the southern boundary of 900mm. The variation to the side setback control is acceptable under merit in this instance for the following reasons:
- The proposal includes a compliant side setback to the northern boundary and a compliant rear setback to the eastern boundary.
  - The non-compliance is due to the site constraints of the subject site being a heritage item which required a design that would be compatible with the envisioned character of the site.
  - In addition, the proposed rear setback allows for the retention of existing mature vegetation that would have otherwise been impacted if the proposed secondary dwelling were to be located to comply with the control.
  - The rooms along the southern boundary of the secondary dwelling include bedroom and bathroom which are low-traffic rooms and is not considered to cause an adverse visual or acoustic privacy impact to the adjoining properties.
  - Locating the secondary dwelling with the non-compliant side setback allows for a usable private open space and a continuous landscape corridor.

**The Likely Impacts of the Development**

<b>Likely Impacts of the Development</b>	
Natural Environment	The development is located within an established residential area and is not considered to result in unreasonable impact on the natural environment.
Built Environment	The built form of the proposed development is of a bulk and scale that is appropriate with its setting and consistent with the desired future character of the area. The development is occurring in a locality where adequate

	infrastructure exists to support the development during construction and ongoing use.
Social Impact	The proposal will have no significant social impact on the locality.
Economic Impact	The proposal is not considered to result in unreasonable economic impact

## Referrals

Internal Referrals		
Specialist	Comment	Outcome
Development Engineer	No objections raised to the proposal and conditions suggested	Conditions imposed
Landscape Officer	No objections raised to the proposal and conditions suggested	Conditions imposed
Heritage Officer	<p>No objections raised to the proposal and the following comments were provided:</p> <ul style="list-style-type: none"> <li>Amended plans have been received which detail substantial design revisions to address the heritage issues previously raised. The revised proposal now presents as a 'pavilion-styled' addition, having a lightweight and narrow-throated connection to the existing dwelling. This substantial design change accords with previous advice provided to the applicant and is considered acceptable.</li> <li>The revised design will allow for the retention of the entire silhouette and form of the existing dwelling and will enable the future reversal of the works without obscuring the significant fabric. The additions will also protect the skillion roofed rear verandah, which will be retained and adapted for use as a bathroom, with restorative works to the external weatherboard cladding and windows.</li> <li>The overall scale of the rear additions is acceptable, adopting a traditionally formed and proportioned language that will assimilate well with the heritage item.</li> <li>While the footprint of the additions will reduce the available open garden space at the rear and will diminish the open landscaped curtilage, this is considered acceptable on the basis that the siting of the additions does not impact on any significant extant landscaped garden</li> </ul>	Conditions imposed

	<p>elements or structures, is partly situated over the footprint of a former garage structure and that the design has the least pressure on vertical or horizontal additions to the heritage item that would otherwise have an unacceptable visual and physical impact.</p> <ul style="list-style-type: none"> <li>Therefore, the proposed development is supported on heritage grounds, subject to conditions, which are required to address heritage issues.</li> </ul>	
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### External Referrals

Referral Body	Comment	Outcome
Ausgrid	No objections raised to the proposal.	No conditions required.

### Developer Contributions

35. The development is subject to Section 7.11 Contributions. In accordance with the Georges River Local Development Contributions Plan 2021, a condition of consent requiring payment of the contribution and identifying it is subject to indexation in accordance with the plan has been imposed.

### Planning Agreements

36. There is no planning agreement applicable to the development.

### EP&A Regulation 2000

37. No matters within the Regulation are affected by the modification.

### Suitability of the site for the development

38. The site is zoned R2 - Low Density Residential. The proposal is a permissible form of development in this zone. The proposed changes do not affect the suitability of the site for the development, and do not impact the development potential of the adjoining allotments.

## Determination and Statement of Reasons

### Statement of Reasons

39. The reasons for this recommendation are:
- The development is permissible in the R2 Low Density Zone.
  - The proposed development complies with the requirements of the relevant environmental planning instruments.
  - The proposed development complies with the objectives of the relevant environmental planning instruments where numeric compliance has not been achieved.
  - The proposal provides a quality development that will establish a positive urban design outcome while suitably responding to the heritage values of the listed item on the site.

## Determination

40. That Georges River Local Planning Panel support the proposal as it is generally compliant with relevant planning policies, provides a suitable development that responds to the heritage item on the site, and satisfies the zone objectives. Approval of the development is unlikely to result adverse environmental or social impacts on the locality. The design proposed is considered to be acceptable for the site.
41. Pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 (as amended), DA2022/0399 for alterations and additions to an existing dwelling and construction of a secondary dwelling at the rear on Lot 8 in DP 9355 on land known as 50 Dora Street, Hurstville, is recommended for approval.

### Development Details

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

Architectural Drawings prepared by Architelle – Architecture and Interiors

Description	Drawing No	Date
Site Plan/Roof Plan	DA-02a	15/05/2023
Ground Floor Plan	DA-03a	15/05/2023
South/West Elevation and Section C	DA-04a	15/05/2023
North/East Elevation and Section D	DA-05a	15/05/2023
Section A and Section B	DA-06a	15/05/2023
Landscape Area Plan	DA-08a	15/05/2023

#### Stormwater Plans relied upon:

- Stormwater plan dwg No. D2, and D3, Issue B, dated 12/05/2023, prepared by NY Civil Engineering consultant.

#### Documents relied upon:

- Arboricultural Impact Statement, prepared by AIA Stephen Warner 13 July 2023
- Waste Management Plan, prepared by Architelle dated 16 August 2022
- BASIX report No. A465495\_02 prepared by Architelle dated 15 May 2023
- BASIX report No. 1319834S, prepared by Architelle dated 15 August 2022
- Statement of Heritage Impact prepared by Architelle dated 16 August 2022
- Schedule of Materials and Finishes prepared by Margaret Skilbeck dated 12 August 2022

### Separate Approvals Required Under Other Legislation

2. **Section 138 Roads Act 1993 and Section 68 Local Government Act 1993 (APR7.2)**  
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](http://www.georgesriver.nsw.gov.au). For further information, please contact Council’s Customer Service Centre on (02) 9330 6222.

3. **Driveway Crossing - Minor Development** – Constructing a driveway crossing and/or footpath requires a separate approval under Section 138 of the [Roads Act 1993](#) prior to the commencement of those works. To apply for approval, complete the ‘Application for Driveway Crossing and Associated Works on Council Road Reserve’ issued under Section 138 Roads Act’ which can be downloaded from Georges River Council’s website at [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au). Lodge the application form, together with the associated fees at Council’s Customer Service Centre, during business hours. Refer to Section P1 and P2, in Council’s adopted Fees and Charges for the administrative and inspection charges associated with driveway crossing applications.

An approval for a new or modified vehicular crossing will contain the approved access and/or alignment levels which will be required to construct the crossing and/or footpath. Once approved, all work shall be carried out in accordance with Council’s specifications applicable at the time, prior to the issue of an Occupation Certificate. The design boundary level is to be received from Council prior to construction of the internal driveway.

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

## Requirements of Concurrence, Integrated & Other Government Authorities

5. **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](http://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.

### Prior to the Issue of a Construction Certificate

6. **A Site Management Plan** detailing all weather access control points, sedimentation controls, fencing, builder's site sheds office, amenities, materials storage and unloading arrangements must be submitted with the application for the Construction Certificate.
7. **Erosion & 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.

8. **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 the PCA satisfaction.
  - (a) Prior to the issue of the construction certificate, the PCA shall investigate and ensure that the stormwater discharge pipe across the nature strip shall not be exposed due to the low level front edge of the concrete footpath.

- (b) The PCA shall ensure that any regrading or adjustment to the front concrete footpath to construct the stormwater outlet pipe shall be done to the satisfaction and approval of the design engineer in Council's Asset and Infrastructure unit, prior to the issue of the construction certificate. Any modification to the front pedestrian concrete footpath as a result of this development to drain the site requires a design approval from Council's Asset and Infrastructure unit. All cost of damages and rectifications are to be at the cost of the applicant.
- (c) The PCA shall ensure that the stormwater discharge outlet pipe within the nature strip shall be resistant from being damaged by parked vehicles due to the roll kerb in the street frontage on Acacia Street, (such as galvanised RHS).
- (d) All stormwater shall drain by gravity to Council's kerb and gutter directly in accordance with the Australian/New Zealand Standard AS/NZS 3500.3: 2015 (as amended).
- (e) A longitudinal section of the outlet pipe through the nature strip shall be provided on the stormwater plan showing the proposed levels to the satisfaction of Council's Asset engineer.
- (f) Prior to the commencement of works, the registered surveyor shall ensure to the PCA that the stormwater discharge pipe across the footpath 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.
- (g) 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.

**9. 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.

- (a) The OSD volume and the permissible site discharge (PSD) shall comply with the requirement of clause 4.8 of Council's stormwater management policy.
- (b) The drainage engineer shall ensure the installation of the orifice plate or equivalent pipe (Ø35mm).

The OSD facility shall be designed to meet all legislated safety requirements and childproof safety fencing around the facility must be provided where the OSD facility is open or above ground when the design peak storage depth is greater than 300mm. A durable metal plate or similar sign is to be placed at the OSD facility and must bear the words: **"BEWARE: This is an on-site detention basin/tank for rainwater which could overflow during heavy storms."**

Full details shall accompany the application for the 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](http://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).

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

Fee Type	Fee
<b>GENERAL FEES</b>	
Long Service Levy (to Long Service Corporation) Or, provide evidence of Payment direct to the Long Service Corporation. See <a href="https://portal.longservice.nsw.gov.au/bci/levy/">https://portal.longservice.nsw.gov.au/bci/levy/</a>	
Builders Damage Deposit	\$1,900.00
Inspection Fee for Refund of Damage Deposit	\$371.00
<b>DEVELOPMENT CONTRIBUTIONS</b>	
Georges River Council Section 94A Development Contributions Plan 2017	\$7529.00

### 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

A Section 7.11 contribution has been levied on the subject development pursuant to the Georges River Council Section 94A Contributions Plan 2017.

### 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](http://www.georgesriver.nsw.gov.au).

- 11. Damage Deposit - Minor Works** - In order to insure against damage to Council property the following is required:

- 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: \$1,900.00
- Pay Council, before the issue of the Construction Certificate, a non-refundable inspection fee to enable assessment of any damage and repairs where required: \$175.00



- 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. **BASIX Commitments** - All energy efficiency measures as detailed in the BASIX Certificate No. A465495\_02 and 1319834S must be implemented on the plans lodged with the application for the Construction Certificate.
13. **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 Principal Certifying Authority for approval prior to construction of the specified works. A copy shall be forwarded to Council where Council is not the PCA.
14. **Waste Management Plan** - A Waste Management Plan incorporating all requirements in respect of the provision of waste storage facilities, removal of all materials from the site that are the result of site clearing, extraction, and, or demolition works and the designated Waste Management Facility shall be submitted to the Certifying Authority prior to the issue of any Construction Certificate.
15. **Landscape Plan – Amendment** – Plans submitted with the construction certificate must illustrate that the approved landscape plan has been amended to incorporate the following changes:
- For the removal of trees 5 and 6 within the site and as per GRC Tree Management Policy, a 2:1 tree replacement must be enacted.
  - For the removal of two (2) trees, four (4) trees must be shown and planted within the site. The four (4) tree species must be in accordance with Georges River Councils Tree Management Policy, Appendix 1 – *Tree Planting*.
  - The four (4) trees must be a minimum of 45 litre pot/bag size and be a minimum of 1.5m tall at the time of planting.
  - As a minimum, One (1) tree must be planted within the front setback of the site.
  - Provide landscape specifications and a maintenance regime for a minimum of twelve (12) months.

The amended landscape plan must be lodged for approval by the PCA prior to the issue of a construction certificate.

16. **Tree Protection** – The following trees are to be retained and protected, forming part of the proposed works:

Tree ID Number and Species	Location
T1 – <i>Callistemon viminalis</i>	Councils street tree
T4 – <i>Magnolia Spp</i>	Within site, south fence line
T7 – <i>Jacaranda mimosifolia</i>	Within rear yard, South East fence
T8 – <i>Melaleuca alternifolia</i>	Within site, rear back fence

T9 – <i>Pittosporum tenuifolium</i>	Within site, rear back fence
T10 – <i>Cedrus deodora</i>	Within site, rear back fence
T11 – <i>Hibiscus Spp</i>	Within site, rear side north fence
<i>Mangifera indica</i>	Within No 48 Dora St, side north fence

- 17. Building works to comply with BCA - Heritage Buildings or Buildings Within Conservation Area** – Any building works required to ensure compliance with the BCA or new building standards not specified in the submitted/approved plan must not damage existing fabric and building features.

If such upgrading works will potentially impact on existing fabric and features, details of the works must be submitted and approved by Council's Heritage Advisor prior to issue of a Construction Certificate.

- 18. External colour scheme for heritage building** – The external colour scheme is to be both sympathetic and appropriate to the architectural style and period of the building. Prior to the issue of any Construction Certificate, a schedule of colours is to be submitted to and approved by Council's Heritage Advisor.

#### **Prior to the Commencement of Work (Including Demolition & Excavation)**

- 19. Demolition & 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 PCA 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](http://www.SafeWork.nsw.gov.au).

- 20. Demolition Notification Requirements** - The following notification requirements apply to this consent:

- (a) The developer /builder must notify adjoining residents five (5) working days prior to demolition. Such notification is to be a clearly written note giving the date demolition will commence, contact details of the developer/builder, licensed asbestos demolisher and the appropriate regulatory authority. Notification is to be placed in the letterbox of every premises (including every residential flat or unit, if any) either side and immediately at the rear of the demolition site.

- (b) Five (5) working days prior to demolition, the developer/builder is to provide written notification to Council advising of the demolition date, details of the SafeWork licensed asbestos demolisher and the list of residents advised of the demolition.
- (c) On demolition sites where buildings to be demolished contain asbestos, a standard commercially manufactured sign containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm is to be erected in a prominent visible position (from street frontage) on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos material has been removed from the site to an approved waste facility.

**21. Photographic Archival Recording** – Prior to the commencement of any works, including the dismantling of fabric or demolition, a Photographic Archival Recording shall be undertaken of 50 Dora Street, Hurstville and submitted to the satisfaction of Council. The Photographic Archival Recording shall be prepared in accordance with the guidelines "*Archival Recording of Heritage Items Using Film or Digital Capture*" published by the Heritage Council of NSW, insofar as the methodology and approach, excepting that it shall be produced in a digital format. A complete digital copy of the Photographic Archival Recording shall be submitted to Council and should contain:

- a) A brief report or introduction which explains the purposes of the Photographic Archival Recording and gives a brief description of the subject site, as well as details of the sequence in which images were taken. The report may also address the limitations of the photographic record and may make recommendations for future work;
- b) The report shall include all technical details including camera and lenses, image file size and format, technical metadata associated with the images, and colour information;
- c) A plan of the building and site marked up to indicate where the photographs were taken and the direction of the photograph;
- d) Catalogue sheets, photographic plan, supplementary maps;
- e) A complete set of digital image files saved as RAW / TIFF ('digital negatives') and JPEG files with associated metadata, and cross-referenced to catalogue sheets.

The Photographic Archival Recording shall be submitted to Council on a suitable portable electronic storage device (such as USB) or uploaded to a suitable file-sharing platform that is freely accessible. The digital version of the Photographic Archival Recording shall be arranged as a single parent folder containing the report, reference plans saved as individual PDF documents. All electronic image files shall be arranged by their file type and saved as individual files, grouped in separate sub-folders, as set out below:

- Photographic Archival Recording - [Property Address]
  - Report and Reference Plans – [Property Address]
  - Electronic Image Files – RAW / TIFF – [Property Address]
  - Electronic Image Files – JPEG – [Property Address]

- 22. 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.
- 23. Dial before your dig** - The applicant shall contact “Dial Before You Dig on 1100” to obtain a Service Diagram prior to the issuing of the Construction Certificate. The sequence number obtained from “Dial Before You Dig” shall be forwarded to the Principal Certifying Authority (PCA) and Council for their records.
- 24. Registered Surveyors Report - During Development Work** - A report must be submitted to the PCA at each of the following applicable stages of construction:
- Set out before commencing excavation.
  - Floor slabs or foundation wall, before formwork or commencing brickwork.
  - 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 PCA is satisfied that the height and location of the building is proceeding in accordance with the approved plans.

- 25. 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.
- 26. Drainage Engineering Site Inspection - Prior** to the commencement of works:
- The PCA shall ensure that a registered surveyor is engaged to verify the design surface and invert levels of the proposed stormwater system to Australian Height Datum.

### During Construction

- 27. Tree Removal prohibited** No tree on subject property, Council's public footway, public reserves or on neighbouring properties and protected under the Georges River Tree Management Policy 2019 may be removed, pruned or otherwise damaged without Council consent.
- 28. Tree Removal & Replacement Planting** – Permission is granted for the removal of the following trees:

Tree ID Number and Species	Location
T5 – <i>Grevillea Hybrid Spp</i>	Within site, side south fence
T6 – <i>Melaleuca Spp</i>	Within site, side south fence

- a) All tree removal shall be carried out by a minimum AQF Level 3 Arborist with appropriate insurance. Tree removal is to be undertaken safely and in compliance with AS 4373-2007 - *Pruning of Amenity Trees* and *Tree Works Industry Code of Practice* (Work Cover NSW 1.8.98).
- b) Four (4) x 45 litre replacement trees, which will attain a minimum mature height of six (6) metres at maturity, must be planted within the property. The trees are to conform to AS2303 – 2018, *Tree stock for landscape use*. The species must be selected from Georges River Tree Management Policy 2019, Appendix 1.

**29. Screen Planting** – The planting of suitable screen planting along the south boundary shall be undertaken. The screen plants shall be provided in 200mm containers and planted at minimum 1500mm centres. Suitable species include (but are not limited to) the following:

- *Acmena smithii* (dwarf varieties)
- *Elaeocarpus eumundii*
- *Waterhousia floribunda*
- *Camellia* varieties
- *Magnolia* (dwarf varieties)

**30. Tree Protection & Compliance with Arborists Report** – The tree protection measures and recommendations outlined in Sections 5 of the approved Arboricultural Impact Assessment Report must be implemented throughout the relevant stages of construction in accordance with Section 4 - Australian Standard AS 4970-2009: Protection of trees on development sites.

(a) The following trees are to be retained and protected as part of the proposed works:

Tree ID Number and Species	Location
T1 – <i>Callistemon viminalis</i>	Councils street tree
T4 – <i>Magnolia Spp</i>	Within site, south fence line
T7 – <i>Jacaranda mimosifolia</i>	Within rear yard, South East fence
T8 – <i>Melaleuca alternifolia</i>	Within site, rear back fence
T9 – <i>Pittosporum tenuifolium</i>	Within site, rear back fence
T10 – <i>Cedrus deodora</i>	Within site, rear back fence
T11 – <i>Hibiscus Spp</i>	Within site, rear side north fence
<i>Mangifera indica</i>	Within No 48 Dora St, side north fence

- (b) No roots over 50mm are to be severed, cut or damage within the TPZ of trees 7, 8, 9 and 10.
- (c) Trees specified for retention are to be inspected, monitored and remedial work undertaken as required during and after completion of development works by a qualified AQF Level 5 Project Arborist. Regular inspections and documentation from the Arborist to the PCA and Council's Tree Compliance Officer are required at the following hold points:

Hold Point	Action Required by AQF Level 5 Project Arborist
1. a) Prior to commencement of demolition/construction works.	Site meeting with builder to discuss and confirm understanding of tree protection measures required.
2. b) Prior to commencement of demolition/construction works.	Supervise and certify installation of tree protection measures. Tree protection measures are to be installed as per Section 5 of the approved Arboricultural Impact Assessment Report.
3. Works within the TPZ areas of trees to be retained (T7, 8, 9, 10)	Supervise, direct and photograph all approved works with the TPZ areas of tree to be retained.
4. Once per month during construction	Inspect, photograph and report on tree health and condition, maintenance of tree protection measures and remedial tree works as required.
5. a) Prior to issue of Occupation Certificate	Final inspection of trees to be retained and provision of follow up report detailing activities during construction including any damage to the trees and any remedial work required to ensure the ongoing health and structural stability of the trees and/or replacement trees required. Any recommendations for remedial work and/or replacement trees will be required to be approved by Council's Tree Compliance Officer and actioned prior to the issue of an occupation certificate for the development

**31. Landscape Work –** All landscape works shall be carried out in accordance with the approved landscape plans and specifications, subject to the following -

- a) The applicant must engage a licensed and reputable nursery grower early within the build phase and order all trees and plant material early to ensure that all tree and plant material, pot/bag sizes and quantities are guaranteed at the time of the landscape and planting phase.
- b) Four (4) replacement trees are to be planted within the site, with a minimum of one (1) tree being planted within the front setback.
- c) All trees proposed upon the approved landscape plan shall comply with AS 2303 – 2018, *Tree Stock for Landscape use* and *NATSPEC Specifying Trees: a guide to assessment of tree quality (2003)*.

**32. Archaeology** – As required by the *National Parks and Wildlife Service Act 1974* and the *Heritage Act 1977*, in the event that Aboriginal cultural heritage or historical cultural fabric or deposits are encountered/discovered where they are not expected, works must cease immediately and Council and Heritage NSW must be notified of the discovery. In the event that archaeological resources are encountered, further archaeological work may be required before works can re-commence, including any the statutory requirements under the *Heritage Act 1977*. Note: The *National Parks and Wildlife Service Act 1974* and the *Heritage Act 1977* impose substantial penalty infringements and / or imprisonment for the unauthorised destruction of archaeological resources, regardless of whether or not such archaeological resources are known to exist on the site.

**33. Reduction of rising damp and salt attack in buildings constructed prior to 1930** – To avoid potential damage caused by rising damp and migrating salts, no concrete slab is to be laid directly on the ground either within the building or external to the building directly adjacent to the exterior walls.  
Reason: Heritage conservation.

**34. General Heritage Requirements**

- a) The proposed works are to be carried out in a manner that minimises demolition, alterations and new penetrations/fixings to the significant fabric of the existing heritage item.
  - b) The fabric and features to be retained by the proposal must be properly protected during the process of demolition and construction.
  - c) All conservation and adaptation works are to be in accordance with the Articles of the Australia ICOMOS Burra Charter (2013).
  - d) New services are to be surface mounted rather than chased-in to existing walls to minimise impact on significant heritage fabric.
  - e) Appropriately qualified tradespersons (as appropriate) are to be commissioned who are skilled in traditional building and engineering trades to carry out the proposed scope of works.
  - f) The existing windows to the rear elevation of the dwelling (serving the new bathroom) shall be retained and restored (excepting the window to be removed to permit the connection to the new additions). Glazing may be replaced to suitable frosting for privacy. Where repair is not feasible, new windows must match the original in terms of material, finish, profile and dimension. The overall dimensions of the existing openings are to be retained.
  - g) The new weatherboard cladding (being a replacement of existing fibrous cement cladding) shall match the existing profile of the weatherboard cladding.
- Reason: Heritage conservation.

**35. Uncovering of concealed architectural features or detailing** – Should any concealed architectural features or detailing, not previously noted in the DA documentation, be discovered during demolition or building works, all works are to immediately cease and the architectural features or detailing to be photographically recorded and Council's Heritage Advisor is to be contacted for advice.  
Reason: Heritage conservation.

**36. Site Maintenance** The premises shall be maintained in a manner that will not adversely impact upon public health and safety until such time as an occupation certificate is issued. The premises shall be maintained during construction in accordance with the following:

- (a) There must be no burning of any material.
- (b) All putrescible waste must be removed daily.
- (c) All grass and vegetation must be maintained so the grass and vegetation (excluding trees) does not exceed a height of 100 mm above ground level.
- (d) Any accumulated or ponded water must be removed within 5 days (weather permits). The removal of any water must comply with the *Protection of the Environment Operations Act 1997* (NSW) so as to not cause a pollution incident.
- (e) Fencing must be provided and installed within the boundary of the premises. Fencing must be maintained so to eliminate access to the public.
- (f) All Activity associated with the development including storage or depositing of any goods or maintenance of any machinery and equipment must be conducted within the premises.

**Reason:** To protect the environment and maintain public health.

- 37. Damage within Road Reserve and Council Assets** – The owner shall bear the cost of restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site. This may include works by Public Utility Authorities in the course of providing services to the site.
- 38. Site sign - Soil & 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.
- 39. Hours of construction for demolition and building work** - Unless authorized by Council:
- a. Building construction and delivery of material hours are restricted to: 7.00 am to 5.00 pm (inclusive) Monday to Saturday and no work on Sundays and Public Holidays.
  - b. Demolition and excavation works are restricted to: 8.00 am to 5.00 pm (inclusive) Monday to Friday only. Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site.
- 40. 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.
- 41. 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.



- 42. 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.
- 43. 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 PCA and Council, where Council is not the Principal Certifying Authority.
- 44. 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 Council's stormwater system in the street.
- 45. Public Utility and Telecommunication Assets** – The owner shall bear the cost of any relocation or modification required to any Public Utility Authority assets including telecommunication lines & cables and restoring any footpath, roadway and any other Council assets damaged due to works at, near or associated with the site.

#### **Prior to the issue of the Occupation Certificate**

- 46. Completion of Tree Works** – All tree protection and Project Arborist works set out in the approved tree protection plan and Project Arborist hold points, must be completed prior to the issue of a final occupation certificate for the site. A certificate of compliance prepared by the AQF Level 5 Project Arborist and all required monitoring documentation must be submitted to the PCA for approval prior to the issue of an occupation certificate. Documentation must be made available to Council's Tree Compliance Officer on request.

All tree replacement works must be completed prior to the issue of a final occupation certificate for the site. A certificate of compliance prepared by a qualified Horticulturist, Landscape Designer or AQF Level 5 Arborist be submitted to the PCA for approval prior to the issue of an occupation certificate. Documentation must be made available to Council's Tree Compliance Officer on request.

- 47. Stormwater drainage works – Works As Executed** – Prior to the issue of the Occupation Certificate, storm water drainage works are to be certified by a professional engineer specialising in hydraulic engineering, with Works-As-Executed drawings supplied to Council detailing:
- Compliance with conditions of development consent relating to stormwater;
  - Pipe invert levels and surface levels to Australian Height Datum;
- 48. 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.

**49. BASIX Compliance Certificate** - A Compliance Certificate must be provided to the PCA regarding the implementation of all energy efficiency measures as detailed in the approved BASIX Certificate before any Occupation Certificate is issued.

**50. 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;

### **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."

### **Positive Covenants**

1. *The registered proprietor of the lot(s) hereby burdened will in respect of the system:*
  - a) *keep the system clean and free from silt, rubbish and debris*
  - b) *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*
  - c) *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*
  - d) *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.*
2. *Pursuant to Section 88F(3) of the Conveyancing Act 1919 the Council shall have the following additional powers:*
  - a) *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 1(d) above*
  - b) *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 (i) hereof. Such expense shall include reasonable wages for the Council's employees engaged in effecting the work referred to in (i) 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.*

51. **Maintenance Schedule – 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.
52. **Completion of Landscape Work** – All landscape works, the planting of all four (4) trees and all plant material in accordance with approved landscape plans and specifications and conditions of consent, must be completed prior to the issue of a final occupation certificate for the site. A certificate of compliance for the planting of all trees and shrubs proposed for the site must be prepared by a qualified Horticulturist, Landscape Designer or AQF Level 5 Arborist and forwarded to the PCA for approval prior to the issue of an occupation certificate.

### **Operational Conditions (On-Going)**

53. **Lighting - General Nuisance** – Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill or glare. Flashing, moving or intermittent lights or signs are prohibited.
54. **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.
55. **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.
56. **Ongoing Tree Maintenance Works**
  - a) All newly planted trees must be maintained until they reach a height where they are protected by Councils Tree Management Controls. Maintenance includes watering, weeding, removal of rubbish from tree bases, fertilising, pest and disease control, replacement of dead or dying trees and other operations required to maintain healthy trees.

- b) If any trees are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species and pot/bag size. If the trees are found dead before they reach a height where they are protected by Councils Tree Management Controls, they must be replaced with the same species and pot/bag size.
- c) Mature trees shall be inspected for health and structural integrity by an AQF Level 5 Arborist 12 month post completion of works. A certificate of compliance and/or report with recommendations for remedial work will be required to be approved by Council's Tree Compliance Officer.

### **Operational Requirements Under the Environmental Planning & Assessment Act 1979**

- 57. Requirement for a Construction Certificate** – The erection of a building must not commence until a Construction Certificate has been issued.
- 58. No painting or rendering of masonry or stone** – No painting or rendering shall be permitted to masonry or stone surfaces which have not previously been painted or rendered.

Reason: To protect the existing character of the heritage item.

- 59. 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:

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

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

- 60. Notification Requirements of PCA** – No later than two days before the building work commences, the PCA must notify:
  - (a) the consent authority and the Council (if not the consent authority) of his or her appointment; and
  - (b) the applicant of the critical stage inspections and other inspections that are to be carried out with respect to the building work.
- 61. Notice of Commencement** – The applicant must give at least two days notice to the Council and the PCA of their intention to commence the erection of a building. A Notice of Commencement Form is attached for your convenience.

- 62. Critical Stage Inspections** – The last critical stage inspection must be undertaken by the PCA. 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.
- 63. Notice to be given prior to critical stage inspections** – The principal contractor for a building site, or the owner-builder, must notify the PCA at least 48 hours before each required inspection needs to be carried out.

Where Georges River Council has been appointed as the PCA, 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.

- 64. 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 PCA appointed for the building work can issue the Occupation Certificate. An Occupation Certificate Application Form is attached for your convenience.

## END CONDITIONS

## NOTES / ADVICES

- 1. 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.

- 2. 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.
- 3. 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.
- 4. Security deposit administration & compliance fee** – Under Section 97 (5) of the Local Government Act 1993, a security deposit (or part) if repaid to the person who provided it is to be repaid with any interest accrued on the deposit (or part) as a consequence of its investment.




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

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.

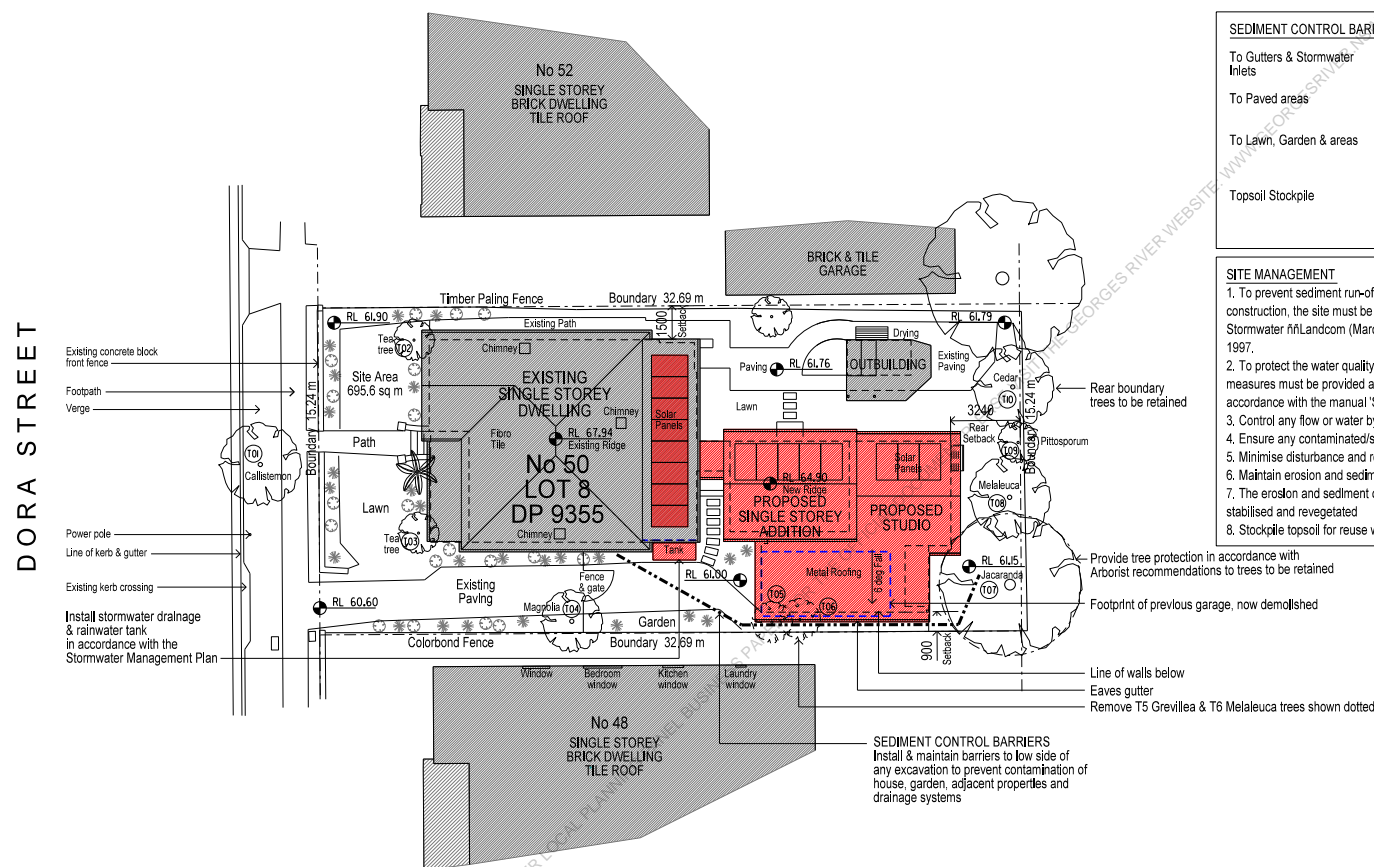
All interest earned on security deposits will be used to offset the Security Deposit Administration and Compliance fee. Where interest earned on a deposit is not sufficient to meet the fee, it will be accepted in full satisfaction of the fee.

5. **Council as PCA - Deemed to Satisfy Provisions of BCA** – Should the Council be appointed as the PCA in determining the Construction Certificate, the building must comply with all the applicable deemed to satisfy provision of the BCA. However, if an alternative fire solution is proposed it must comply with the performance requirements of the BCA, in which case, the alternative solution, prepared by an appropriately qualified fire consultant, accredited and having specialist qualifications in fire engineering, must justifying the non-compliances with a detailed report, suitable evidence and expert judgement. Council will also require if deemed necessary, for the alternative solution to undergo an independent peer review by either the CSIRO or other accredited organisation. In these circumstances, the applicant must pay all costs for the independent review.

#### ATTACHMENTS

- Attachment [1](#)  Site Plan - 50 Dora Street Hurstville
- Attachment [2](#)  West and South Elevations- 50 Dora Street Hurstville
- Attachment [3](#)  East and North Elevations - 50 Dora Street Hurstville

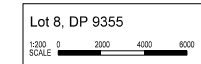
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SEDIMENT CONTROL BARRIERS	
To Gutters & Stormwater Inlets	Gravel Sausage: Blue Metal wrapped in geotextile fabric to form sausage
To Paved areas	Gravel Sausage: Blue Metal wrapped in geotextile fabric to form sausage
To Lawn, Garden & areas	Sediment Fence: Star pickets with geotextile filter fabric trenched into soil, with drainage channel excavated along the high side of the sediment fence
Topsoil Stockpile	Install sediment fence (as above) to low side of any stockpiles Install minimum 300mm deep diversion drain to high side of stockpile Protect the stockpile with a waterproof covering

- SITE MANAGEMENT**
1. To prevent sediment run-off, excessive dust, noise or odour emanating from the site during construction, the site must be managed in accordance with the publication 'Managing Urban Stormwater in Landcom (March 2004) and the Protection of the Environment Operations Act 1997.
  2. To protect the water quality of the downstream environment, erosion and sediment control measures must be provided and maintained throughout the construction period in accordance with the manual 'Soils and Construction 2004 (Bluebook)
  3. Control any flow or water by diverting clean water away from disturbed areas of the site
  4. Ensure any contaminated/sediment laden water is treated/filtered prior to leaving the site
  5. Minimise disturbance and rehabilitate/revegetate areas as soon as possible
  6. Maintain erosion and sediment controls by cleaning and repairing as required.
  7. The erosion and sediment control devices must remain in place until the site has been stabilised and revegetated
  8. Stockpile topsoil for reuse where possible

BASIX REQUIREMENTS	
BASIX Certificate No A456495-02 Date Issued 15 May 2023	
All new work to be in accordance with the requirements of the Certificate	
<b>INSULATION</b>	
Under suspended floors	Minimum R 0.8
Framed walls	Minimum R1.30
Ceilings	Minimum R2.75
Under roofing	Thermocellular reflective
<b>WINDOWS</b>	
New windows to be provided with frame glass & shading as outlined in the Certificate	



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DATE 15 May 2023  
CLIENT K Watson  
PROJECT 2021-32  
DRAWING DA-02a

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Margaret Skilbeck, Registered Architect NSW No 6144

**SITE PLAN / ROOF PLAN**  
**Erosion & Sediment Control Plan**

*Development Application*

50 Dora Street  
Hurstville NSW



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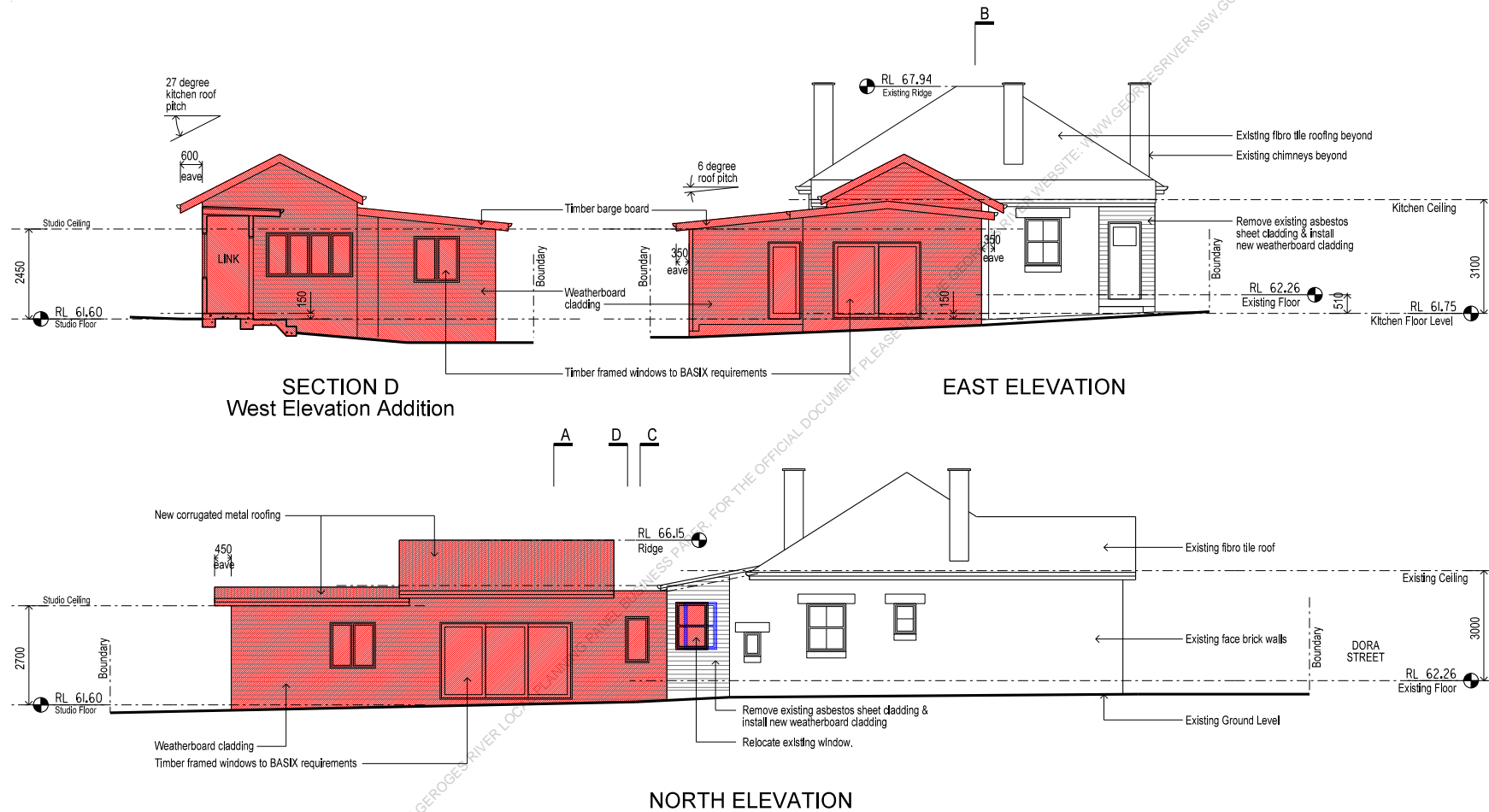
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CLIENT K Watson  
PROJECT 2021-32  
DRAWING DA-04a





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*Development Application*

50 Dora Street  
Hurstville NSW

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